



Mexico and the 112th 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 now that President Enrique Peña Nieto has taken 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, retook the presidency on December 1, 2012. Some analysts have raised concerns regarding the PRI's return to power, but President Peña Nieto has pledged to govern democratically and to forge cross-party alliances.

The outgoing PAN government of Felipe Calderón pursued an aggressive anticrime strategy and increased security cooperation with the United States. Those efforts helped Mexico arrest or kill record numbers of drug kingpins, but 60,000 people may have died as a result of organized crime-related violence during the Calderón Administration. Mexico's ongoing security challenges overshadowed some of the Calderón government's achievements, including its successful economic stewardship during and after the global financial crisis.

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 112th Congress 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 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.

Violence in northern Mexico has kept border security on the agenda, with P.L. 112-93 increasing penalties for aviation smuggling, P.L. 112-127 tightening sentencing guidelines for building border tunnels, and P.L. 112-205 providing statutory authority for the bilateral Border Enforcement Security Task Force (BEST) program.

Mexico's recent accession to negotiations for a Trans-Pacific Partnership (TPP) trade agreement generated congressional interest. Congressional consideration of the Trans-boundary Hydrocarbons Agreement did not occur.

This report reflects legislative developments during the 112th Congress. It will not be updated. Also see: CRS Report R42917, *Mexico's New Administration: Priorities and Key Issues in U.S.-Mexican Relations*, 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 two decades, Mexico has transitioned from a centralized political system dominated by the Institutional Revolutionary Party (PRI) to a true multiparty democracy. Since the PRI last governed in the 1990s, presidential power has become increasingly constrained by Mexico's Congress, its Supreme Court, and increasingly powerful governors.¹ Partially as a result of those constraints, two successive National Action Party (PAN) administrations struggled to enact the structural reforms needed to boost Mexico's economic competitiveness and effectively address the country's security challenges. Weak institutions remain an impediment to democratic consolidation in Mexico.

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



Source: Map Resources, adapted by CRS.

¹ 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

Felipe Calderón of the conservative 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; his term concluded on November 30, 2012. Calderón was succeeded by Enrique Peña Nieto of the Institutional Revolutionary Party (PRI).

The serious economic and security challenges that Mexico has faced over the last few years have overshadowed the policy achievements of the Calderón Administration.² Despite taking office in a relatively weak position after a disputed election, Calderón shepherded some significant reforms through the Mexican Congress in the beginning and end of his term, including historic labor reforms enacted in November 2012. The Calderón government 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 grew stronger through cooperation under the Mérida Initiative, as did Mexico's relations with Latin America. Nevertheless, Mexico experienced an unprecedented security crisis that 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 caused Calderón's popularity to decline and prompted some negative assessments of his presidency.³

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

Mexico held mid-term elections in July 2009. The PRI performed even better in those elections than polls had suggested it would, capturing 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.

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

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

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

The composition of the Chamber of Deputies sworn in on September 1, 2009 complicated President Calderon's legislative agenda, which had included enacting a package of comprehensive political reforms.⁵ The PRI, with the support of the allied Green Ecological Party (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. 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.⁶

July 1, 2012, Elections: Outcome and Political Transition⁷

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 later pledged to abide by its decision. In contrast, López Obrador refused to recognize the election results and left the PRD in order to turn his Morena (Movement for National Regeneration) social movement into a political party.

As predicted, the PRI that governed Mexico from 1929 to 2000 retook the presidency after 12 years of rule by the PAN and won a plurality (but not a majority) 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 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%. Peña Nieto vowed to lead a "new PRI" government free from the corruption that characterized the party in the past and ready to enact bold reforms.

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 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

⁵ 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.

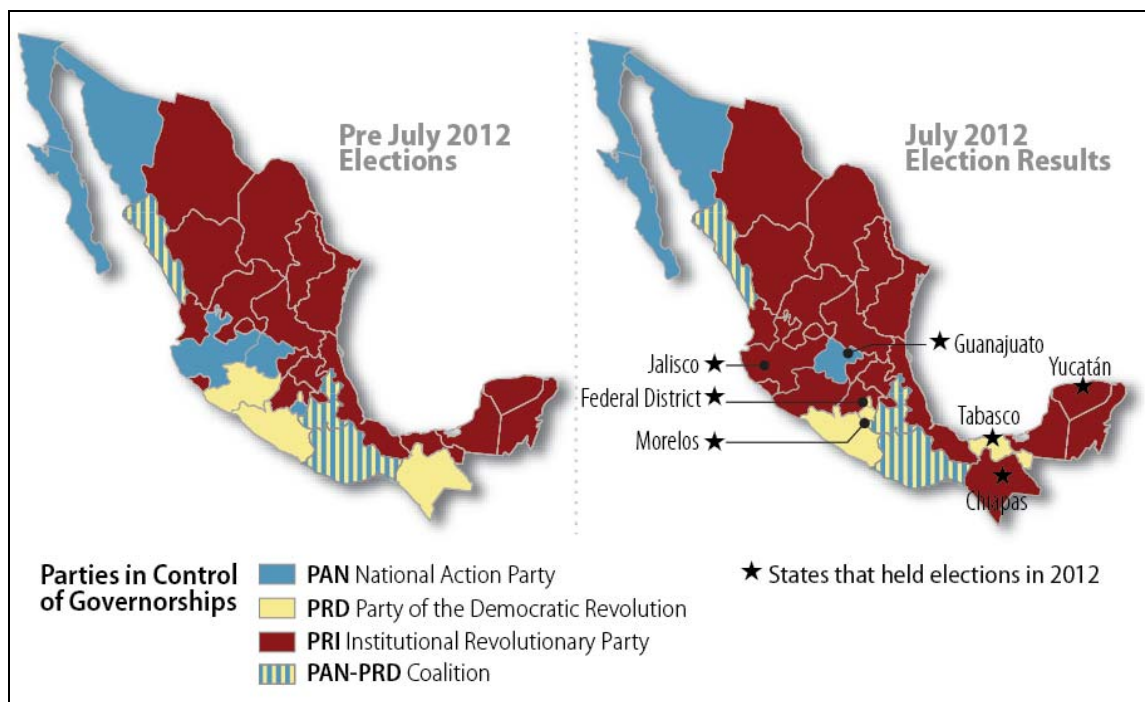
⁶ The political reform that President Calderón signed into law in August 2012 amends the constitution to allow for, among other things, popular referendums on certain topics, independent candidates to run for office beginning in 2015, and presidents to submit two legislative proposals for fast-track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

⁷ For more detail on the elections, see: CRS Report R42548, *Mexico's 2012 Elections*, by Clare Ribando Seelke. For information on the Peña Nieto Administration, see: CRS Report R42917, *Mexico's New Administration: Priorities and Key Issues in U.S.-Mexican Relations*, by Clare Ribando Seelke.

