



# 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). Although security issues have recently dominated the U.S. relationship with Mexico, analysts predict that bilateral relations may shift toward economic matters once President-elect Enrique Peña Nieto takes office. Peña Nieto of the Institutional Revolutionary Party (PRI) defeated leftist Party of the Democratic Revolution (PRD) candidate Andrés Manuel López Obrador and Josefina Vázquez Mota of the conservative National Action Party (PAN) in Mexico's July 1, 2012, presidential election. As a result, the PRI, which controlled Mexico from 1929 to 2000, will retake the presidency on December 1, 2012. Some analysts have raised concerns regarding the PRI's corrupt past and impending return to power, but President-elect Peña Nieto has pledged to govern democratically and to forge cross-party alliances.

The outgoing PAN government of Felipe Calderón has pursued an aggressive anticrime strategy and increased security cooperation with the United States. These efforts have helped Mexico arrest or kill record numbers of drug kingpins, but more than 55,000 people have died as a result of organized crime-related violence since December 2006. Mexico's ongoing security challenges have overshadowed some of the Calderón government's achievements, including its successful economic stewardship during the global financial crisis and expansion of healthcare coverage.

### **U.S. Policy**

In recent years, U.S. policy toward Mexico has been framed by security cooperation under the Mérida Initiative. Congress has provided more than \$1.9 billion in Mérida aid since FY2008 to support Mexico's efforts against drug trafficking and organized crime. Whereas U.S. assistance initially focused on training and equipping Mexican counterdrug forces, it now prioritizes strengthening the rule of law. Along the border, U.S. policymakers have sought to balance security and commercial concerns. The U.S. and Mexican governments resolved a long-standing trade dispute in 2011 involving NAFTA trucking provisions and have sought to improve competitiveness through regulatory cooperation. Bilateral trade surpassed \$460 billion in 2011. The February 2012 signing of a Trans-Boundary Hydrocarbons Agreement for managing oil resources in the Gulf of Mexico could create new opportunities for energy cooperation.

### **Legislative Action**

The 112<sup>th</sup> Congress has maintained an active interest in Mexico. The Obama Administration asked for \$269.5 million in assistance for Mexico in its FY2013 budget request. The Senate and House Appropriations Committees' versions of the FY2013 foreign aid measure, S. 3241 and H.R. 5857, each recommend increases in aid to Mexico, with human rights conditions similar to P.L. 112-74. Congress has held oversight hearings, issued reports, and introduced legislation on how to bolster the Mérida Initiative and on related U.S. domestic efforts to combat gun trafficking, money laundering, and drug demand. A Senate-passed bill, S. 1612, would increase penalties for transnational drug trafficking.

Violence in northern Mexico has kept border security on the agenda, with P.L. 112-93 increasing penalties for aviation smuggling, and P.L. 112-127 tightening sentencing guidelines for building border tunnels. Another bill that recently passed both chambers, H.R. 915, provides statutory authority for the bilateral Border Enforcement Security Task Force (BEST) program. A House-

passed measure, H.R. 1299, would require a new border security strategy, while another, H.R. 6368, would require a study on cross-border violence.

Mexico's recent accession to negotiations for a Trans-Pacific Partnership (TPP) trade agreement is likely to generate congressional interest. Congressional action may be required in order for the Trans-boundary Hydrocarbons Agreement to take effect. And, as Mexico's political transition approaches, Congress is likely to monitor the policy positions taken by the incoming Peña Nieto administration.

Also see: CRS Report R42548, *Mexico's 2012 Elections*, by Clare Ribando Seelke; CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea; and CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

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## Background on Mexico

Over the past decade, Mexico has transitioned from a centralized political system dominated by the Institutional Revolutionary Party (PRI) to a multiparty democracy in which presidential power is increasingly constrained by Congress, the Supreme Court, and the country's governors.<sup>1</sup> President Felipe Calderón of the conservative National Action Party (PAN) won the July 2006 presidential election in an extremely tight race, defeating Andrés Manuel López Obrador of the leftist Party of the Democratic Revolution (PRD) by fewer than 234,000 votes. President Calderón began his six-year term on December 1, 2006. He is to be succeeded by Enrique Peña Nieto of the PRI, whom Mexico's Electoral Tribunal recently certified as the victor in Mexico's July 1, 2012, presidential elections. President-elect Peña Nieto is scheduled to take office on December 1, 2012.

**Figure I. Map of Mexico, Including States and Border Cities**



Source: Map Resources, adapted by CRS.

<sup>1</sup> For background, see Andrew Selee and Jacqueline Peschard, eds., *Mexico's Democratic Challenges: Politics, Government, and Society* (Stanford, CA: Stanford University Press, 2010).

## 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.<sup>2</sup> Despite taking office in a relatively weak position after a disputed election, President Calderón shepherded significant reforms through the Mexican Congress. The Calderón government has maintained macroeconomic stability amidst an unstable global economy, expanded access to health insurance, and started to reform Mexico's federal security apparatus. 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 modest 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 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.<sup>3</sup>

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 oil company *Petróleos Mexicanos* (PEMEX). Critics maintained that the law, which provides only limited opportunities for private partnerships with the company, would not do enough to encourage new oil exploration.<sup>4</sup>

Mexico held mid-term elections in July 2009. The PRI performed even better in those elections than polls had suggested it would, capturing a plurality of seats in the Chamber of Deputies and five of six governorships. Analysts 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 and two key governorships, with voters expressing frustration with the party's failure to distinguish itself from the PRI. (The PAN still controlled the Senate, however.) The PRD fared even worse than the PAN, as internal divisions led López Obrador to throw his support behind left-leaning candidates from smaller parties, many of whom won.

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

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

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

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

<sup>5</sup> Those reforms, submitted to Congress in December 2009, included proposals to allow re-election of federal legislators 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.

(PVEM) party, controlled a majority in the Chamber and proved reluctant to enact legislation that could have cost the party votes in the 2012 elections. During the legislative session that ended in April 2012, reforms to the national security law, labor reforms to regulate unions, and anti-money laundering legislation that had passed the Senate remained pending in the Chamber. Several presidential initiatives did not pass either body, including a law to reorganize municipal and state police and a reform of the federal criminal procedures code necessary for the 2008 judicial reforms to advance. During its three-year term, the Congress did enact antitrust legislation, an immigration law giving migrants (including illegal migrants) increased human rights protections, constitutional reforms on human rights, and some limited political reforms.<sup>6</sup>

## July 1, 2012, Elections: Outcome and Political Transition<sup>7</sup>

On July 1, 2012, Mexico held federal (presidential and legislative) and state elections in 14 states. Voter turnout reached record levels as 63% of eligible voters cast ballots in the election. Mexico's Federal Electoral Institute (IFE) conducted the elections with the oversight of the Federal Electoral Tribunal, which officially certified the election results on August 31, 2012, after dismissing evidence presented by the PRD-led coalition that vote-buying tainted the results. While PRD leaders initially criticized the Tribunal's decision, they and the other leftist parties in their coalition have since pledged to abide by its decision.<sup>8</sup>

As predicted, the PRI that governed Mexico from 1929 to 2000 retook the presidency after 12 years of rule by the conservative National Action Party (PAN) and won a plurality in the Senate and Chamber of Deputies. PRI/PVEM candidate Enrique Peña Nieto, a former governor of the state of Mexico, won the presidential election, albeit by a smaller margin than polls had forecast. Peña Nieto captured 38.2% of the vote, followed by Andrés Manuel López Obrador of the Party of the Democratic Revolution (PRD) with 31.6%, Josefina Vázquez Mota of the PAN with 25.4%, and Gabriel Quadri of the National Alliance Party (PANAL) with 2.3%. The relatively narrow margin of Peña Nieto's victory, coupled with the fact that López Obrador has refused to recognize the election results and turned his Morena<sup>9</sup> social movement into a resistance movement against the incoming government, could complicate the transition period. And, while President Calderón has pledged to work with the incoming administration, his party has joined the PRD in calling on authorities to investigate whether the PRI used any illicit finances to fund Peña Nieto's campaign. Peña Nieto is to take office for a six-year term on December 1, 2012. His administration may be closely scrutinized by opposition parties, the press, and civil society groups (such as the *YoSoy132* (I am 132) student protest movement),<sup>10</sup> all of which have concerns about the PRI's history of corruption and undemocratic practices.

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<sup>6</sup> The political reform that President Calderón signed into law in August 2012 amends the constitution to allow for, among other things, popular referendums on certain topics, independent candidates to run for office beginning in 2015, and presidents to submit two legislative proposals for fast-track consideration each session.

<sup>7</sup> For more detail, see: CRS Report R42548, *Mexico's 2012 Elections*, by Clare Ribando Seelke.

<sup>8</sup> Belén Zapata, "El Fallo del Tribunal Electoral es 'Inatacable', Afirma el PRD," *CNN México*, September 7, 2012.

<sup>9</sup> Morena, also known as the Movement for National Regeneration, is a social movement that Andrés Manuel López Obrador started some years ago. It is as yet unclear whether López Obrador intends to transform Morena into a political party or not. He has just announced his departure from the PRD. Tracy Wilkinson, "Mexico Opposition Leader Quits Leftist Parties," *Los Angeles Times*, September 10, 2012.

<sup>10</sup> The protest movement formed after some of Peña Nieto's supporters alleged that it was paid outsiders, not students, who demonstrated against their candidate and forced his early exit from a May 11 event at the private Ibero-American University. The students rejected that assertion and protested the major TV networks' apparent backing of the PRI's (continued...)



The PRI/PVEM failed to capture a majority in either chamber of the legislature that began its three-year term on September 1, 2012, which could complicate President-elect Peña Nieto's ability to enact legislation. The PRI/PVEM could achieve a simple majority in the Chamber of Deputies by aligning with its former ally, the PANAL, a small party affiliated with the Mexican teachers' union. However, for legislation to pass the Senate, and for any measures to amend the constitution (which require a two-thirds majority), the PRI will have to form cross-party coalitions. The PRI will most likely find support from the PAN, which lost seats in the Chamber but retained a powerful bargaining position. President Calderón and PAN leaders in the Congress have pledged to support aspects of Peña Nieto's reform agenda that they believe are in the best interest of the country, even proposals blocked by the PRI in the last Congress.<sup>11</sup> The PRD-led coalition, which will now have more seats in the Chamber than the PAN and remains the third-largest force in the Senate, could complicate some reform efforts, including those aimed at increasing private participation in the energy sector, a key priority for Peña Nieto. Perhaps acknowledging the need to assuage the concerns of other parties, President-elect Peña Nieto reportedly plans to push for laws to combat corruption and increase transparency at all levels and in all branches of government before submitting proposals for economic reforms.<sup>12</sup>

Although President-elect Peña Nieto's government may encounter the same type of legislative opposition to his agenda that President Calderón has encountered, he may be able to draw upon the PRI's formidable strength at the state and local level to garner support for his policies. Prior to the 2012 elections, the PRI controlled 19 of 32 governorships in Mexico. As depicted in **Figure 2** below, the PRI picked up two additional governorships in the recent elections: Jalisco, formerly governed by the PAN, and Chiapas, formerly governed by the PRD.<sup>13</sup> On the contrary, should Peña Nieto's national agenda reform run counter to state interests, he could have to choose between maintaining party unity and challenging PRI governors.

