



Mexico: Issues for Congress

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Summary

The United States and Mexico have a close and complex bilateral relationship. As neighbors and partners under the North American Free Trade Agreement (NAFTA), the United States and Mexico have extensive economic linkages, with bilateral trade valued at almost \$400 billion in 2010. In recent years, security issues have dominated the bilateral relationship, and the United States is providing more than \$1.6 billion worth of training and equipment to Mexico through the Mérida Initiative to support efforts against drug trafficking and organized crime. Immigration and border security have also returned to the forefront of the bilateral agenda since Arizona became the first state to enact a strict law against illegal immigration in April 2010.

Now in the fifth year of his six-year term, President Felipe Calderón of the conservative National Action Party (PAN) is focused on strengthening the Mexican economy, which grew by 5.5% in 2010 after contracting by 6.5% in 2009, and combating organized crime and drug trafficking. The Calderón Administration has arrested record numbers of drug kingpins, but the brazen violence committed by the warring criminal groups, partially in response to government efforts, has led to increasing criticism of Calderón's strategy.

Security and the economy are the top two concerns among the Mexican public, and are likely to be major electoral issues in the July 2012 elections. Surveys show likely Institutional Revolutionary Party (PRI) candidate Enrique Peña Nieto, governor of the state of Mexico, leading all other potential presidential candidates. The PRI's prospects for winning back the presidency in 2012 have improved since its candidates won by wide margins in gubernatorial elections held on July 3, 2011 in the states of Mexico, Nayarit, and Coahuila.

In recent years, U.S.-Mexican relations have grown stronger as the two countries have worked together to combat drug trafficking and secure their shared border, but tensions have emerged in the bilateral relationship. After a March 3, 2011 meeting at the White House, President Obama and President Calderón vowed to bolster bilateral security cooperation and announced a proposal to resolve a longstanding trade dispute regarding NAFTA trucking provisions. Behind the scenes, however, relations have reportedly been strained by the February 2011 shooting of two U.S. law enforcement agents working in Mexico, one of whom was killed, and the March 2011 resignation of the U.S. Ambassador to Mexico, Carlos Pascual. Earl Anthony Wayne, a career diplomat, has recently been confirmed as the new U.S. Ambassador to Mexico.

Congress has maintained an active interest in Mexico with counternarcotics, border, and trade issues dominating the agenda. Congress has appropriated more than \$1.6 billion in assistance for Mexico under the Mérida Initiative, including roughly \$143 million provided in P.L. 112-10 for the remainder of FY2011, and expressed concern about the slow delivery of that assistance. The Obama Administration requested \$334 million in assistance for Mexico for FY2012, including \$282 million in Mérida assistance. The 112th Congress is likely to maintain a keen interest in how implementation of the Mérida Initiative and related border security initiatives are proceeding. Congress may consider proposals for comprehensive immigration reform or initiatives aimed at resolving discrete migration or border security issues. On the trade front, Congress is likely to maintain interest in how the Obama Administration implements a new pilot trucking program with Mexico and seeks to facilitate commerce along the U.S.-Mexico border.

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Background on Mexico

Political Developments

Over the past decade, Mexico has transitioned from a centralized political system dominated by the Institutional Revolutionary Party (PRI) to a multiparty democracy in which presidential power is increasingly constrained by Congress and the country's governors.¹ Current President Felipe Calderón of the conservative National Action Party (PAN) won the July 2006 presidential election in an extremely tight race, defeating Andrés Manuel López Obrador of the leftist Party of the Democratic Revolution (PRD) by fewer than 234,000 votes. Final results were not announced until early September 2006, when the Federal Electoral Tribunal completed adjudication of all the challenges to those results. Calderón began a six-year term on December 1, 2006.