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. 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. The PRD-led coalition, which now has 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.

Although President Peña Nieto's government may encounter the same type of legislative opposition to his agenda that President Calderón 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 the governorship of Jalisco and Chiapas, but lost the state of Tabasco. 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.

Figure 2. Mexico's 2012 Gubernatorial Election Results



Source: Mexico's Federal Electoral Institute

Mexico has an unusually long five-month transition period from one presidency to the next, which can prove awkward for the outgoing and incoming Administrations. Between September and November 2012, however, there appeared to be some communication between the outgoing Calderón government and Enrique Peña Nieto's transition team. Outgoing President Calderón introduced labor reform legislation that the Mexican Congress approved under new fast-track provisions in November 2012, which had also been endorsed by President-elect Peña Nieto.

On December 1, 2012, President Peña Nieto took office for a six-year presidential term.⁸ Upon his inauguration, Peña Nieto announced a reform agenda with specific proposals under five broad pillars: reducing violence; combating poverty; boosting economic growth; reforming education; and fostering social responsibility. Somewhat surprisingly, leaders from the conservative PAN and leftist PRD signed on to President Peña Nieto's "Pact for Mexico" agreement containing legislative proposals for advancing that reform agenda. While some opposition legislators have since balked at their leaders' decisions to endorse the PRI-led pact, the Congress already approved an education reform bill, one of the 13 proposals based on the pact that Peña Nieto had identified as short-term priorities.

Drug Trafficking and Heightened Violence and Crime in Mexico⁹

Mexico is a major producer and supplier to the U.S. market of heroin, methamphetamine, and marijuana and the major transit country for more than 95% of the cocaine sold in the United States.¹⁰ Mexico is also a consumer of illicit drugs, particularly in northern states where criminal organizations have been paying their workers in product rather than in cash. The prevalence of illicit drug use in Mexico increased from 2002 to 2008, and then remained relatively level from 2008 to 2011.¹¹ 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."¹²

In the past few years, the violence and brutality of the Mexican DTOs have escalated as they have battled for control of lucrative drug trafficking routes into the United States and local drug distribution networks in Mexico. U.S. and Mexican officials now often refer to the DTOs as transnational criminal organizations (TCOs) since they have increasingly branched out into other criminal activities, including human trafficking, kidnapping, armed robbery, and extortion. From 2007-2011, kidnapping and violent vehicular thefts increased at even faster annual rates than overall homicides in Mexico.¹³ The expanding techniques used by the DTOs, which have included the use of car bombs and grenades have led some scholars to liken DTOs' tactics to those of armed insurgencies.

The Calderón Administration made combating drug trafficking and organized crime its top domestic priority.¹⁴ Government enforcement efforts, many of which were led by Mexican

⁸ See: CRS Report R42917, *Mexico's New Administration: Priorities and Key Issues in U.S.-Mexican Relations*, by Clare Ribando Seelke.

⁹ For more information, see CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel.

¹⁰ U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2012, <http://www.state.gov/j/inl/rls/nrcrpt/2012/vol1/184100.htm#Mexico>. Hereinafter *INCSR*, March 2012.

¹¹ According to data from Mexico's National Survey of Addictions, the prevalence of illicit drug use in Mexico increased from 0.8% of the population in 2002 to 1.4% in 2008, but remained relatively stable at 1.5% in 2011. Ruth Rodríguez, "Alcohol, Principal Adicción en el País," *El Universal*, October 30, 2012.

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

¹³ From 2007-2011, the homicide rate per 100,000 people in Mexico increased by an annual average of 15.4%. During that same period, kidnappings increased at an average annual rate of 23.5% and armed vehicular robberies by 19.7%. Mexico Evalúa, *Indicadores de Víctimas Visibles e Invisibles de Homicidio*, Mexico, D.F., November 2012, available at: http://mexicoevalua.org/descargables/413537_IVVI-H.pdf.

¹⁴ The Calderón Administration's security strategy focused on: (1) carrying out joint police-military operations to (continued...)

military forces, took down leaders from all of the major DTOs, either through arrests or deaths during operations to detain them. The pace of those takedowns accelerated beginning in late 2009, partly due to increased intelligence-sharing between the U.S. and Mexican governments. In 2009, the Mexican government identified the country's 37 most wanted criminals, and by October 2012, at least 25 of those alleged criminals had been captured or killed, including the head of the Gulf DTO and of Los Zetas. The Calderón government extradited record numbers of criminals to the United States, including 93 in 2011; however no top DTO leaders captured were tried and convicted in Mexican courts.¹⁵ The government's focus on dismantling the leadership of the major criminal organizations contributed to brutal succession struggles, shifting alliances among the DTOs, and the replacement of existing groups with ones that were even more violent.¹⁶

Analysts estimate that drug trafficking-related violence in Mexico may have resulted in some 60,000 deaths over the course of the last six years; another 25,000 individuals reportedly went missing over that period.¹⁷ Several sources have reported that violence peaked in 2011, before falling in 2012, perhaps by as much as 20%.¹⁸ Although the violence has primarily taken place in contested drug production and transit zones, the regions of the country most affected by the violence have shifted over time, to include large cities (such as Monterrey, Nuevo León) and tourist zones (Acapulco, Guerrero). Still, there have been incidents of violence across the country, with the security situation in particular areas sometimes changing rapidly. A State Department Travel Warning cited security concerns in parts of 19 of Mexico's 32 states and urged U.S. citizens to "defer non-essential travel" to Chihuahua, Coahuila, Durango, and Tamaulipas.¹⁹

On December 17, 2012, President Peña Nieto outlined a strategy that aims to achieve a "Mexico in Peace" where human rights are respected and protected by implementing a "state" security policy that involves binding commitments from all levels of government and civic participation. The six pillars of the strategy include: 1) planning; 2) prevention; 3) protection and respect of human rights; 4) coordination; 5) institutional transformation; and 6) monitoring and evaluation. Although President Peña Nieto has told U.S. media outlets that his government will not abandon the fight against organized crime, the primary goal of his security strategy is to improve security conditions inside Mexico. Its success will be measured in reductions in homicides and other crimes, rather than in drugs seized or kingpins arrested.²⁰

(...continued)

support local authorities and citizens; (2) increasing the operational and technological capacities of the state (such as the Federal Police); (3) initiating legal and institutional reforms; (4) strengthening crime prevention and social programs; and (5) strengthening international cooperation (such as the Mérida Initiative). Government of Mexico, *Mexico's Fight for Security: Strategy and Main Achievements*, June 2011.