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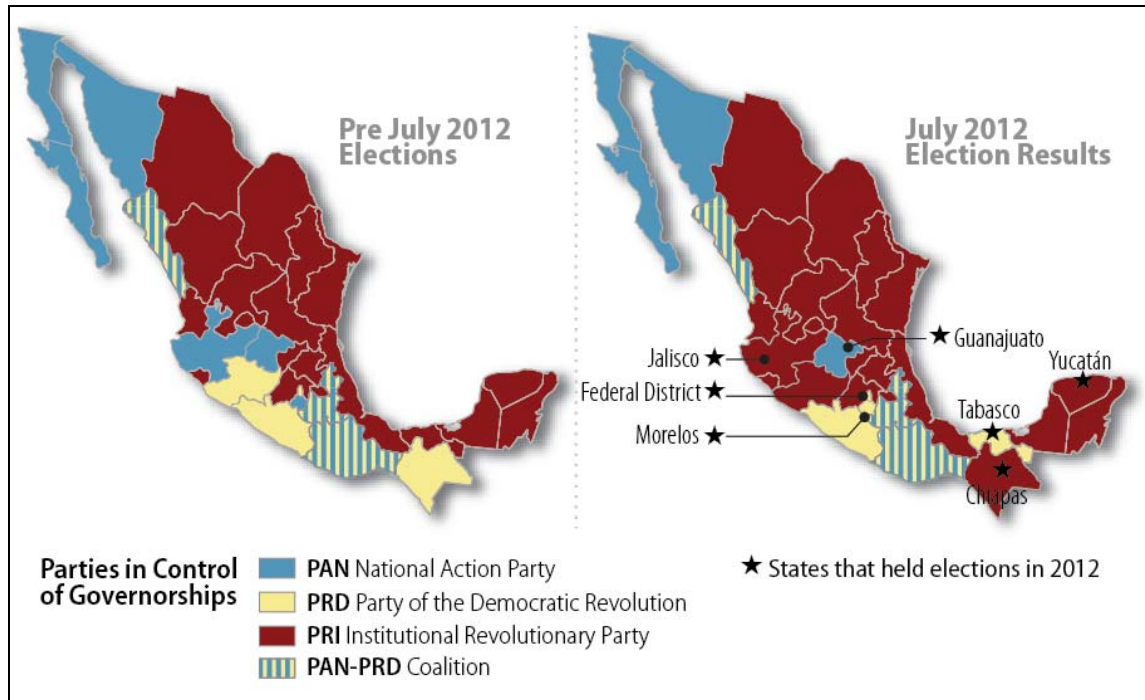
claims. Using YouTube and other social media outlets, the students began bringing together youth from public and private universities and likeminded outsiders for protests against the perceived media bias in Mexico. Damien Cave, "In Protests and Online, a Youth Movement Seeks to Sway Mexico's Election," *New York Times*, June 11, 2012.

<sup>11</sup> "Mexico's Calderón Pledges to Back Peña Nieto Reforms – Report," *Reuters*, July 15, 2012.

<sup>12</sup> "Peña Nieto Makes Transparency a Priority," *Latin News Daily Report*, September 11, 2012.

<sup>13</sup> In addition to winning the mayoral office of the Federal District for another term, the PRD also won two additional gubernatorial seats. PRD candidates in Morelos and Tabasco defeated the PAN and PRI, respectively. Although the PAN successfully maintained control of Guanajuato, defeats in Morelos and Jalisco represented significant losses for the party.

Figure 2. Mexico's 2012 Gubernatorial Election Results



Source: Mexico's Federal Electoral Institute

## Drug Trafficking and Heightened Violence and Crime in Mexico<sup>14</sup>

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 90% of the cocaine sold in the United States.<sup>15</sup> 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 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. Violent struggles within and among the DTOs in Mexico have 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.<sup>16</sup>

<sup>14</sup> 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.

<sup>15</sup> U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2011, <http://www.state.gov/p/inl/rls/nrcrpt/2011/>.

<sup>16</sup> 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.

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.<sup>17</sup> Increased intelligence-sharing with U.S. law enforcement agencies has 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.<sup>18</sup>

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 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.<sup>19</sup> The toll now likely exceeds 55,000. 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. Between 2007 and 2011, kidnappings in Mexico increased by 188%, armed robbery by 47%, and extortion by 101%.<sup>20</sup>

President-elect Enrique Peña Nieto has pledged to continue the fight against organized crime and said that maintaining some form of military involvement in antidrug operations will be necessary. He also vowed, however, to focus more on reducing violent crime than on seizing drugs or arresting kingpins.<sup>21</sup> Peña Nieto is likely to pursue violence reduction as a key metric of the success of his government's security strategy, a goal that U.S. officials have said is "extremely logical."<sup>22</sup> In his platform, Peña Nieto pledged to develop a National Strategy to Reduce Violence that will contain binding commitments for all levels of government, along with civil society. Peña Nieto has also said that he would increase the size of federal police forces, create a national gendarmerie comprised of some military forces currently engaged in fighting organized crime that will be under civilian control, and establish 32 unified state police forces. He has announced that General Oscar Naranjo, former head of the Colombian National Police, will serve as one of his security advisors. Naranjo has reportedly recommended adopting a two-pronged strategy of using elite units of military and police forces to go after top DTO leaders (as Calderón has done),

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<sup>17</sup> Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

<sup>18</sup> Email from Mexican Embassy official, January 10, 2012.

<sup>19</sup> 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>.

<sup>20</sup> Mária 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/>.

<sup>21</sup> See, for example: Enrique Peña Nieto, "11 for 2011: How Should Mexico Deal with Violence," *Financial Times*, January 6, 2011; Anahi Rami and Dave Graham, "Mexico's Peña Nieto Plans New Police to Fight Drug Gangs," *Reuters*, April 9, 2012; and "Mexico's New Leader Could Focus Law-Enforcement on Small Local Gangs That Rob, Extort, and Kidnap," *AP*, July 5, 2012.

<sup>22</sup> U.S. Department of State, "Foreign Press Center Briefing with Roberta S. Jacobson, Assistant Secretary of State for Western Hemisphere Affairs," press release, July 11, 2012.

while focusing the rest of law enforcement efforts on reducing violence and street crime in six of the country's most violent cities.<sup>23</sup>

## Economic Conditions<sup>24</sup>

In the late 1980s, Mexico began to restructure its economy through a series of measures that included liberalizing its highly protective trade regime. The transformation to an open market economy 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, the Mexican economy has increasingly become a manufacturing-for-export nation, with exports representing 32% of Mexico's GDP, up from 10% twenty years ago. Mexico remains a major U.S. crude oil supplier, but its top exports to the United States have diversified to include automobiles and auto parts, television receivers, and other manufacturing goods. Overall, Mexico has entered into 12 free trade agreements (FTAs) involving 44 countries.<sup>25</sup>

Despite attempts to diversify its economic ties and build its domestic economy, Mexico continues to remain heavily dependent on the United States as an export market (79% of Mexico's exports in 2011 were U.S.-bound), and as a source of tourism revenues, remittances, and investment. Economic conditions in Mexico tend to follow economic patterns in the United States. When the U.S. economy is expanding, the Mexican economy tends to grow as well. However, when the U.S. economy stagnates or is in decline, the Mexican economy tends to decline as well, often by a higher degree. In 2009, for example, GDP growth in the United States fell by 2.5% and Mexico's GDP declined by 6.5%, the worst decline in decades.

The Calderón government has been praised for maintaining macroeconomic stability in the face of the global economic crisis and U.S. recession, a 2009 H1N1 swine flu epidemic that damaged the tourism industry, and declining oil production.<sup>26</sup> 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.<sup>27</sup>

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<sup>23</sup> "The Strategies of Peña Nieto's Top Adviser," *Latin News Daily*, August 1, 2012.

<sup>24</sup> This section draws from: CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

<sup>25</sup> CRS Report R40784, *Mexico's Free Trade Agreements*, by M. Angeles Villarreal.

<sup>26</sup> Duncan Wood, "Mexico's Elections and the Economy—Voters Face a Tough Decision," Center for Strategic & International Studies, May 2012. Hereinafter Wood, May 2012.

<sup>27</sup> This section is drawn from: U.N. Economic Commission for Latin America and the Caribbean (ECLAC), *The Reactions of the Governments of the Americas to the International Crisis: An Overview of Policy Measures up to 31 March 2009*, April 2009.

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 3.9% in 2011. 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. 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/or global economies contract, Mexico's domestic economy will remain as strong as possible.<sup>28</sup> The Mexican economy is expected to grow by 3.7% this year.<sup>29</sup>

While encouraged by Mexico's rapid recovery, analysts have identified some challenges that could constrain the country's long-term growth potential. Economists have warned that continued sluggish growth in the U.S. economy could be a "material drag"<sup>30</sup> on economic growth in Mexico. And, although the government can point to positive overall investment trends as evidence to the contrary, recent studies maintain that organized crime-related violence has hurt Mexico's competitiveness by raising the costs of doing business in the country.<sup>31</sup> 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 some sectors as additional obstacles to more robust economic growth.<sup>32</sup>

President-elect Enrique Peña Nieto has stressed the importance of passing structural reforms to make the Mexican economy more competitive. Peña Nieto acknowledges that the PAN has maintained macroeconomic stability, but has criticized the past two administrations for failing to spur economic growth rates comparable to those of other developing countries in Asia and Latin America. He has identified several reasons why Mexico's economic growth has lagged: low productivity, insufficient access to credit, deficient investment in infrastructure, monopolies, a large and expanding informal sector, and a continued over-reliance on the U.S. market. To counter these problems, Peña Nieto advocates a 10-point economic plan that includes, among other measures, implementing recently passed legislation to counter monopolistic practices, passing fiscal reform, opening up the oil sector to private investment, making farmers more productive, and doubling infrastructure investments. Peña Nieto also endorses an active international trade policy aimed at increasing Mexico's trade with Asia, South America, and other markets.

## Social Conditions

Over the past 12 years of PAN rule, Mexico has experienced macroeconomic stability and low inflation and unemployment, but continued to post relatively high rates of poverty and inequality.<sup>33</sup> As elsewhere in Latin America, the 2009 economic downturn in Mexico had a

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<sup>28</sup> Economist Intelligence Unit (EIU), *Country Report: Mexico*, January 2012.

<sup>29</sup> EIU, *Country Report: Mexico*, August 2012.

<sup>30</sup> 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>.

<sup>31</sup> Although Mexico improved its overall ranking in the World Economic Forum's 2012-2013 Global Competitiveness report (to 53rd from 58th out of 144 countries ranked), it ranked 137th out of 144 with respect to the security costs associated with doing business in the country. Klaus Schwab, ed., *Global Competitiveness Report 2012-2013*, World Economic Forum, 2012, [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2012-13.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf).

<sup>32</sup> 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.

<sup>33</sup> Wood, May 2012.

negative impact on the country's recent progress in reducing poverty. With a population of 114.7 million (July 2012), Mexico is classified by the World Bank as an upper middle income developing country, with a per capita income level of \$10,064 (2012). 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. 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, according to Mexican government data. This increase in poverty occurred despite successful government efforts to expand access to health care, social security, and housing.<sup>34</sup>

Rural poverty may have further worsened since 2010 as subsistence farmers have been hit hard by the effects of a drought that began in May 2011 and has affected more than half of the country. The Mexican government has set aside at least \$2.5 billion for drought relief, including support for infrastructure to provide drinking water and emergency food aid to affected communities.<sup>35</sup> As Mexico's crop yields have shrunk, the government has purchased massive amounts of U.S. corn in an effort to stave off further price increases for a key food staple.<sup>36</sup> Mexican officials predict that it may take years for the country's cattle industry to recover from the drought.<sup>37</sup>

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.<sup>38</sup> In 2010, the Calderón government established a new program within *Oportunidades* for families in urban areas such as Ciudad Juárez and began providing grants to secondary school students in some rural areas. After two years, high school enrollment had increased by 85% in rural areas where teenagers had been participating in the program.<sup>39</sup>

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. Nine years later, more than 52 million previously uninsured people now receive full or supplementary insurance through *Seguro*

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<sup>34</sup> Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de Pobreza 2010*, July 29, 2011, <http://www.coneval.gob.mx/>.

<sup>35</sup> "Government Steps up Support," *Latin American Mexico & NAFTA Report*, February 2012.

<sup>36</sup> "Mexico Makes Biggest U.S. Corn Buy in Decades as Crop Shrinks," *Reuters News*, August 2, 2012.

<sup>37</sup> Benjamin Carlson, Patrick Winn, and Jason Overdorf, et al., "The Ripple Effect of Drought," *The Toronto Star*, August 4, 2012.

<sup>38</sup> Santiago Levy, *Good Intentions, Bad Outcomes—Social Policy, Informality and Economic Growth in Mexico*. Washington D.C.: Brookings Institution, April 2008.

<sup>39</sup> Government of Mexico, Social Development Secretariat, *Oportunidades Program*, "Fact Sheet: External Evaluation Results," [http://www.oportunidades.gob.mx/Portal/wb/Web/external\\_evaluation\\_results](http://www.oportunidades.gob.mx/Portal/wb/Web/external_evaluation_results), accessed September 4, 2012.

*Popular*.<sup>40</sup> While many experts have praised *Seguro Popular* for expanding low-income Mexicans' access to medication and health care, some have criticized it for being inefficient and for not reaching the poorest communities.<sup>41</sup>

President-elect Peña Nieto has pledged to preserve, if not expand, *Oportunidades* and *Seguro Popular*, but maintained that boosting growth rates is also essential to lifting more Mexicans out of poverty. His campaign platform included proposals for new social and productive programs aimed at combating poverty, particularly in rural areas. For example, Peña Nieto proposed the creation of a universal social security system, unemployment assistance, and disability insurance to build on the safety net created by *Seguro Popular*. He also vowed to boost food production and create "poles of development" to attract people from isolated rural regions to central areas where government services and productive projects can be located.<sup>42</sup>

## 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. In June 2012, Mexico signed an agreement with Colombia, Peru, and Chile formally establishing an economic block known as the Pacific Alliance to promote regional integration and trade with Asia. President Calderón has supported the Central American Security Strategy<sup>43</sup> adopted in June 2011, signed a free trade agreement (FTA) with Central America (excluding Panama), and offered \$160 million to set up an infrastructure fund for the sub-region.<sup>44</sup> The Calderón government has explored the possibility of forming a Brazil-Mexico FTA, as well as developing greater energy cooperation between PEMEX and Petrobras, Brazil's state oil company. 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 an active role with respect to global issues. President Calderón has played a lead role in global climate change negotiations, with Mexico hosting the 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 about joining the negotiations for a Trans-Pacific Partnership (TPP) Agreement.<sup>45</sup> On June 18, 2012, President Obama announced that the nine countries involved in

<sup>40</sup> Government of Mexico, Ministry of Health, Seguro Popular Program, [http://www.seguro-popular.gob.mx/index.php?option=com\\_content&view=article&id=272&Itemid=287](http://www.seguro-popular.gob.mx/index.php?option=com_content&view=article&id=272&Itemid=287), accessed September 11, 2012.

<sup>41</sup> Felicia Marie Knaul et. al. "The quest for universal health coverage: achieving social protection for all in Mexico," *The Lancet*, August 16, 2012; 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; Elisabeth Malkin, "Mexico's Universal Health Care is a Work in Progress," *New York Times*, January 29, 2011.

<sup>42</sup> Enrique Peña Nieto, "Un México incluyente y sin pobreza," May 2, 2012, <http://www.enriquepenanieto.com/dia-a-dia/entrada/mis-propuestas-para-combatir-la-pobreza>.

<sup>43</sup> 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.

<sup>44</sup> "Central America and Mexico Shore up Ties," *Latin News Daily Briefing*, December 6, 2011.

<sup>45</sup> For background on the TPP trade agreement negotiations, see: CRS Report R40502, *The Trans-Pacific Partnership Agreement*, by Ian F. Fergusson and Bruce Vaughn.

the TPP negotiations had extended an invitation to Mexico.<sup>46</sup> As rotating head of the G20 nations, Mexico hosted the G20 Summit in June 2012. Although euro-zone debt problems dominated the discussions, Mexican officials also reportedly sought to focus attention on food security issues. This umbrella topic included concerns regarding sustainability, supporting small-scale farmers, and diversifying bio-fuels production to minimize its impact on global food supplies.<sup>47</sup>

## 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.

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.

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."<sup>48</sup>

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<sup>46</sup> An invitation for Canada to join the TPP negotiations followed on June 19, 2012.

<sup>47</sup> Jean Guerrero, "Mexico to Keep Food Security on Global Radar With New Focus," *Dow Jones International News*, June 20, 2012.

<sup>48</sup> Mark Lander, "Clinton Says Demand for Illegal Drugs in the U.S. 'Fuels the Drug Trade' in Mexico," *New York Times*, March 26, 2009.



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.”<sup>49</sup> 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 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 21<sup>st</sup> 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. 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.<sup>50</sup>

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, DC, after which they vowed to continue bilateral security cooperation and announced a resolution to a long-standing NAFTA trucking dispute. On April 29, 2011, Secretary Clinton and Mexican Foreign Secretary Patricia Espinosa chaired the third 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.”<sup>51</sup> The U.S. government pledged to deliver \$500 million worth of training and equipment to Mexico in 2011, a pledge that has been met.<sup>52</sup> President Obama then quickly nominated, and the Senate

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<sup>49</sup> “President Obama and Mexican President Felipe Calderón Hold News Conference,” *CQ Newsmaker Transcripts*, April 16, 2009.

<sup>50</sup> Denise Dresser, “U.S. Ambassador to Mexico Resigned ‘for Doing his Job,’” *Miami Herald*, April 18, 2011.

<sup>51</sup> 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>.

<sup>52</sup> 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.

approved, Earl Anthony Wayne, a career diplomat, to serve as U.S. Ambassador to Mexico, a post which he assumed in September 2011.

On April 2, 2012, President Obama invited President Calderón and Canadian Prime Minister Harper to the White House for another North American Leaders' Summit. After the meeting, the leaders issued a joint statement renewing their commitment to North American cooperation in key areas. Those areas included harmonizing regulations; improving efficiency along the borders; protecting and enforcing intellectual property rights (IPR); enhancing energy cooperation, including electricity interconnection; and expanding security cooperation to support efforts in Central America. This presidential summit was followed by the fourth meeting of the Mérida High-Level Group, held on September 18, 2012, after which both governments said that they have a common interest in continuing “to build on and institutionalize the cooperation the Merida Initiative has established.”<sup>53</sup>

Few analysts are predicting any major shifts in current bilateral efforts or new bilateral initiatives until after the new Mexican and U.S. Administrations take office. The approach that the incoming Peña Nieto government takes toward the United States may be impacted by whoever wins the upcoming U.S. presidential elections, but strong bilateral cooperation is expected to continue regardless of who is elected. President-elect Peña Nieto has said that he is committed to “having an intense, close relationship of effective [security] collaboration measured by results”<sup>54</sup> with the United States. He has also expressed support for increased bilateral and trilateral (with Canada) economic and energy cooperation.

## U.S. Assistance to Mexico

### Merida Initiative<sup>55</sup>

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 that began 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 \$406 million in FY2008. **Table 1** below provides an overview of U.S. assistance to Mexico funded through the State Department.

From FY2008-FY2012, Congress appropriated \$1.9 billion in Mérida assistance for Mexico (see **Table 2** below), roughly \$1.1 billion of which had been delivered as of the end of June 2012. Mérida Initiative assistance has flowed through the International Narcotics Control and Law Enforcement (INCLE), Economic Support Fund (ESF), and, until recently, Foreign Military Financing (FMF) accounts. Whereas Mérida assistance initially focused on training and equipping Mexican counterdrug forces, it now aims to address the weak institutions and underlying societal problems—including corruption and impunity—that have allowed the drug

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<sup>53</sup> 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, available at: <http://www.state.gov/r/pa/prs/ps/2012/09/197908.htm>.

<sup>54</sup> William Booth and Nick Miroff, “Closer Ties to U.S. on Horizon,” *Washington Post*, July 9, 2012.

<sup>55</sup> For more information, see: CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea

trade to flourish in Mexico. The updated Mérida strategy, announced in March 2010, focuses on four pillars: (1) disrupting organized criminal groups, (2) institutionalizing the rule of law, (3) building a 21<sup>st</sup> century border, and (4) building strong and resilient communities. The bulk of U.S. assistance under Mérida is supporting training and technical assistance programs for Mexico's justice sector under pillar two of the Mérida strategy. U.S. assistance has shifted from only supporting the Mexican federal government to assisting certain key states with police and judicial reform efforts, as well as community-based crime prevention programs.

**Table I. U.S. Assistance to Mexico by Account, FY2007-FY2013**

(U.S. \$ millions)

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

**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.

Congress has played a major role in determining the level and composition of Mérida funding for Mexico. In the beginning, Congress included funding for Mexico in supplemental appropriations measures in an attempt to hasten the delivery of certain equipment. Congress has also earmarked funds for specific purposes in order to ensure that certain programs are prioritized, such as efforts to support institutional reform in Mexico. Finally, Congress has sought to influence human rights conditions and encourage efforts to combat abuses and impunity in Mexico by placing conditions on Mérida-related assistance (see "Human Rights" below).