¹⁵ William Booth, "Mexico's Crime Wave has Left About 25,000 Missing, Government Documents Show," *Washington Post*, November 29, 2012.

¹⁶ Patrick Corcoran, "What to Keep, What to Throw Away from Calderon Presidency," *Insight Crime Organized Crime in the Americas*, November 30, 2012.

¹⁷ Email from Eduardo Guerrero of Lantoria Consultores, November 30, 2012. Booth op. cit.

¹⁸ TBI, Justice in Mexico Project, *News Monitor: December 2012*.

¹⁹ U.S. Department of State, Bureau of Consular Affairs, *Travel Warning: Mexico*, November 20, 2012, available at: http://travel.state.gov/travel/cis_pa_tw/tw/tw_5815.html.

²⁰ See: CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*

Economic Conditions²¹

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.²²

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.²³ 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 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.²⁴

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 and

²¹ This section draws from: CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

²² CRS Report R40784, *Mexico's Free Trade Agreements*, by M. Angeles Villarreal.

²³ Duncan Wood, "Mexico's Elections and the Economy—Voters Face a Tough Decision," Center for Strategic & International Studies, May 2012. Hereinafter Wood, May 2012.

²⁴ 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.

continued to hedge its oil exports. The Calderón government took 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 would remain as strong as possible.²⁵ The Mexican economy grew by a healthy 4% in 2012.²⁶

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"²⁷ on economic growth in Mexico. And, although the government can point to positive overall investment trends as evidence to the contrary, some studies maintain that organized crime-related violence has hurt Mexico's competitiveness by raising the costs of doing business in the country.²⁸ 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 obstacles to more robust economic growth.²⁹ Recently enacted labor and education reforms could help address two of those obstacles.

Social Conditions

Over the 12 years of PAN rule, Mexico experienced macroeconomic stability and low inflation and unemployment, but continued to post relatively high rates of poverty and inequality.³⁰ As elsewhere in Latin America, the 2009 economic downturn in Mexico had a negative impact on the country's recent progress in reducing poverty. With a population of 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.³¹

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 set aside at least \$2.5 billion for drought relief, including support for

²⁵ Economist Intelligence Unit (EIU), *Country Report: Mexico*, January 2012.

²⁶ EIU, *Country Report: Mexico*, January 2013.

²⁷ 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>.

²⁸ 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.

²⁹ 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.

³⁰ Wood, May 2012.

³¹ That is the most recent poverty estimate available. Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de Pobreza 2010*, July 29, 2011, <http://www.coneval.gob.mx/>.

infrastructure to provide drinking water and emergency food aid to affected communities.³² As Mexico's crop yields shrunk, the government purchased massive amounts of U.S. corn in an effort to stave off further price increases for a key food staple.³³ Mexican officials have predicted that it may take years for the country's cattle industry to recover from the drought.³⁴

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.³⁵ 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.³⁶

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. By 2012, more than 52 million previously uninsured people received full or supplementary insurance through *Seguro Popular*.³⁷ 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.³⁸

³² "Government Steps up Support," *Latin American Mexico & NAFTA Report*, February 2012.

³³ "Mexico Makes Biggest U.S. Corn Buy in Decades as Crop Shrinks," *Reuters News*, August 2, 2012.

³⁴ Benjamin Carlson, Patrick Winn, and Jason Overdorf, et al., "The Ripple Effect of Drought," *The Toronto Star*, August 4, 2012.

³⁵ Santiago Levy, *Good Intentions, Bad Outcomes—Social Policy, Informality and Economic Growth in Mexico*. Washington D.C.: Brookings Institution, April 2008.

³⁶ Government of Mexico, Social Development Secretariat, Oportunidades Program, "Fact Sheet: External Evaluation Results," http://www.oportunidades.gob.mx/Portal/wb/Web/external_evaluation_results, accessed September 4, 2012.

³⁷ 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, accessed September 11, 2012.

³⁸ 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.

Foreign Policy

While the bilateral relationship with the United States has continued to dominate Mexican foreign policy, President Calderón, like his predecessor Vicente Fox, sought to strengthen Mexico's ties with Latin America. Calderón regularly met with former Colombian President Álvaro Uribe and with the government of Juan Manuel Santos, with whom he 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. Calderón supported the Central American Security Strategy³⁹ 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.⁴⁰ The Calderón government also 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 also tried to mend relations with Cuba and Venezuela, which had become tense during the Fox Administration.

Mexico also took an active role with respect to global issues. Calderón 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.⁴¹ On June 18, 2012, President Obama announced that the nine countries involved in the TPP negotiations had extended an invitation to Mexico.⁴² 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.⁴³

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.

³⁹ 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.

⁴⁰ "Central America and Mexico Shore up Ties," *Latin News Daily Briefing*, December 6, 2011.

⁴¹ For background on the TPP trade agreement negotiations, see: CRS Report R42694, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

⁴² An invitation for Canada to join the TPP negotiations followed on June 19, 2012.

⁴³ Jean Guerrero, "Mexico to Keep Food Security on Global Radar With New Focus," *Dow Jones International News*, June 20, 2012.

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, 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. The Mérida Initiative signaled a major diplomatic step forward for bilateral counterdrug cooperation as the Mexican government put sovereignty concerns aside to allow extensive U.S. involvement in its domestic security policies.

U.S.-Mexican relations continued to be close under the first Obama Administration, with security cooperation intensifying under a new Mérida Initiative strategy that encompassed 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. President Obama met frequently with President Calderón throughout his first term, both on a bilateral basis and at trilateral North American Leaders' Summits convened with Canadian Prime Minister Stephen Harper. Although security issues frequently dominated these discussions, enhancing North American competitiveness and energy cooperation also figured prominently.

U.S.-Mexican presidential summits were reinforced by frequent cabinet-level meetings between the two governments, as well as the creation of bilateral working groups formed to address specific topics. On September 18, 2012, U.S. and Mexican cabinet-level officials met for the fourth time to review the results of five years of Mérida cooperation, reaffirm their commitment to its strategic framework, and pledge to deepen the cooperation the Mérida Initiative has established. U.S.-Mexican security cooperation continued even as tension emerged in bilateral relations, including after the resignation of the U.S. Ambassador to Mexico in March 2011 and two incidents in which U.S. agents were shot while working in Mexico.