**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 <sup>a</sup>	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 <sup>b</sup>	428.8	Not applicable
<b>Total</b>	<b>400.0</b>	<b>300.0</b>	<b>420.0</b>	<b>210.3</b>	<b>175.0</b>	<b>143.0</b>	<b>281.8</b>	<b>1,930.1</b>	<b>234.0</b>

**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 is not considered as part of Mérida Initiative funding.

At a time when appropriators are cutting foreign aid to many countries, there appears to be strong support in both the Senate and House for maintaining U.S. support to Mexico provided through Mérida Initiative accounts. The Administration's FY2013 budget request asked for \$234 million in Mérida assistance for Mexico: \$199 million in INCLE and \$35 million in ESF. The Senate Appropriations Committee's version of the FY2013 foreign aid measure, S. 3241 (S.Rept. 112-172), would provide \$45 million in ESF, including additional aid for economic development projects in the border region. The House Appropriations Committee's version of the bill, H.R. 5857 (H.Rept. 112-494), would increase INCLE funding by \$49 million to match the FY2012 enacted level for that account.

### Non-Merida Assistance Programs

Apart from Mérida-related funding, Congress doubled development assistance (DA) to Mexico from FY2010 to FY2011, and increased it again to \$33 million in FY2012. The U.S. Agency for International Development (USAID) uses DA to support programs aimed at boosting private sector competitiveness, promoting sustainable energy development, and forming partnerships with faculty and students from Mexican universities to address climate change and rule of law issues. Assistance provided through the Global Health and Child Survival (GHCS) that has helped the Mexican government both prevent and treat HIV/AIDS and other infectious diseases is ending in FY2012. 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.

## 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 \$75.7 million in FY2010.<sup>56</sup> DOD is using some \$50 million in FY2011 assistance per Section 1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Overall DOD support to Mexico totaled roughly \$84.7 million in FY2011 and is estimated to reach \$100.4 million for FY2012.<sup>57</sup>

## 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).

Over the last five years, U.S.-Mexican security cooperation has intensified significantly as a result of the development and implementation of the Mérida Initiative. U.S.-Mexican cooperation has evolved to the point where it is able to continue even amidst serious strain caused by sometimes unforeseen events. For example, bilateral efforts against weapons trafficking have continued even after the failed Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) operation dubbed “Fast and Furious” that resulted in firearms being trafficked into Mexico.<sup>58</sup> U.S. training and law enforcement support efforts have advanced even as U.S. personnel have been injured and even killed while working in Mexico. The U.S. government is helping Mexican government investigate the circumstances under which two U.S. Embassy employees were wounded on August 24, 2012, as their vehicle came under heavy fire from Mexican Federal

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<sup>56</sup> U.S. Department of Defense (DOD), *Department of Defense Section 1209 and Section 1203(b) Report to Congress on Foreign-Assistance Related Programs for Fiscal Years 2008, 2009, and 2010*, April 2012.

<sup>57</sup> DOD response to CRS request, February 17, 2012. These data reflect 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 (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories).

<sup>58</sup> For background, see: CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

Police. Twelve Federal Police are being held in preventive detention as Mexico's Attorney General's office investigates their roles in the shootings.<sup>59</sup>

In the 2007 U.S.-Mexico joint statement announcing the Mérida Initiative, the U.S. government pledged to “intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico.”<sup>60</sup> Although not funded through the Mérida Initiative, the U.S. government has made efforts to address each of these issues, with efforts to combat weapons trafficking and, to a lesser extent, money laundering having received congressional scrutiny.

### Overview of Related Southwest Border Initiatives<sup>61</sup>

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.<sup>62</sup> U.S. federal officials have denied that the recent increase in violence in Mexico has resulted in a spillover into the United States, but acknowledged that the prospect is a serious concern.<sup>63</sup> 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.<sup>64</sup> 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.<sup>65</sup>

Escalating violence in Mexico has focused congressional concern on the efficacy of these efforts to secure the Southwest border. The 112<sup>th</sup> Congress has held hearings on the adequacy of DHS and other federal agencies' efforts to secure the border and may consider legislation to further bolster those efforts.<sup>66</sup> To this effect, Congress recently passed P.L. 112-127, which enforces stricter penalties for conspiracy to build trans-border smuggling tunnels.

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<sup>59</sup> “Federal Police Open Fire on a U.S. Embassy Vehicle in State of Morelos,” *Justice in Mexico News Monitor*, August 2012.

<sup>60</sup> U.S. Department of State and Government of Mexico, “Joint Statement on the Mérida Initiative: A New Paradigm for Security Cooperation,” October 22, 2007.

<sup>61</sup> See the Appendix of CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea; and CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

<sup>62</sup> CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

<sup>63</sup> 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.

<sup>64</sup> DHS, “Secretary Napolitano Announces Major Southwest Border Security Initiative,” press release, March 24, 2009.

<sup>65</sup> 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.

<sup>66</sup> 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 (continued...)

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). The House-passed measure, H.R. 915, would authorize appropriations for the BEST program through FY2016. 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, Customs and Border Protection (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 provided more than \$123 million in funds to reimburse Southwest border states for border-security related expenses through Operation Stonegarden.<sup>67</sup>

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. By mid-2011, large-scale investigative operations against Mexican DTOs and their affiliates in the United States had led to the arrest of more than 5,500 suspects and the seizure of more than \$300 million in illicit funds.<sup>68</sup> 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.<sup>52</sup> Although much of the money is laundered to Mexico through mechanisms such as bulk cash smuggling, criminals have increasingly turned to stored value cards to move money. With these 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.<sup>69</sup> Of note, stored value cards are not considered monetary instruments under current law. The U.S. Department of the Treasury's Financial Crimes Enforcement Network

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(...continued)

Cong., 1st sess., March 31, 2011.

<sup>67</sup> 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 Violence*, 112th Cong., 1st sess., May 11, 2011.

<sup>68</sup> Ibid.

<sup>69</sup> 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."

(FinCEN) has issued a final rule, defining “stored value” as “prepaid access” and implementing regulations regarding the recordkeeping and suspicious activity reporting requirements for prepaid access products and services. The rule went into effect on September 27, 2011.<sup>70</sup>

To curb the southbound flow of money from the sale of illicit drugs in the United States, the National Southwest Border Counternarcotics Strategy includes several goals: stemming the flow of southbound bulk cash smuggling, prosecuting the illegal use of money service businesses and electronic payment devices, increasing targeted financial sanctions, enhancing multilateral/bi-national collaboration, and empirically assessing the money laundering threat.<sup>71</sup> U.S. efforts against money laundering and bulk cash smuggling have moved beyond the federal level as well. In December 2009, for example, U.S. Immigration and Customs Enforcement (ICE) opened a bulk cash smuggling center to help U.S. federal, state, and local law enforcement agencies track and disrupt illicit funding flows.

Despite these efforts, the 112<sup>th</sup> Congress has held hearings, issued reports, and introduced legislation on how current money laundering efforts could be bolstered.

### **Firearms Trafficking<sup>72</sup>**

Illegal firearms trafficking from the United States has been cited as a significant factor in the escalating drug trafficking-related violence in Mexico.<sup>73</sup> To address this issue, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (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. 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. According to trace data released by ATF, between 2007 and 2011, over 68% (68,161 of 99,691) of the firearms recovered in Mexico (and subsequently submitted to ATF for tracing) were manufactured in or imported into the United States before being transferred to Mexico.<sup>74</sup> In addition, in July 2011, the Office of Management and Budget approved an ATF multiple rifle sales reporting requirement for a three-year period.<sup>75</sup> Under this reporting requirement, federally

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<sup>70</sup> Department of the Treasury, Financial Crimes Enforcement Network, “Bank Secrecy Act Regulations--Definitions and Other Regulations Relating to Prepaid Access,” 76, No. 146 *Federal Register* 45403-45420, July 29, 2011.

<sup>71</sup> ONDCP, *National Southwest Border Counternarcotics Strategy*, 2011, pp. 31-36, [http://www.whitehousedrugpolicy.gov/publications/swb\\_counternarcotics\\_strategy11/swb\\_counternarcotics\\_strategy11.pdf](http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy11/swb_counternarcotics_strategy11.pdf).

<sup>72</sup> 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.

<sup>73</sup> For background, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse and CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

<sup>74</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *ATF Mexico: Calendar Years 2007-2011*, March 12, 2012, <http://www.atf.gov/statistics/download/trace-data/international/2007-2011-Mexico-trace-data.pdf>.

<sup>75</sup> Office of Management and Budget, Office of Information and Regulatory Affairs, *Reviews Completed in the Last 30 Days, DOJ-ATF, Report of Multiple Sale or Other Disposition of Certain Semi-Automatic Rifles*, OMB Control Number: 1140-0100.



licensed gun dealers in Southwest border states are required to report to ATF whenever they make multiple sales or other dispositions of more than one rifle within five consecutive business days to an unlicensed person.

Since March 2011, much of the gun control debate in the 112<sup>th</sup> Congress has swirled around allegations that the Department of Justice (DOJ) and ATF mishandled a Phoenix, AZ-based gun trafficking investigation known as "Operation Fast and Furious." ATF whistleblowers reported that suspected straw purchasers<sup>76</sup> had been allowed to acquire relatively large quantities of firearms as part of long-term gun trafficking investigations.<sup>77</sup> Some of these firearms are alleged to have "walked," or been trafficked to gunrunners and other criminals, before ATF moved to arrest the suspects and seize all of their contraband firearms. On June 28, 2012, the House of Representatives voted to hold Attorney General Holder in contempt for failing to turn over subpoenaed documents related to Operation Fast and Furious.

On September 19, 2012, DOJ's Inspector General published a detailed report on the flawed Arizona-based operation and related matters, including a similar operation conducted during the previous Administration known as Operation Wide Receiver.<sup>78</sup> In this report, the Inspector General found that several high-ranking DOJ officials within ATF, the U.S. Attorney's Office for the District of Arizona, and the Criminal Division were responsible for "misguided strategies, tactics, errors in judgment, and management failures" related to both operations. However, the Inspector General also found that neither former Attorney General Michael Mukasey nor Attorney General Eric Holder were made aware of the potential flaws in either investigation by their subordinates.

## Alien Smuggling and Human Trafficking

As bilateral efforts under the Mérida Initiative and U.S. domestic efforts to combat illicit flows related to the drug trade have intensified, Mexican DTOs, particularly Los Zetas, have branched out into other illicit activities, including alien smuggling and human trafficking. Alien smuggling involves people who pay to be illegally transported from or through Mexico into the United States. Some of the smugglers who profit from this activity have ties to DTOs and have kidnapped, extorted, and killed migrants.<sup>79</sup> U.S. and Mexican officials share security concerns about the increasing involvement of organized crime groups in alien smuggling. Human trafficking refers to cases in which individuals are coerced into sexual exploitation or forced labor; some migrants who contract with smugglers eventually become victims of human trafficking. Undocumented migrants, along with women, children, and indigenous persons, have been identified as groups that are particularly vulnerable to human trafficking in Mexico.

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<sup>76</sup> 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)).

<sup>77</sup> James v. Grimaldi and Sari Horwitz, "ATF Probe Strategy Is Questioned," *Washington Post*, February 2, 2011.

<sup>78</sup> U.S. Department of Justice, Office of the Inspector General, *A Review of ATF's Operation Fast and Furious and Related Matters*, available at: <http://www.justice.gov/oig/reports/2012/s1209.pdf>

<sup>79</sup> In late August 2010, 72 Central and South American migrants passing through Mexico were found massacred in Tamaulipas. According to a survivor, Los Zetas attempted to recruit the migrants to assist in moving drugs and killed them when they refused.

Mexican and U.S. law enforcement agencies collaborate to combat alien smuggling and human trafficking. For example, through the Operation Against Smuggling Initiative on Safety and Security (OASISS), Mexican alien smugglers apprehended in the United States can be prosecuted in Mexico. From the time of its inception in 2005 through the end of FY2011, OASISS referred 2,617 cases to Mexican authorities.<sup>80</sup>

Mexican and bilateral investigations and prosecutions against human trafficking have intensified since Mexico reformed its federal criminal procedure code to criminalize trafficking in late 2007. All of Mexico's states have enacted code reforms that criminalize at least some forms of human trafficking. Since 2007, the State Department has removed Mexico from its human trafficking watch list and ranked it as a "Tier 2" country (the second-best out of four categories) in its annual Trafficking in Persons (TIP) reports, reflecting this progress. According to the State Department's TIP report covering 2011, Mexico convicted 14 sex traffickers in 2011, but did not report any convictions for forced labor. Observers maintain that the number of prosecutions recorded is low relative to the scale of the human trafficking problem in Mexico. The Mexican Congress recently approved a new law against trafficking that amends the 2007 federal anti-TIP law and includes prison sentences of up to 40 years for people convicted of sexual exploitation. Yet the Congress also cut funding for anti-TIP efforts and for the Attorney General's Office in 2012, which could weaken Mexico's ability to prosecute TIP cases.

Many Mexican law enforcement activities with respect to combating alien smuggling and human trafficking receive some degree of U.S. financial support. One way to increase Mexico's role in migration enforcement may be for Congress to consider additional investments in these programs. The United States also could include migration control as an explicit priority within other existing programs, such as the Mérida Initiative. On the other hand, Mexico is already among the largest recipients of U.S. anti-TIP assistance in the Western Hemisphere, and some Members of Congress may be reluctant to invest more resources in such programs.

## Human Rights

### Conditions and Mexican Efforts to Improve

The State Department has long documented concerns about human rights conditions in Mexico. Recently, Mexican and international human rights groups have presented evidence that human rights conditions in the country have deteriorated as a result of the brutal violence perpetrated by organized crime groups and the government's response to that violence.<sup>81</sup> Although human rights issues related to the Mexican government's struggle against organized crime have received the most attention in recent years, other societal abuses have continued to be observed. Those include domestic violence and femicide; trafficking in persons; and abuses against migrants transiting Mexico, particularly undocumented migrants from Central America.<sup>82</sup>

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<sup>80</sup> U.S. Border Patrol Office of Legislative Affairs, Oct. 17, 2011.

<sup>81</sup> "Crece 70% Quejas por Derechos Humanos: CNDH," *El Universal*, July 26, 2011; Human Rights Watch, *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](http://www.hrw.org/sites/default/files/reports/mexico1111webwcover_0.pdf). Hereinafter HRW, November 2011.

<sup>82</sup> See, for example, Amnesty International, *Invisible Victims: Migrants on the Move in Mexico*, 2010, <http://www.amnesty.org/en/library/info/AMR41/014/2010>.

There have been ongoing concerns about the human rights records of Mexico's federal, state, and municipal police. For the past several years, State Department's human rights reports covering Mexico have cited credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture.<sup>83</sup> While abuses are most common at the municipal and state level, where corruption and police collaboration with criminal groups often occurs, federal forces—including the reconstituted Federal Police—have also committed serious abuses. In April 2012, a Ciudad Juárez businessman who had accused 10 Federal Police of extorting, kidnapping, and torturing him was found murdered in his home. Individuals are most vulnerable to police abuses after they have been arbitrarily detained and before they are transferred to the custody of prosecutors, or while they are being held in preventive detention. Some 43% of Mexican inmates are reportedly in pre-trial detention.<sup>84</sup>

The Mexican government has sought to combat police corruption and human rights abuses through increased vetting of federal forces; the creation of a national police registry to prevent corrupt police from being re-hired; the use of internal affairs units; and the provision of human rights training. Earlier this year, the government also announced new protocols on the use of force and how detentions are to be handled that were designed to prevent abuses. A January 2009 public security law codified vetting requirements and professional standards for state police to be met by 2013, but progress toward meeting those standards has been uneven. With a few exceptions, efforts to reform municipal police forces have lagged behind.

There has also been increasing concern that the Mexican military, which is less accountable to civilian authorities than the police, is committing more human rights abuses since it has been tasked with carrying out public security functions. A November 2011 Human Rights Watch (HRW) report maintains that cases of torture, enforced disappearances, and extrajudicial killings have increased significantly in states where federal authorities have been deployed to fight organized crime.<sup>85</sup> According to Mexico's Human Rights Commission (CNDH), the number of complaints of human rights abuses by Mexico's National Defense Secretariat (SEDENA) increased from 182 in 2006 to a peak of 1800 in 2009 before falling slightly to 1,695 in 2011. The Trans-Border Institute has found that the number of abuses by SEDENA forces that have been investigated and documented by CNDH has also declined since 2008-2009, particularly in areas where large-scale deployments have been scaled back.<sup>86</sup> In contrast, complaints of abuses against the Secretariat of the Navy (SEMAR) reported to CNDH increased by 150% from 2010 to 2011 as its forces became more heavily involved in anti-DTO efforts.<sup>87</sup> While troubling, only a small percentage of those allegations have resulted in the CNDH issuing recommendations for corrective action to SEDENA or SEMAR, which those agencies say they have largely accepted and acted upon.<sup>88</sup> A June 2011 constitutional amendment gave CNDH the authority to force entities that refuse to respond to its recommendations to appear before the Mexican Congress.

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<sup>83</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2011*, Washington, DC, May 24, 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>. Hereinafter: Country Report: Mexico, 2011.

<sup>84</sup> Eduardo Guerrero Gutiérrez, "Las Cárceles y el Crimen," *Nexos*, April 1, 2012.

<sup>85</sup> HRW, November 2011.

<sup>86</sup> Catherine Daly, Kimberly Heinle, and David A. Shirk, *Armed with Impunity: Curbing Military Human Rights Abuses in Mexico*, Trans-Border Institute, 2012, available at: [http://justiceinmexico.files.wordpress.com/2012/07/12\\_07\\_31\\_armed-with-impunity.pdf](http://justiceinmexico.files.wordpress.com/2012/07/12_07_31_armed-with-impunity.pdf), P. 21.

<sup>87</sup> Benito Jiménez, "Acumula Marina Quejas por Abusos," *Reforma*, March 5, 2012.

<sup>88</sup> In 2011, for example, the 1,695 complaints filed with CNDH against SEDENA resulted in 25 recommendations. Country Report: Mexico, 2011, p. 8

In addition to expressing concerns about current human rights abuses, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses.<sup>89</sup> In addition to taking steps to reform the police and judiciary, the Calderón government has taken some steps to comply with rulings by the Inter-American Court of Human Rights (IACHR) that cases of military abuses against civilians should be tried in civilian courts. While a few dozen cases<sup>90</sup> have been transferred to civilian jurisdiction and President Calderón has asked SEDENA and SEMAR to work with the Attorney General to accelerate transfers, most cases are still being processed in the military justice system.<sup>91</sup> Military prosecutors have opened thousands of investigations into allegations of human rights abuses as a result of complaints filed with the CNDH, with few having resulted in convictions.<sup>92</sup>

A reform of Article 57 of the military justice code was submitted by President Calderón in October 2010 mandating that at least certain human rights violations be investigated and prosecuted in civilian courts. A more comprehensive proposal that required that all cases of alleged military human rights violations be transferred to the civilian justice system was approved by the Mexican Senate's Justice Commission in April 2012; however, the bill was subsequently blocked from coming to a vote. In September 2012, another proposal to reform Article 57 was presented in the Mexican Senate as it began its first period of sessions with its new members.

Enacting a reform of Article 57 of the military justice code may become more urgent now that Mexico's Supreme Court is in the process of establishing binding legal precedent for determining jurisdiction in cases involving alleged military human rights violations against civilians. The Supreme Court's July 2011 opinion that Mexico should comply with rulings of the IACHR that barred military tribunals from handling cases involving abuses against civilians was not binding.<sup>93</sup> On August 9, 2012, the Supreme Court ruled on one of the 28 cases it is reviewing that involve questions of military jurisdiction, including several cases of alleged human rights violations committed by soldiers. In this case, it determined that investigations and prosecutions of human rights violations committed by members of the military must be handled by civilian, not military, courts and determined that Article 57 of the military justice code is unconstitutional.<sup>94</sup> The court must rule similarly in four other cases in order to establish legal jurisprudence.

Human rights defenders and journalists have been particularly vulnerable to abuses by organized crime, sometimes acting in collusion with corrupt government authorities. Recently, several prominent human rights defenders have been harassed, attacked, and even killed, including members of the high-profile Movement for Peace with Justice and Dignity led by Javier Sicilia.

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<sup>89</sup> HRW, *Uniformed Impunity: Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations*, 2009, available at: [http://www.hrw.org/sites/default/files/reports/mexico0409web\\_0.pdf](http://www.hrw.org/sites/default/files/reports/mexico0409web_0.pdf).

<sup>90</sup> Those cases include emblematic cases involving Rosendo Radilla Pacheco; Inés Fernandez Ortega; Valentina Rosendo Cantu; Nitza Paula Alvarado Espinoza, Rocio Irene Alvarado Reyes, Jose Angel Alvarado Herrera; and Ramiro Ramirez.

<sup>91</sup> For background, see: Maureen Meyer, *Recent Developments on the Use of Military Jurisdiction in Mexico*, WOLA, January 31, 2012.