As Mexico is experiencing a domestic shift in power from PAN to PRI rule, U.S.-Mexican relations could also be in for some changes. 2013 marks the first time in 12 years that U.S. and Mexican presidential terms are beginning at roughly the same time. While President Obama and President Peña Nieto both face a full slate of domestic challenges, analysts have urged both leaders to work together on issues that are of critical importance to both countries, particularly those aimed at boosting trade and job creation. At a pre-inaugural meeting in late November 2012, President Obama embraced Peña Nieto's desire to bolster economic ties and to focus on a broad array of bilateral issues rather than focusing predominantly on security issues.⁴⁴

⁴⁴ The White House, Office of the Press Secretary, "Remarks of President Obama and President-Elect Peña Nieto of (continued...)"

U.S. Assistance to Mexico

Merida Initiative⁴⁵

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 November 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 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 21st 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 1. U.S. Assistance to Mexico by Account, FY2007-FY2013
(U.S. \$ millions)

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

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

(...continued)

Mexico Before Bilateral Meeting.” Press Release, November 27, 2012.

⁴⁵ 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

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 ^a	0.0	18.0	33.3	101.3	35.0
INCLE	263.5	246.0	160.0	190.0	175.0	117.0	248.5	1,400.0	199.0
FMF	116.5	39.0	260.0	5.3	0.0	8.0	Not applicable ^b	428.8	Not applicable
Total	400.0	300.0	420.0	210.3	175.0	143.0	281.8	1,930.1	234.0

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

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

- a. \$6 million was later reprogrammed for global climate change efforts by the State Department.
- b. Beginning in FY2012, FMF is not considered as part of Mérida Initiative funding.

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 the International Narcotics and Law Enforcement (INCLE) account and \$35 million in the Economic Support

Fund (ESF) account. The Senate Appropriations Committee's version of the FY2013 foreign operations appropriations measure, S. 3241 (S.Rept. 112-172), would have met the request for INCLE and provided \$10 million in additional ESF for economic development projects in the border region. S. 3241 included restrictions on aid to the Mexican military and police. The House Appropriations Committee's version of the bill, H.R. 5857 (H.Rept. 112-494), would have increased INCLE funding by \$49 million to match the FY2012 enacted level for that account and met the request for ESF.

In the absence of a final FY2013 foreign appropriations measure, Congress passed a continuing resolution, H.J.Res. 117, to fund most foreign aid programs—including assistance to Mexico—at FY2012 levels plus 0.6% through March 27, 2013.

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 ended 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, DOD has 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 at Peterson Air Force Base in Colorado. DOD can provide counterdrug assistance under guidelines outlined in Section 1004 of P.L. 101-510, as amended through FY2014, and can provide additional assistance to certain countries as provided for in Section 1033 of P.L. 105-85, as amended through FY2013. DOD counternarcotics support to Mexico totaled roughly \$34.2 million in FY2009, \$89.7 million in FY2010, and \$84.7 million in FY2011. DOD is using some \$50 million in FY2011 per Section 1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Total DOD support to Mexico in stood at \$100.4 million in FY2012 and may exceed \$75.3 million in FY2013.⁴⁶

⁴⁶ FY2009-FY2010 figures are from a DOD response to CRS request, March 21, 2011. FY2011-FY2013 figures are from a 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 with regard to those countries (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories) as well as operation of Cooperative Security Locations.

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, antidrug cooperation with Mexico 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 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 continued even after the failed Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) operation dubbed “Fast and Furious” resulted in firearms being trafficked into Mexico.⁴⁷ 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 has helped Mexican government investigate the circumstances under which two U.S. Central Intelligence Agency (CIA) employees were wounded on August 24, 2012, as their vehicle came under heavy fire from Mexican Federal Police.

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.”⁴⁸ 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 Initiatives⁴⁹

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.⁵⁰ 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.⁵¹ In March 2009, Secretary of Homeland Security Janet Napolitano announced a set of

⁴⁷ For background, see: CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

⁴⁸ U.S. Department of State and Government of Mexico, "Joint Statement on the Mérida Initiative: A New Paradigm for Security Cooperation," October 22, 2007.

⁴⁹ 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.

⁵⁰ CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

⁵¹ 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.

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. 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 that the National Guard would shift from the use of ground troops in law enforcement support roles to an emphasis on providing aerial surveillance support for the Border Patrol.⁵² That mission is continuing in 2013.

Escalating violence in Mexico has focused congressional concern on the efficacy of these efforts to secure the Southwest border. The 112th Congress held hearings on the adequacy of DHS and other federal agencies' efforts to secure the border and enacted legislation to further bolster those efforts.⁵³ P.L. 112-93 increases penalties for aviation smuggling and P.L. 112-127 tightens sentencing guidelines for building border tunnels.

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 112th Congress enacted P.L. 112-205, which provides statutory authority for the BEST program. ICE has also set up a Transnational Criminal Investigative Unit (TCIU) in Mexico that works with ICE special agents on criminal investigations and prosecutions. 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 DTOS. CBP and Mexican Customs now coordinate southbound inspections in search of bulk cash and weapons. DHS has also provided funds to reimburse Southwest border states for border-security related expenses through Operation Stonegarden.

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.⁵⁴ 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.

⁵² DHS, "DHS and DOD Announce Continued Partnership in Strengthening Southwest Border Security," press release, December 20, 2011.

⁵³ See, for example: U.S. Congress, House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management, *The US Homeland Security Role in the Mexican War Against Drug Cartels*, 112th Cong., 1st sess., March 31, 2011.

⁵⁴ *Ibid.*

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.⁵⁵ Much of the money is generated from the illegal sale of drugs in the United States and is laundered to Mexico through mechanisms such as bulk cash smuggling. While bulk cash smuggling has been a prominent means by which criminals move illegal profits from the United States into Mexico, they have increasingly turned to stored value cards to move money. 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.⁵⁶ Of note, stored value cards are not considered monetary instruments under current law.