<sup>92</sup> As of September 6, 2012, SEDENA had convicted two mid-grade officer, five junior officers, and 31 enlisted soldiers as a result of CNDH recommendations. SEDENA, *Personal Militar Procesado y Sentenciado*, available at: [http://www.sedena.gob.mx/images/stories/D.H/sep2012/COMITE\\_PROCESADOS\\_Y\\_SENTENCIADOS\\_\\_06\\_SEP.pdf](http://www.sedena.gob.mx/images/stories/D.H/sep2012/COMITE_PROCESADOS_Y_SENTENCIADOS__06_SEP.pdf)

<sup>93</sup> HRW, "Mexico: Court's Historic Opportunity to Address Military Impunity," August 6, 2012.

<sup>94</sup> Adriana Gomez Licon, "Mexico Supreme Court Declares Unconstitutional Key Part of Military Law on Crime Jurisdiction," *AP*, August 22, 2012.

Increasing violent crimes targeting journalists, combined with high levels of impunity for the perpetrators of those crimes, have made Mexico the most dangerous country in the Western Hemisphere for journalists. Crimes against journalists range from harassment, to extortion, to kidnapping and murder. The Committee to Protect Journalists (CPJ) has documented 58 murders of journalists and at least 10 cases of journalists disappearing in Mexico since 2000. Threats from organized crime groups have made journalists and editors fearful of covering crime-related stories, and in some areas coverage of the DTOs' activities has been shut down.<sup>95</sup>

The Calderón government and the Mexican Congress have recently taken steps to better protect human rights defenders and journalists. The Calderón government has established a special prosecutor within the Attorney General's Office to attend to crimes against freedom of expression and created mechanisms to provide increased protection for journalists and human rights defenders. The Mexican Congress has recently enacted a law that creates a national registry of victims of organized crime or abuses by authorities and mandates compensation for victims; a law to make crimes against journalists a federal offense; and a law to require the federal government to provide protection to journalists and human rights defenders who are "at risk" of being victimized and to their families.

### **Human Rights Conditions on U.S. Assistance to Mexico**

Due to concerns about human rights conditions in Mexico, Congress included human rights conditions on Mérida assistance beyond the vetting requirements in Section 620J of the Foreign Assistance Act.<sup>96</sup> From FY2008 to FY2011, Mérida appropriations bills withheld 15% of certain assistance to Mexican security forces until the Secretary of State reported in writing that Mexico was taking action to (1) improve police transparency and accountability; (2) consult with Mexican human rights organizations and civil society on the Mérida Initiative; (3) investigate and prosecute allegations of human rights abuses by security forces in civilian courts; and, (4) prohibit the use of testimony obtained through torture. The first two conditions are not included in the FY2012 Consolidated Appropriations Act (P.L. 112-74). Funding for judicial reform, institution building, anti-corruption efforts, and rule of law programs are exempted from the 15% withholding requirements. As U.S. assistance has increasingly focused on supporting institutional reform efforts, the amount of funding subject to Mérida conditions has declined (from \$57 million in FY2008 to roughly \$3.5 million in FY2011). Human rights organizations generally lauded the inclusion of human rights conditions in Mérida Initiative appropriations legislation, but have expressed concerns that Mexico has not been fulfilling the conditions set forth in the legislation.

Thus far, the State Department has submitted three 15% progress reports on Mexico to congressional appropriators (in August 2009, September 2010, and August 2012) that have met the requirements for FY2008-FY2012 Mérida funds that had been on hold to be released. In the September 2010 report, the State Department elected to hold back \$26 million in FY2010 supplemental funds as a matter of policy until further progress was made in the areas of

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<sup>95</sup> Committee to Protect Journalists, *Silence or Death in Mexico's Press: Crime, Violence, and Corruption are Destroying the Country's Journalism*, September 2010. Mexico's inability to protect journalists prompted the country to be downgraded from "partly free" to "not free" in Freedom House's 2011 global survey on freedom of expression.

<sup>96</sup> 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."

transparency and combating impunity. Despite the intense criticism that the Mexican government has recently received from HRW and other organizations, the August 2012 15% report maintained that the Mexican government was meeting the requirements in P.L. 112-10 and P.L. 112-74.

The State Department has established a high-level human rights dialogue with Mexico, provided human rights training for Mexican security forces (at least eight hours for every course offered), and implemented a number of human rights-related programs. For example, the U.S. Agency for International Development (USAID) has provided \$1.3 million to the U.N. Office of the High Commissioner for Human Rights to help civil society groups monitor abuses by security forces and to improve how security agencies respond to those abuses. In 2011, USAID launched a \$5 million program being implemented by Freedom House to improve protections for Mexican journalists and human rights defenders. Human rights groups have acknowledged these discrete efforts, but have criticized the U.S. government more broadly for failing to enforce Mérida's human rights restrictions and for backing Mexico's military-led security strategy.

## Migration<sup>97</sup>

### 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.<sup>98</sup>

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.<sup>99</sup> 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.<sup>100</sup> Emigration flows may increase again once economic growth picks up

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<sup>97</sup> For more information, see: CRS Report R42560, *Mexican Migration to the United States: Policy and Trends*, coordinated by Marc R. Rosenblum.

<sup>98</sup> Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010*, by Michael Hoefler, Nancy Rytina, and Bryan C. Baker, 2011, available at: [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ill\\_pe\\_2010.pdf](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>.

<sup>99</sup> 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.

<sup>100</sup> 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](http://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- (continued...)

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.<sup>101</sup>

## 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. 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.<sup>102</sup> 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.<sup>103</sup>

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.<sup>104</sup> Beginning in the late 1990s, 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.<sup>105</sup>

## 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.<sup>106</sup> Although

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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.

<sup>101</sup> 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.

<sup>102</sup> Gobierno Federal de México, Secretaría de Gobernación (SEGOB), *Apuntes Sobre Migración*, July 1, 2011; SEGOB, *Boletín Mensual de Estadísticas Migratorias*, 2005-2010.

<sup>103</sup> Organization of American States, *International Migration in the Americas: SICREMI 2011 Country Reports*, 2011.

<sup>104</sup> 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>.

<sup>105</sup> This section is drawn from: Laura V. González-Murphy and Rey Koslowski, *Entiendo el Cambio a las Leyes de Inmigración 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).

<sup>106</sup> 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>.

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.<sup>107</sup> 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.<sup>108</sup> 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.

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.<sup>109</sup> Some of the main objectives of the law are to (1) guarantee the rights and protection of all migrants who transit Mexican territory; (2) simplify the procedures governing migration in Mexico to facilitate legal immigration; (3) establish the principles of family reunification and humanitarian protection as key elements of the country's immigration policy; and, (4) 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.<sup>110</sup>

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

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<sup>107</sup> An English translation of the resolution is available at <http://hirc.house.gov/archives/109/Mexico%20Migration%20Phenomenon.pdf>.

<sup>108</sup> 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).

<sup>109</sup> 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>.

<sup>110</sup> CRS translation of a briefing document prepared by INM in response to a CRS request.



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”<sup>111</sup> 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 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 109<sup>th</sup> and 110<sup>th</sup> Congresses, but not enacted.<sup>112</sup>

The Speaker of the House and the Senate majority leader pledged to take up immigration reform legislation in the 111<sup>th</sup> Congress. President Obama reiterated his support for comprehensive immigration reform during a joint press appearance with President Calderón on May 19, 2010, but also said that he lacked the votes in Congress to move a reform bill forward.<sup>113</sup> 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.<sup>114</sup> The 111<sup>th</sup> 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.<sup>115</sup>

Despite President Obama’s stated commitment to pursue comprehensive immigration reform, immigration has not been a front-burner issue for the 112<sup>th</sup> Congress. A comprehensive immigration reform bill (S. 1258) and DREAM Act bills (S. 952, H.R. 1842, and H.R. 3823) have again been introduced in the 112<sup>th</sup> Congress, but it is unclear whether any of them will be considered. The 112<sup>th</sup> Congress has taken legislative action on some measures containing provisions on a range of immigration-related topics.<sup>116</sup>

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<sup>111</sup> 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.

<sup>112</sup> 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.

<sup>113</sup> Michael Muskal, “Obama Calls for Help with Immigration Reform,” *Los Angeles Times*, May 20, 2010.

<sup>114</sup> Jennifer Bendery and John Stanton, “Obama Sends Mixed Messages on Immigration,” *Roll Call*, June 1, 2010.

<sup>115</sup> 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.

<sup>116</sup> For information, see: CRS Report R42036, *Immigration Legislation and Issues in the 112th Congress*, coordinated (continued...)

On June 15, 2012, the Obama Administration announced that certain individuals who were brought to the United States as children and meet other criteria similar to those included in DREAM Act bills would be considered for relief from removal. Under a memorandum issued by Secretary of Homeland Security Janet Napolitano on that date, these individuals would be eligible for deferred action for two years, subject to renewal, and could apply for employment authorization. The deferred action process set forth in the June 15, 2012, memorandum, however, would not grant eligible individuals a legal immigration status.

### **Mexico's Reaction to Arizona's S.B. 1070 and Other State Laws to Deter Unauthorized Immigration<sup>117</sup>**

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 was 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. 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 argued that

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(...continued)

by Andorra Bruno.

<sup>117</sup> For background, see: CRS Report R42719, *Arizona v. United States: A Limited Role for States in Immigration Enforcement*, by Kate M. Manuel and Michael John Garcia; CRS Report R41423, *Authority of State and Local Police to Enforce Federal Immigration Law*, by Michael John Garcia and Kate M. Manuel.

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 from taking effect pending the results of the U.S. Department of Justice's lawsuit. In April 2011 the Ninth Circuit Court of Appeals upheld the lower court's injunction. Arizona then appealed to the Supreme Court, which issued a split verdict on S.B. 1070 on June 25, 2012.

Although the Court struck down three of the four provisions of S.B. 1070 challenged by the federal government, it unanimously upheld the fourth, which requires Arizona police, whenever practicable, to investigate the immigration status of persons reasonably suspected of being unlawfully present when such persons are stopped, detained, or arrested pursuant to the enforcement of state or local law.<sup>118</sup> However, the Court noted the possibility of "other preemption and constitutional challenges to the law as interpreted and applied after it goes into effect."<sup>119</sup> The "status check" provision of S.B. 1070 is similar to measures enacted by other states, including Alabama, Georgia, South Carolina, and Utah. The Mexican government has filed amicus curiae briefs in lawsuits seeking to block the immigration laws in those states as well.

## Energy and Environmental Issues

### Oil Production in Mexico and Efforts to Reform PEMEX

The future of oil and gas production in Mexico is of great importance for Mexico's economic stability and for U.S. energy security; Mexico is consistently a top U.S. crude oil supplier. Mexico's state oil company, Pemex, established in 1938 as the world's first major national oil company, remains an important source of government revenue, but is struggling to counter the country's declining oil production. Production reached a peak of 3.48 million barrels per day in 2004 and has been declining since then, falling to 2.60 million barrels per day in 2011.<sup>120</sup> There are concerns that Mexico's proven reserves are also declining because Pemex has been so heavily taxed by the government that it has been unable to invest in exploration of the country's significant deep water and shale oil reserves.