The Financial Crimes Enforcement Network (FinCEN)⁵⁷ 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.⁵⁸ This rule does not, however, directly address whether stored value or prepaid access cards would be subject to current regulations regarding the international transportation of monetary instruments. A separate proposed rule would amend the definition of “monetary instrument,” for the purposes of BSA international monetary transport regulations, to include prepaid access devices.⁵⁹ Even if FinCEN were to issue a final rule and implement regulations requiring individuals leaving the United States to declare stored value, the GAO has identified several challenges that would remain.⁶⁰ These challenges relate to law enforcement’s ability to detect the actual cards and to differentiate legitimate from illegitimate stored value on cards; travelers’ abilities to remember the amount of stored value on any given card; and law enforcement’s ability to determine where illegitimate stored value is physically held and subsequently freeze and seize the assets.

Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move and launder money by using digital currency accounts, e-businesses that facilitate money transfers via the Internet, online role-playing games or virtual worlds that enable the exchange of game-based currencies for real currency, and mobile banking wherein traffickers have remote access—via cell phones—to bank and credit card accounts as well as prepaid cards.⁶¹ The proceeds may then be

⁵⁵ DHS, *United States-Mexico Bi-National Criminal Proceeds Study*, June 2010.

⁵⁶ 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.”

⁵⁷ FinCEN, under the Department of the Treasury, administers the BSA and the nation’s financial intelligence unit. FinCEN also supports law enforcement, intelligence, and regulatory agencies by analyzing and sharing financial intelligence information. For more information, see http://www.fincen.gov/about_fincen/wwd/strategic.html.

⁵⁸ 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.

⁵⁹ Department of the Treasury, “Bank Secrecy Act Regulations Definition of “Monetary Instrument,” 76 *Federal Register* 64049, October 17, 2011.

⁶⁰ GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government’s Effort to Stem Cross Border Smuggling*, October 2010, pp. 48–49.

⁶¹ Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative*, Woodrow (continued...)

used by DTOs and other criminal groups to acquire weapons in the United States and to corrupt law enforcement and other public officials.

Countering financial crimes—including money laundering and bulk cash smuggling—is one effort outlined by the National Southwest Border Counternarcotics Strategy (SWBCS).⁶² To curb the southbound flow of money from the sale of illicit drugs in the United States, the SWBCS includes several goals: stemming the flow of southbound bulk cash smuggling, prosecuting the illegal use of MSBs and electronic payment devices, increasing targeted financial sanctions, enhancing multilateral/bi-national collaboration, and empirically assessing the money laundering threat.⁶³

In 2005, ICE and CBP launched a program known as “Operation Firewall,” which increased operations against bulk cash smuggling in the U.S.-Mexico border region. This operation was re-initiated in January 2010, and between January 2010 and April 2011, Operation Firewall resulted in eight arrests and the seizure of \$6 million in U.S. currency.⁶⁴ U.S. efforts against money laundering and bulk cash smuggling are increasingly moving beyond the federal level as well, as experts have recommended.⁶⁵ In December 2009, for example, ICE opened a bulk cash smuggling center to assist U.S. federal, state, and local law enforcement agencies track and disrupt illicit funding flows. Still, the GAO has identified several ways in which CBP outbound inspections and other U.S. efforts against bulk cash smuggling, particularly those aimed at combating the use of stored value cards, might be improved.⁶⁶

The United States and Mexico have created a Bilateral Money Laundering Working Group to coordinate the investigation and prosecution of money laundering and bulk cash smuggling. A recent Bi-national Criminal Proceeds Study revealed that some of the major points along the Southwest border where bulk cash is smuggled include San Ysidro, CA; Nogales, AZ; and Laredo, McAllen, and Brownsville, TX.⁶⁷ Information provided from studies such as these may help inform policy makers and federal law enforcement personnel and assist in their decisions regarding where to direct future efforts against money laundering.

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

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Wilson Center’s Mexico Institute, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, p. 161, available at <http://www.wilsoncenter.org/topics/pubs/Farah.pdf>.

⁶² ONDCP, *National Southwest Border Counternarcotics Strategy*, 2011, available at http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy11/swb_counternarcotics_strategy11.pdf. Herein after, SWBCS, 2011. The SWBCS is implemented by the Director of National Drug Control Policy, in conjunction with the DHS Office of Counternarcotics Enforcement as well as the DOJ Office of the Deputy Attorney General.

⁶³ *Ibid.*, pp. 31-36.

⁶⁴ U.S. Embassy, “Fact Sheet: Combating Money Laundering,” April 2011.

⁶⁵ Farah, *op. cit.*

⁶⁶ GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government’s Effort to Stem Cross Border Smuggling*, GAO-11-73, October 2010, available at <http://www.gao.gov/products/GAO-11-73>.

⁶⁷ DHS, *United States - Mexico Bi-National Criminal Proceeds Study*, 2010.

Firearms Trafficking⁶⁸

Illegal firearms trafficking from the United States has been cited as a significant factor in the drug trafficking-related violence in Mexico. 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. In the past, ATF has periodically released data on firearms traces performed for Mexican authorities. Although substantive methodological limitations preclude using trace data as a proxy for the larger population of “crime guns” in Mexico or the United States, trace data have proven to be a useful indicator of trafficking trends and patterns. In June 2009, GAO recommended to the Attorney General that he should direct ATF to update regularly its reporting on aggregate firearms trace data and trends.⁶⁹ For the last two years, however, ATF has only released limited and arguably selected amounts of trace data.

In February 2011, ATF came under intense congressional scrutiny for a Phoenix, AZ-based Project Gunrunner investigation known as Operation Fast and Furious, when ATF whistleblowers reported that suspected straw purchasers⁷⁰ had been allowed to acquire relatively large quantities of firearms as part of long-term gun trafficking investigations.⁷¹ 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. Two of those firearms were reportedly found at the scene of a shootout near the U.S.-Mexico border where U.S. Border Patrol Agent Brian Terry was shot to death.⁷² Questions have also been raised about whether a firearm that was reportedly used to murder ICE Special Agent Jamie Zapata and wound Special Agent Victor Avila in Mexico on February 15, 2011, was initially trafficked by a subject of a Houston, TX-based Project Gunrunner investigation.⁷³ While it remains an open question whether ATF or other federal agents were in a position to interdict the firearms used in these deadly attacks before they were smuggled into Mexico,⁷⁴ neither DOJ nor ATF informed their Mexican counterparts about these investigations and the possibility that some of these firearms could be reaching Mexico.⁷⁵

⁶⁸ 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.

⁶⁹ GAO, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges*, GAO-09-709, June 2009, p. 59.

⁷⁰ 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)).