Policy experts have long urged Mexico to reduce the heavy fiscal burdens on Pemex and to reform the constitution to enable Pemex to pursue joint ventures with foreign oil companies that have the technological experience and capital required for oil and gas exploration and production. However, numerous stakeholders in Mexico are concerned that increasing private involvement in Pemex could threaten Mexico's constitutionally protected control over its natural resources. Legislators from the left and center have derailed most oil and gas sector reform efforts introduced, despite limited reforms being enacted by the Calderón Administration in 2008. Those reforms brought private sector experts into Pemex's management structure, created an

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<sup>118</sup> Tamara Audi and Andrew Morse, "Arizona Ruling Leaves Immigrants Worried About Future," *Dow Jones International News*, June 25, 2012.

<sup>119</sup> *Arizona v. United States*, 132 S. Ct. 2492 (2012).

<sup>120</sup> United States Energy Information Administration data, available at <http://www.eia.gov>.

independent board to advise the company, and added greater flexibility to its procurement and investment processes. Most significantly, the 2008 reforms permit Pemex to create incentive-based service contracts with private companies.<sup>121</sup>

Many analysts contend, however, that the reforms did not go far enough and that they do little to help the Pemex address its major challenges.<sup>122</sup> Most experts contend that Pemex only has the capacity to extract oil or gas in shallow waters and needs to bring in new technologies and know-how through private investment to allow the company to successfully explore and produce in the deep waters in the Gulf of Mexico. The lack of further reforms is keeping Mexico from allowing much-needed foreign investment in oil exploration. Though the performance-based contracts are expected to increase production and reserves, Pemex faces serious challenges in finding new, productive wells and engineering capacity.

Many U.S. observers are interested in whether the next Mexican administration will push for further reforms to increase private involvement in Pemex. Enrique Peña Nieto has endorsed such action, and has suggested that Pemex might follow the example of Petrobras in Brazil.<sup>123</sup> Enacting energy reforms is a task which Peña Nieto has said will be a top priority for his administration. However, constitutional reforms require a two thirds vote in the congress. And, the PRI-led coalition's failure to capture a majority in either chamber of the congress may mean that Peña Nieto will encounter the same type of opposition to his reformist agenda that Calderón has experienced, unless he is able to reach agreements with the PAN.<sup>124</sup> The PRD and portions of the PRI remain opposed to increasing private involvement in Pemex.<sup>125</sup> Some predict that Peña Nieto may move to implement reforms that have broad based support, such as making Pemex's budget more independent and reducing its tax burden as part of a larger fiscal reform effort, before pushing for greater private cooperation with Pemex.<sup>126</sup>

## U.S.-Mexican Energy and Environmental Cooperation

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, May 2011, and May 2012. There is particular interest on both sides in ensuring that Mexico is able to develop unconventional energy sources in an environmentally responsible way and in overseeing 10 new projects related to wind and solar energy that the NADBank has helped finance. The U.S. Agency for International Development

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<sup>121</sup> Wood, 2010.

<sup>122</sup> Woodrow Wilson International Center for Scholars, Latin American Program, *The Outlook for Energy Reform in Latin America*, March 2010.

<sup>123</sup> In the 1990s, Petrobras increased private involvement in exploration, production, and refining; implemented reforms to boost its competitiveness; and then gradually opened itself up to private minority ownership.

<sup>124</sup> "Mexico's Calderón Pledges to Back Peña Nieto Reforms—Report," *Reuters*, July 15, 2012; "Peña Nieto Faces Challenging Mexican Transition," *Oxford Analytica*, July 10, 2012.

<sup>125</sup> "UPDATE 1-Mexican President-elect Pena Nieto Unveils Transition Team," *Reuters*, September 5, 2012.

<sup>126</sup> "Mexico State Oil Firm Eyes More Freedom With New President," *Reuters*, July 20, 2012

(USAID) and Mexico have also recently signed a memorandum of understanding 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.

### United States-Mexico Trans-Boundary Hydrocarbons Agreement<sup>127</sup>

Estimates that a marine area straddling the U.S.-Mexico border held billions of barrels of crude oil prompted discussions between the United States and Mexico starting in the 1970s on how to manage exploration.<sup>128</sup> These resource estimates have continued to drive negotiations focused on jointly managing ocean areas in the Gulf of Mexico beyond the two nation's respective exclusive economic zones (EEZs).<sup>129</sup> In 2001, the marine area was delimited by both countries and they agreed that a moratorium on exploration and drilling would be in effect for approximately 10 years covering a "buffer zone" marking the area at the border of each country's marine boundary. The stated purpose of the moratorium was to grant time for each country to learn more about the geology and geophysical characteristics of the area and to determine how to best address managing trans-boundary resources once the moratorium was lifted. During the early years that the moratorium was in effect, both countries studied the area and considered options for managing oil and gas reserves in the border area. In 2010 the United States and Mexico jointly announced their intention to work toward replacing the moratorium with a mutual plan for developing trans-boundary resources.<sup>130</sup>

On February 20, 2012, the governments of the United States and Mexico announced the signing of a Trans-boundary Hydrocarbons Agreement (the agreement).<sup>131</sup> The agreement is a step toward clarifying relations between the two countries with respect to managing resources in portions of the Gulf of Mexico that straddle the international marine border of both countries.<sup>132</sup> Secretary of State Hillary Clinton has referred to the Trans-boundary agreement as an example of recent U.S.-Mexican efforts to develop a sustainable energy trading relationship.

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<sup>127</sup> This section was drafted by Curry L. Hagerty, Specialist in Energy and Natural Resources Policy.

<sup>128</sup> Department of the Interior Office of Public Affairs. *Deepwater Gulf of Mexico 2006: America's Expanding Frontier OCS Report 2006-022*, (May 2006).

<sup>129</sup> With few exceptions, coastal nations exercise jurisdiction over marine areas within approximately 200 nautical miles of their coasts. This area is recognized as a nation's exclusive economic zone (EEZ) under most domestic laws and is generally consistent with international law. The United States declared its EEZ in Presidential Proclamation No. 5030, 48 *Federal Register* 10605 (March 14, 1983). The *Treaty between the Government of the United Mexican States and the Government of the United States of America on the Continental Shelf* signed on June 9, 2000, was consistent with this declaration.

<sup>130</sup> This announcement is referred to as the *Joint Statement adopted by Presidents Obama and Calderon* at the conclusion of President Calderon's state visit to Washington on May 19, 2010.

<sup>131</sup> U.S. Department of State, Bureau of Western Hemisphere Affairs, *Agreement between the United States of America and the United Mexican States Concerning Trans-boundary Hydrocarbon Reservoirs in the Gulf of Mexico*, text of agreement available at <http://www.state.gov/p/wha/rls/2012/185259.htm>. (Last checked July 27, 2012.)

<sup>132</sup> See *Treaty to Resolve the International Boundary* signed on November 23, 1970, the *Treaty on Maritime Boundaries between the United Mexican States and the United States of America* signed on May 4, 1978, and the *Treaty between the Government of the United Mexican States and the Government of the United States of America on the Continental Shelf* signed on June 9, 2000. The ocean area beyond each country's EEZ is covered by these bilateral treaties. See **Figure 1**. The area measures approximately 5,092 square nautical miles (17,467 square kilometers), an area slightly smaller than the state of New Jersey.

Before the agreement might take effect, both countries must review and accept the agreement. The Mexican Senate approved the Agreement on April 12, 2012, and the Mexican presidency completed all other domestic requirements to implement the agreement on May 22, 2012.<sup>133</sup> Steps toward U.S. review and acceptance are currently underway, with the Department of State taking lead responsibility for addressing potential hurdles during the process. A procedural question has emerged with respect to what actions are needed for the agreement to be accepted in the United States. At issue is whether the agreement should be entered in the form of a treaty (in which case it would need to be submitted to the Senate and approved by a two-thirds majority) or a Congressional-Executive Agreement (in which case congressional authorization would take the form of a statute passed by a majority of both houses).

Both countries also announced a mutual interest in the following actions: (1) eliminating a moratorium in waters beyond their respective exclusive economic zones (EEZ); (2) studying the trans-boundary areas (exchanging geological information); and, (3) potentially deploying joint oil and gas operations associated with developing trans-boundary reservoirs (jointly permitting operations).<sup>134</sup> Accordingly, this agreement is a catalyst for further consultation between respective regulators responsible for managing natural resources and regulators responsible for facilitating oil and gas development.<sup>135</sup>

At issue for Congress is what if any implications might stem from the United States accepting this agreement. Specifically, the following questions arise with respect to how the agreement might affect U.S. interests: (1) Would the agreement lead to any new legal or regulatory obligations for U.S. interests? (2) Would existing environmental laws or existing lease terms and conditions in effect in the Gulf of Mexico be affected by the agreement? and (3) What, if any, fiscal implications (gains or losses) might result from accepting the agreement and carrying out collaborative projects in the boundary area?

## Trade Issues<sup>136</sup>

The bilateral trade relationship with Mexico is of key interest to Congress because of Mexico's proximity, the high volume of trade with Mexico, and the strong cultural and economic ties between the two countries. The United States and Mexico have strong economic ties through the North American Free Trade Agreement (NAFTA), which has been in effect since 1994. Since the implementation of NAFTA, U.S.-Mexico trade has quadrupled, with the value of total bilateral trade reaching some \$460 billion in 2011.<sup>137</sup> 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.

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<sup>133</sup> Department of State, *Summary of the U.S.-Mexico Transboundary Hydrocarbons Agreement* (July 30, 2012).

<sup>134</sup> Joint commitments listed in the agreement involve goals for the safe and equitable exploitation of trans-boundary reservoirs. These commitments are intended to unfold over many years through further negotiations aimed at facilitating more specific approaches to such issues as standards for operations and environmental review.

<sup>135</sup> Until the agreement is accepted the timeline for implementation remains unclear. Numerous federal regulators might be involved in regulating activities covered by the agreement. Operational safety and revenue obligations related to any future oil and gas leases have already been delegated to the Bureau of Ocean Energy Management (BOEM, within the Department of the Interior). See CRS Report R42599, *Department of the Interior (DOI) Reorganization of Ocean Energy Programs*, by Curry L. Hagerty.

<sup>136</sup> This section draws from CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

<sup>137</sup> Data is from the U.S. International Trade Commission (USITC) Interactive Tariff and Trade DataWeb at <http://daraweb.usitc.gov>.

The value of U.S. foreign direct investment (FDI) in Mexico has risen from \$17 billion in 1994 to \$91.4 billion in 2011, a 440% increase.<sup>138</sup> 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. Congress has monitored the implementation of NAFTA, the effects of NAFTA on the U.S. and Mexican economies, and the resolution of NAFTA-related trade disputes. Mexico's recent accession to negotiations for a Trans-Pacific Partnership (TPP) trade agreement is likely to generate congressional interest.