⁷¹ James v. Grimaldi and Sari Horwitz, “ATF Probe Strategy Is Questioned,” *Washington Post*, February 2, 2011.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ Operation Fast and Furious was launched in November 2009. It was approved as an Organized Crime and Drug Enforcement Task Force (OCDETF) investigation in February 2010. As an OCDETF investigation, it was then directed largely by the U.S. Attorney’s Office in Phoenix. While ICE and Internal Revenue Service (IRS) agents were also part of this investigation, so far their role in this operation has not generated public or congressional scrutiny.

⁷⁵ Richard A. Serrano, “U.S. Embassy Kept in Dark as Guns Flooded Mexico,” *Salt Lake Tribune*, July 25, 2011.

Legislators in both the United States and Mexico have voiced ongoing concerns about Operation Fast and Furious.⁷⁶ Repeated Congressional inquiries prompted U.S. Attorney General Eric Holder to direct his Inspector General to conduct a third evaluation of Project Gunrunner, which was delivered to Congress in September 2012.⁷⁷ In addition, in July 2011, the Office of Management and Budget (OMB) approved an ATF multiple rifle sales reporting requirement for a three-year period.⁷⁸ Under this reporting requirement, federally 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.⁷⁹

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.⁸⁰ 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.

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.⁸¹

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

⁷⁶ Dennis Wagner, "Gun Shop Told ATF Sting Was Perilous," *Arizona Republic*, April 15, 2011, p. A1.

⁷⁷ United States Department of Justice, Office of the Inspector General, *Statement of Michael E. Horowitz, Inspector General, U.S. Department of Justice before the House Committee on Oversight and Government Reform Concerning Report by the Office of the Inspector General on the Review of ATF's Operation Fast and Furious and Related Matters*, September 20, 2012, <http://www.justice.gov/oig/testimony/t1220.pdf>.

⁷⁸ 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.

⁷⁹ This reporting requirement is limited to firearms that are (1) semiautomatic, (2) chambered for ammunition of greater than .22 caliber, and (3) capable of accepting a detachable magazine.

⁸⁰ 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.

⁸¹ U.S. Border Patrol Office of Legislative Affairs, Oct. 17, 2011.

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.

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. 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.⁸² 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.

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.⁸³ 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 Federal Police—have also committed serious abuses. 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.⁸⁴

The Calderón government 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

⁸² "Crecen 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. Hereinafter HRW, November 2011.

⁸³ 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.

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

police from being re-hired; the use of internal affairs units; and the provision of human rights training. In 2012, 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.⁸⁵ 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.⁸⁶ 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.⁸⁷ 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.⁸⁸ 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.

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.⁸⁹ In addition to taking steps to reform the police and judiciary, the Calderón government took 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 cases⁹⁰ were transferred to civilian jurisdiction and former President Calderón asked SEDENA and SEMAR to work with the Attorney General to accelerate transfers, most cases were still processed in the military justice system.⁹¹ Military prosecutors

⁸⁵ HRW, November 2011.

⁸⁶ 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, P. 21.

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

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

⁸⁹ 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.

⁹⁰ 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.

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

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.⁹²

A reform of Article 57 of the military justice code was submitted by then-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, but not enacted. Enacting a reform of Article 57 of the military justice code may become more urgent now for the Peña Nieto Administration 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.

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. 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 have been shut down.⁹³

The Calderón government and the Mexican Congress took some steps to better protect human rights defenders and journalists, but many human rights organizations have called upon the Peña Nieto Administration to do more. The Calderón government 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. Those mechanisms have yet to be effectively implemented. The Mexican Congress enacted 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. Another law approved by the Congress in 2012, but not promulgated by the Calderón government, would require the state to track victims of organized crime and provide assistance to victims and their families. Human rights organizations expressed satisfaction after President Peña Nieto signed that law, commonly referred to as the "victims' law," in January 2013, but said that the real test of his government's commitment to human rights will be in how that and other laws are implemented.⁹⁴

⁹² As of September 2012, SEDENA had convicted two mid-grade officer, five junior officers, and 31 enlisted soldiers as a result of CNDH recommendations.

⁹³ 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.

⁹⁴ "Mexico: New President, New Drug Violence Plan," *NPR*, January 17, 2013.

Human Rights Conditions on U.S. Assistance to Mexico

In 2008, Congress debated whether human rights conditions should be placed on Mérida assistance beyond the requirements in §620J of the Foreign Assistance Act (FAA) of 1961. That section was re-designated as §620M and amended by the Consolidated Appropriations Act of 2012 (P.L. 112-74). It states that an individual or unit of a foreign country's security forces is prohibited from receiving assistance if the Secretary of State receives "credible evidence" that an individual or unit has committed "a gross violation of human rights."

The FY2008 Supplemental Appropriations Act (P.L. 110-252), which provided the first tranche of Mérida funding, had less stringent human rights conditions than had been proposed earlier, largely due to Mexico's concerns that some of the conditions would violate its national sovereignty. The conditions required that 15% of INCLE and Foreign Military Financing (FMF) assistance be withheld until the Secretary of State reports in writing that Mexico is taking action in four human rights areas:

1. improving transparency and accountability of federal police forces;
2. establishing a mechanism for regular consultations among relevant Mexican government authorities, Mexican human rights organizations, and other relevant Mexican civil society organizations, to make consultations concerning implementation of the Mérida Initiative in accordance with Mexican and international law;
3. ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and military forces are fully cooperating with the investigations; and
4. enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.

Similar human rights conditions were included in FY2009-FY2011 appropriations measures that funded the Mérida Initiative.⁹⁵ However, the first two conditions are not included in the 15% withholding requirement in the FY2012 Consolidated Appropriations Act (P.L. 112-74). As previously mentioned, Congress has yet to pass a final FY2013 appropriations measure. It remains to be seen whether an omnibus bill would include the conditions on aid to Mexico that are in the Senate Appropriations Committee's version of the FY2013 foreign operations

⁹⁵ In P.L. 110-252, the human rights conditions applied to 15% of the funding for INCLE and FMF, or approximately \$57 million dollars. In the FY2009 Omnibus Appropriations Act (P.L. 111-8), the 15% conditions applied all of the funding accounts but excluded amounts for judicial reform, institution building, anti-corruption and rule of law activities, which were earmarked at not less than \$75 million. The total aid withheld was \$33.4 million. In the FY2009 Supplemental (P.L. 111-32), the conditions effectively only applied to the \$160 million in the INCLE account, or roughly \$24 million, because the \$260 million in FMF funds was excluded from the 15% withholding requirement. In the FY2010 Consolidated Appropriations Act (P.L. 111-117), the 15% withholding applied to all of the accounts but excluded assistance for judicial reform, institution building, anti-corruption and rule of law activities. The total aid withheld was some \$12 million. In the FY2010 Supplemental Appropriations Act (P.L. 111-212), the conditions applied to 15% of the INCLE appropriated or roughly \$26 million. The same conditions that were included in P.L. 111-117 applied to assistance provided in the FY2011 Department of Defense and Full-Year Continuing Appropriations Act (P.L. 112-10). According to the State Department, the FY2011 funds on hold totaled approximately \$3.5 million. Email from State Department official, January 24, 2012.

appropriations measure S. 3241 (S.Rept. 112-172). Those conditions would retain the condition related to torture, as well as require the State Department to report that Mexico has reformed its military justice code and is requiring police and military officials to immediately transfer detainees to civilian judicial authorities.