### 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. In the fall of 2011, the NADBank's mandate was broadened to include projects aimed at developing clean energy. Legislation has been proposed in the 112<sup>th</sup> Congress (H.R. 2216) to further broaden the functions of NADBank to include other types of infrastructure development to foster economic growth along the border.

### Trade Disputes

Recent trade disputes between 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.

### *Trucking*<sup>139</sup>

Since 2005, the implementation of NAFTA trucking provisions has periodically 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 Mexico to impose retaliatory 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. The FY2010 Consolidated Appropriations Act (P.L. 111-117) and FY2011 Full-Year Continuing Appropriations Act (P.L. 112-10) did 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.

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<sup>138</sup> Data is from the U.S. Department of Commerce, Bureau of Economic Analysis.

<sup>139</sup> *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.

In 2011, the United States and Mexico finally resolved the long-standing NAFTA trucking dispute. In January 2011, the Obama Administration released a concept document for a proposed program to implement the trucking provisions. The Mexican government agreed to phase out the retaliatory tariffs it had imposed once the plan was finalized and to end all retaliatory tariffs once the first Mexican carrier was certified to operate in the United States. On July 6, 2011, the Department of Transportation signed a formal agreement with Mexico establishing a pilot trucking program and ending 50% of the retaliatory tariffs that had been imposed on U.S. exports to Mexico. The first Mexican truck entered the United States under the program on October 21, 2011. Mexico then ended the rest of the retaliatory tariffs it had imposed on the United States. 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.

### *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 toward Mexico. The U.S. government has appealed the ruling.<sup>140</sup> 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.

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<sup>140</sup> "U.S. Appeals WTO Ruling in Mexico Dolphin-Tuna Row," *Agence France Presse*, January 20, 2012.



## Proposed Trans-Pacific Partnership (TPP) Agreement<sup>141</sup>

On June 18, 2012, President Obama announced that the nine countries involved in the negotiations of the proposed Trans-Pacific Partnership (TPP) had extended an invitation to Mexico to join negotiations for the proposed regional free trade agreement. The announcement that Canada has also been invited to join the negotiations came on June 19, 2012. The original countries involved in the negotiations included the United States, Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam.

U.S. negotiators and others describe and envision the TPP as a "comprehensive and high-standard" FTA, presumably because they hope it will liberalize trade in nearly all goods and services and include commitments beyond those currently established in the World Trade Organization (WTO). The broad outline of an agreement was announced on the sidelines of the Asia-Pacific Economic Cooperation (APEC) ministerial in November 2011 in Honolulu, HI. If implemented, the TPP potentially could eliminate tariff and non-tariff barriers to trade and investment among the parties and could serve as a template for a future trade pact among APEC members and potentially other countries. Congress has a direct interest in the negotiations, both through influencing U.S. negotiating positions with the executive branch, and by passing legislation to implement any resulting agreement.

The proposed TPP would likely enhance the trade links Mexico already has with the United States and Canada under NAFTA. This could include further reduction of barriers to trade and the negotiation of key issues in areas such as agriculture, intellectual property rights protection, government procurement, regulatory cohesion, investment issues, and others. The Mexican government agreed to several conditions that TPP countries had placed on its entry into the negotiations, including a commitment to "high standards." The conditions included that Mexico would not be able to reopen any existing agreements that were already made by the current TPP partners, unless they agreed to revisit something previously agreed upon. Thus far, TPP partners have only closed out one chapter of the agreement, which is predicted to have 26 chapters in total.

## Legislation in the 112<sup>th</sup> Congress<sup>142</sup>

### 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 funded government programs, including foreign assistance to Mexico, at reduced levels for the remainder of FY2011. The measure contained the same human rights conditions as in P.L. 111-8.

**P.L. 112-55 (H.R. 2112), Consolidated and Further Continuing Appropriations Act, 2012.** Signed into law November 18, 2011, the measure funded government programs through

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<sup>141</sup> For background, see: CRS Report R42694, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

<sup>142</sup> For more information on immigration and border security legislation in the 112<sup>th</sup> Congress, see: CRS Report R42036, *Immigration Legislation and Issues in the 112th Congress*, coordinated by Andorra Bruno.

December 16, 2011. S.Amdt. 738 (Cornyn) prohibited funding for Operation “Fast and Furious” or any other similar programs.

**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 evidence gathered through torture. 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 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 authorizes the Department of Defense to continue providing support for counter-drug activities in Mexico through FY2014.

**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.

**P.L. 112-127 (H.R. 4119), Border Tunnel Prevention Act of 2012.** Signed into law June 5, 2012, the measure tightens sentencing and prosecution regulations for those who conspire to build trans-border smuggling tunnels.

**H.R. 915 (Cuellar), Jaime Zapata Border Enforcement Security Task Force Act.** Introduced March 3, 2011; reported by the House Homeland Security Committee (H.Rept. 112-268) November 4, 2011; House approved May 30, 2012. Reported by the Senate Committee on Homeland Security and Government Affairs (S.Rept. 112-206) August 28, 2012. Senate approved September 22, 2012. Provides statutory authority for the Border Enforcement Security Task Force (BEST) program within ICE, and authorize funding for the program for FY2012-FY2016.

**H.J.Res. 117 (Rogers), Continuing Appropriations Resolution, FY2013.** Introduced September 10, 2012; House approved September 14, 2012. Senate approved September 22, 2012. Funds government programs through March 27, 2013.

## **Additional Measures**

**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) November 10, 2011; House approved May 30, 2012. Would direct the Secretary of Homeland Security to submit a comprehensive strategy for gaining operational control of the international borders between U.S. ports of entry within five years to the appropriate congressional committees.

**H.R. 1507 (Flake)/S. 803 (McCain), Border Security Enforcement Act of 2011.** Would direct DOD and DHS to deploy additional personnel to the Southwest border. Introduced in the House and the Senate April 23, 2011.

**H.R. 2216 (Hinojosa), NADBank Enhancement Act of 2011.** Would amend the NAFTA Implementation Act to authorize the President to agree to amendments to the Border Environment Cooperation Agreement between the United States and Mexico to change the mandate of the NADBank to allow it to finance a range of infrastructure projects in the border region. Introduced June 16, 2011; referred to the House Committee on Financial Services.

**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) September 23, 2011. 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. 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. Would require the Secretary of State to submit a detailed counterinsurgency strategy "to combat the terrorist insurgency in Mexico waged by transnational criminal organizations."

**H.R. 4190 (Schiff), Straw Purchaser Penalty Enhancement Act.** Would amend the federal criminal code to increase penalties for making false statements or misrepresenting identification when seeking to acquire a firearm or ammunition. Introduced March 8, 2012; referred to the House Committee on the Judiciary.

**H.R. 4303 (McCaul),** would direct the Secretary of State to designate certain Mexican drug cartels as foreign terrorist organizations and require the State Department to submit a report on how it is helping Mexico confront drug trafficking-related violence. Introduced March 29, 2011; referred to the House Committees on the Judiciary and Foreign Affairs.

**H.R. 4310 (McKeon), National Defense Authorization Act for FY 2013.** Introduced March 29, 2012; reported by the House Committee on Armed Services (H.Rept. 112-479) May 15, 2012; House approved May 18, 2012. Recommends that funding be provided to ensure that the eight counterdrug tethered aerostat radar systems that have been funded by the Department of Defense remain available for use in counterdrug efforts along the U.S.-Mexico border.

**H.R. 5743 (Rogers), Intelligence Authorization Act for FY 2013.** Introduced May 15, 2012; reported by the House Committee on Intelligence (H.Rept. 112-490) May 22, 2012; House approved May 31, 2012. Would authorize the Director of National Intelligence to share

intelligence with Mexico if the Director believes sharing will reduce drug trafficking but will not threaten national security. Would also authorize the Director to make use of intelligence sent from Mexico, so long as that intelligence meets the same criteria.

**H.R. 5857 (Granger), Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013.** Introduced May 25, 2012; reported by the House Committee on Appropriations (H.Rept. 112-494) May 25, 2012. Does not include a final funding level for Mexico, but the report accompanying the act would exceed the Administration's request for Mexico by providing \$248.5 million in INCLE (\$49 million more than the request), \$35 million in ESF, \$33 million in DA, and \$7 million in FMF. Would require the State Department to submit a report within 45 days of enactment the act detailing the implementation of funds appropriated since FY2008 and containing recommendations for how to combat the financial operations of transnational criminal organizations operating in Mexico. Would require another report with 60 days of the enactment of the measure detailing how Mexico is meeting the human rights conditions described in P.L. 112-74.

**H.R. 5964 (Cuellar)/S. 3279 (Cornyn), Cross-Border Trade Enhancement Act of 2012.** Would provide for alternative financing arrangements for the provision of certain services and the construction and maintenance of infrastructure at land border ports of entry. Introduced in the House June 19, 2012; Introduced in the Senate June 7, 2012.

**H.R. 6280 (Mack), United States-Mexico Cross-Border Security Act.** Would require U.S. federal agencies, working in collaboration with the government of Mexico, to develop a "whole of government" plan for combating transnational criminal groups based in Mexico. Introduced August 2, 2012; referred to the House Committees on Foreign Affairs, Homeland Security, and the Judiciary.

**H.R. 6368 (Canseco), Border Security Information Improvement Act of 2012.** Introduced September 10, 2012; House approved September 19, 2012. Would require the Attorney General to issue a study on cross-border violence to relevant congressional committees.

**S. 1419 (Klobuchar), Anti-Cash Smuggling Act of 2011.** Would create reporting requirements to prevent the use of stored value cards and other electronic fund access means as methods for currency smuggling or money laundering. Introduced July 26, 2011; referred to Senate Committee on Banking, Housing, and Urban Affairs.

**S. 1731 (Grassley), Combating Money Laundering, Terrorist Financing, and Counterfeiting Act of 2011.** Would increase penalties for bulk cash smuggling, make prepaid access devices subject to anti-money laundering reporting requirements, and extend the jurisdiction of the United States in money laundering cases to activities outside the country that affect the United States. Introduced October 18, 2011; referred to the Senate Committee on the Judiciary.

**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 United States.

**S. 3241 (Leahy), Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013.** Introduced and reported by the Senate Committee on Appropriations (S.Rept. 112-172) May 24, 2012. The report accompanying the act recommends providing \$199 million in INCLE and \$45 million in ESF to Mexico. It withholds 15% of assistance for Mexican military and police forces on the Secretary of State reporting in writing that Mexico has reformed its military justice system to require that military and police personnel who are credibly alleged to have violated human rights are investigated and prosecuted in the civilian justice system; is enforcing prohibitions against torture and the use of evidence gathered through torture; and, that the Mexican military and police are immediately transferring detainees to the custody of civilian judicial authorities and cooperating with those authorities. The report recommends providing increased support for Mexican journalists from the Global Programs/Democracy Fund.

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