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 statutory requirements for FY2008-FY2012 Mérida funds that had been on hold to be released. Nevertheless, the State Department has twice elected to hold back some funding pending further progress in key areas of concern. In the September 2010 report, for example, 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 transparency and combating impunity.⁹⁶ Those funds were not obligated until the fall of 2011.

In the August 2012 report, the State Department again decided to hold back all of the FY2012 funding that would have been subject to the conditions (roughly \$18 million) as a matter of policy until it can work with Mexican authorities to determine steps to address key human rights challenges. Those include: improving the ability of Mexico's civilian institutions to investigate and prosecute cases of human rights abuses; enhancing enforcement of prohibitions against torture and other mistreatment; and strengthening protection for human rights defenders.⁹⁷

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, 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.

Congress may choose to augment Mérida Initiative funding for human rights programs, such as ongoing human rights training programs for military and police, or newer efforts, such as support for human rights organizations through ESF funds. Human rights conditions in Mexico, as well as compliance with conditions on Mérida assistance, are also likely to continue to be important oversight issues as well. Policy makers may closely follow how the Peña Nieto moves to punish past human rights abuses and prevent new abuses from occurring.

⁹⁶ In the September 2010 15% report, the State Department urged the Mexican Congress to approve pending legislation that would strengthen the power of the CNDH and the Calderón government to submit legislation to reform the Military Justice Code so that military officials accused of human rights crimes against civilians would be tried in civilian courts. The Mexican Congress approved a series of reforms that elevate human rights conditions in international treaties signed by Mexico to the level of the constitution and strengthen the power of the CNDH and state-level human rights commissions. The reforms were promulgated in June 2011. 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.

⁹⁷ U.S. Department of State, *Mexico- Merida Initiative Report ("15 Percent" Report)*, August 30, 2012.

Migration⁹⁸

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 2010.⁹⁹

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 estimate that the net rate of unauthorized migration from Mexico to the United States is fluctuating somewhere near zero.¹⁰⁰ 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 criminal organizations, and to expanding job opportunities in Mexico.¹⁰¹ Emigration flows may increase again once economic growth picks up in the United States. However, future flows may be smaller than in the past because young Mexicans may feel less pressure than previous generations to emigrate in order to find work.

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 2010.¹⁰² Flows have declined

⁹⁸ For more information, see: CRS Report R42560, *Mexican Migration to the United States: Policy and Trends*, coordinated by Marc R. Rosenblum.

⁹⁹ Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010*, by Michael Hoefer, Nancy Rytina, and Bryan C. Baker, 2011, available at: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2010.pdf. For alternative analyses, see Jeffrey S. Passel and D'Vera Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010*, Pew Hispanic Center, February 1, 2011, <http://pewhispanic.org/files/reports/133.pdf>.

¹⁰⁰ 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.

¹⁰¹ See, for example: Jeffrey Passel and D'Vera Cohn, *Mexican Immigrants: How many Come? How Many Leave?*, Pew Hispanic Center, July 2009, pewhispanic.org/files/reports/112.pdf; Damien Cave, "Better Lives for Mexicans Cut Allure of Going North," *New York Times*, July 6, 2011; David Scott Fitzgerald, Rafael Alarcón, and Leah Muse-Orlinoff, *Recession Without Borders: Mexican Migrants Confront the Economic Downturn* (La Jolla, CA and Boulder, CO: Center for Comparative Immigration Studies (CCIS) and Lynne Reiner Publishers, 2011), p. 19.

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

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.¹⁰³

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.¹⁰⁴ 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.¹⁰⁵

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.¹⁰⁶ Although the possibility of a U.S.-Mexico migration accord faded after the 9/11 terrorist attacks, the Mexican government supported efforts to enact comprehensive immigration reform in the United States. In February 2006, for example, the Mexican Congress passed a Concurrent Resolution on Migration acknowledging Mexico’s *shared responsibility* to enforce legal emigration, increase security along its northern and southern borders, and create opportunities for workers in Mexico so that fewer individuals would emigrate.¹⁰⁷ 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.¹⁰⁸ 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

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

¹⁰⁴ 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>.

¹⁰⁵ 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).

¹⁰⁶ 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>.

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

¹⁰⁸ 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).

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 2011.¹⁰⁹ 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.¹¹⁰

The first and fourth objectives most directly respond to the criticisms that have been leveled against the Mexican government for failing to adequately prevent, investigate, and punish abuses of migrants by public officials and organized crime groups. Within the first objective, the law guarantees all migrants access to education, justice, and healthcare services and reduces the time that unauthorized migrants can be held in detention centers to 15 working days. The law also gives legal status to special government "Beta Groups"¹¹¹ 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.

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.

Despite President Obama's stated commitment to pursue comprehensive immigration reform, immigration was not a front-burner issue for the 112th Congress. A comprehensive immigration reform bill (S. 1258) and DREAM Act bills (S. 952, H.R. 1842, and H.R. 3823) were introduced

¹⁰⁹ 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>.

¹¹⁰ CRS translation of a briefing document prepared by INM in response to a CRS request.

¹¹¹ 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.

in the 112th Congress, but not considered. The 112th Congress did take legislative action on some measures containing provisions on a range of immigration-related topics.¹¹²

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.

Former President Calderón did not promise Mexicans that he could affect immigration reform efforts in the U.S. Congress or reach a bilateral accord with the Obama Administration. He saw how former President Vicente Fox's failure to secure a bilateral immigration accord with the United States in 2001 proved to be a major blow to his administration.¹¹³ Incoming President Peña Nieto has pledged his full support for President Obama's pledge to introduce comprehensive reform, and is likely to continue Mexico's efforts to improve border security, enforce its migration policies in a humane way, and create jobs in order to discourage illegal emigration. His government is also likely to continue protesting the excessive use of force by U.S. agents on the border; defending the rights of Mexican migrants in the United States, regardless of their status; and challenging state laws against illegal immigration.¹¹⁴

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 2.96 million barrels per day in 2011.¹¹⁵

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

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

¹¹³ President 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. The agreement would have included a Mexico-specific temporary worker program, collaborative border enforcement, legalization for certain unauthorized Mexicans in the United States, and new investments in Mexican communities of origin aimed at reducing illegal outflows. The possibility of a U.S.-Mexico migration accord faded after the 9/11 terrorist attacks.

¹¹⁴ The Mexican government has filed amicus curiae briefs in lawsuits seeking to block the immigration laws in Arizona, Alabama, Georgia, South Carolina, and Utah.

¹¹⁵ United States Energy Information Administration data, available at <http://www.eia.gov>.

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 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.¹¹⁶

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.¹¹⁷ 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.

Enacting energy reforms is a task which President Peña Nieto has said will be a top priority for his administration in 2013. However, constitutional reforms require a two thirds vote in the Mexican Congress. 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. The PRD and portions of the PRI remain opposed to increasing private involvement in PEMEX. 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.¹¹⁸

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 North American Development Bank has helped finance. USAID and Mexico have also 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.

¹¹⁶ Wood, 2010.

¹¹⁷ Woodrow Wilson International Center for Scholars, Latin American Program, *The Outlook for Energy Reform in Latin America*, March 2010.

¹¹⁸ "Mexico State Oil Firm Eyes More Freedom With New President," *Reuters*, July 20, 2012

United States-Mexico Trans-Boundary Hydrocarbons Agreement¹¹⁹

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.¹²⁰ 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).¹²¹ 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 in 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 May 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.

On February 20, 2012, the governments of the United States and Mexico announced the Trans-boundary Hydrocarbons Agreement.¹²² 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 their international marine border.¹²³ Former Secretary of State Hillary Clinton referred to the Trans-boundary agreement as an example of recent U.S.-Mexican efforts to develop a sustainable energy trading relationship.

Before the agreement can take effect, both countries must review and accept it. 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, 2012.¹²⁴ Steps toward U.S. review and acceptance are currently underway with the Department of State taking lead responsibility for addressing questions about the agreement during this process. A procedural question has emerged with respect to what actions are needed for the agreement to be accepted in

¹¹⁹ This section was drafted by Curry L. Hagerty, Specialist in Energy and Natural Resources Policy.

¹²⁰ Department of the Interior Office of Public Affairs. *Deepwater Gulf of Mexico 2006: America's Expanding Frontier OCS Report 2006-022*, (May 2006).

¹²¹ 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.

¹²² 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.)

¹²³ 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. The area measures approximately 5,092 square nautical miles (17,467 square kilometers), an area slightly smaller than the state of New Jersey.

¹²⁴ Department of State, *Summary of the U.S. — Mexico Transboundary Hydrocarbons Agreement* (July 30, 2012). This summary can be found at <http://www.state.gov/r/pa/prs/ps/2012/02/184235.htm>.

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).

The 113th Congress may soon be called upon to decide what, if any, implications might stem from the United States accepting this agreement.¹²⁵ Accordingly, 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 Issues¹²⁶

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 2011.¹²⁷ 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. The value of U.S. foreign direct investment (FDI) in Mexico rose from \$17 billion in 1994 to \$91.4 billion in 2011, a 440% increase.¹²⁸ 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 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

¹²⁵ See, for example, U.S. Congress, Minority Staff Report, *Oil, Mexico, and the Transboundary Agreement*, prepared for Sen. Richard Lugar, Ranking Member, U.S. Senate, Committee on Foreign Relations, 112th Cong., 2nd sess., December 21, 2012, S. Prt. 112-43.

¹²⁶ This section draws from CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹²⁷ Data is from the U.S. International Trade Commission (USITC) Interactive Tariff and Trade DataWeb at <http://daraweb.usitc.gov>.

¹²⁸ Data is from the U.S. Department of Commerce, Bureau of Economic Analysis.

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. Some U.S. and Mexican policymakers have supported broadening the functions of NADBank further to include other types of infrastructure development; this would likely require approval by both Congresses.

Trade Disputes and Emerging Trade Issues

*Trucking*¹²⁹

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.

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.

¹²⁹ 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.

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 must respond to the ruling by July 2013. 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.

During 2012, another potential trade issue emerged over the bilateral tomato trade. In late September 2012, the U.S. Department of Commerce announced a preliminary decision to end a suspension agreement with Mexican tomato growers that has been in place since 1996. The agreement has allowed Mexican growers to sell to the U.S. market as long as they have agreed not to sell their tomatoes below a reference price.¹³⁰ Should a final decision definitively end the agreement, U.S. tomato growers would then be able to file complaints against Mexican producers for unfair trade practices that could result in antidumping tariffs on Mexican tomato exports, which in turn could lead to Mexican retaliation. Negotiators are trying to work out a revised suspension agreement that would comply with U.S. antidumping laws that are meant to protect U.S. producers from unfair competition.¹³¹

Proposed Trans-Pacific Partnership (TPP) Agreement¹³²

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.

¹³⁰ Carlos Navarro, "U.S. Announces Preliminary Decision to Scrap Tomato Agreement with Mexico," *SourceMex*, October 10, 2012.

¹³¹ "Sanchez: Solution in Tomato Case Must Comply with Antidumping Law," *Inside U.S. Trade*, November 23, 2012.

¹³² For background, see: CRS Report R42694, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

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 Enacted in the 112th Congress¹³³

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 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

¹³³ For more information on immigration and border security legislation in the 112th Congress, see: CRS Report R42036, *Immigration Legislation and Issues in the 112th Congress*, coordinated by Andorra Bruno.

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.

P.L. 112-205 (H.R. 915), Jaime Zapata Border Enforcement Security Task Force Act. Signed into law December 7, 2012, the measure provides statutory authority for the Border Enforcement Security Task Force (BEST) program within ICE, and authorizes funding for the program for FY2012-FY2016.

P.L. 112-220 (H.R. 3783), Countering Iran in the Western Hemisphere Act of 2012. Signed into law January 18, 2012, the measure requires the State Department to submit a comprehensive strategy to counter Iran's presence in the Western Hemisphere, including in Mexico and along the U.S.-Mexico border.

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.

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