In the first half of his term, President Calderón, whose PAN became the largest party in the Senate and Chamber of Deputies after the 2006 legislative elections, had some success in turning to the PRI for help in advancing his legislative agenda. In 2007, he secured passage of long-awaited fiscal and pension reforms that had stalled under the PAN Administration of Vicente Fox (2000-2006). In June 2008, President Calderón signed a judicial reform decree after securing the approval of Congress and Mexico's states for an amendment to Mexico's Constitution. Under the judicial reform, Mexico will have until 2016 to move from a closed door process based on written arguments to a public trial system with oral arguments and the presumption of innocence. In October 2008, the government secured approval of an energy sector reform designed to improve the transparency and management flexibility of state-owned oil company *Petroleos Mexicanos* (PEMEX). Critics maintained that the law, which provides only limited opportunities for private investment in the company, would not do enough to encourage new oil exploration.²

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

The composition of the current Congress, which was sworn in on September 1, 2009, has complicated President Calderón's legislative agenda, which had included enacting a package of comprehensive political reforms.³ The PRI, with the support of the allied Green Ecological Party

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

² Alexandra Olson, "Mexico Approves Oil Reform Bill in General Terms, Experts Call it Disappointment for Investors," *AP*, October 28, 2008.

³ Those reforms, submitted to Congress in December 2009, included proposals to allow re-election of federal legislators and mayors, reduce the size of the Senate and Chamber of Deputies, permit independent candidates for political office, and give the president a line-item veto.

(PVEM) party, now controls a majority in the Chamber and appears to be reluctant to enact legislation that could cost the party votes in the 2012 elections. During the legislative session that ended on April 30, 2011, the Mexican Congress failed to pass proposed reforms to the national security law, labor reforms to regulate unions, or political reforms. The Senate did pass a political reform package that would have allowed independent candidates and congressional re-elections, but the Chamber did not take up the measure. The Congress did enact antitrust legislation, a new immigration law to give migrants (including illegal migrants) increased human rights protections, constitutional reforms on human rights, and a reform to strengthen the National Human Rights Commission.⁴

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



Source: Map Resources, adapted by CRS.

During 2010, political attention in Mexico focused on the state and local elections being held in 15 states as a harbinger of how the major parties might perform in the 2012 presidential elections. Voters in most states turned out in larger numbers than had been expected for the July 4, 2010, elections, despite an electoral campaign marred by drug trafficking-related violence that culminated in the June 28, 2010 killing of a popular gubernatorial candidate in Tamaulipas. The

⁴ “Blocked Reforms Signal Mexican Political Impasse,” *Oxford Analytica*, May 4, 2011; “Mexico: Congress Leaves Unfinished Business,” *Latin American Weekly Report*, May 5, 2011.

PRI claimed victory in nine states, but lost three states it had previously controlled (Sinaloa, Oaxaca, and Puebla) to candidates representing alliances of the PAN, PRD, and other small left-leaning parties. Although some “Stop the PRI” alliances performed better than analysts had predicted, the divergent ideological orientations of the parties they involve could make governing difficult. It remains to be seen whether similar alliances can be formed in other states and at the national level either in the Congress or for the 2012 presidential race.⁵

Now in the fifth year of his six-year term, President Calderón retains an approval rating of about 63% (July 2011),⁶ but support for the PAN in general has diminished as a result of the security challenges that Mexico has been facing. Calderón is forging ahead with presidential initiatives aimed at boosting jobs, expanding access to health insurance, and reforming the country’s security apparatus, but is unlikely to be able to push much-needed fiscal and structural reforms through the Mexican Congress. Indeed, even some of Calderón’s key security reform initiatives—including a law to reorganize municipal and state police—have thus far failed to advance.

As 2011 progresses, many analysts predict that President Calderón will enter “lame duck” status as popular attention turns to the 2012 presidential elections. As in 2010, this year’s gubernatorial elections could have an impact on the major parties’ candidate selections and chances for success in 2012. Given the aforementioned difficulties that Mexico has experienced during the current PAN Administration and the ongoing divisions within the leftist PRD (between Mexico City mayor Marcelo Ebrard and Andrés Manuel López Obrador), many observers are predicting a PRI victory in 2012. Surveys from June 2011 showed likely PRI candidate Enrique Peña Nieto, governor of the state of Mexico, with twice as much support as any other potential candidate. Peña Nieto’s presidential prospects have been further bolstered since his chosen successor, Eruviel Ávila, won the July 3, 2011 gubernatorial election in the state of Mexico by a wide margin.⁷ PRI candidates also won the governor’s races in Coahuila and Nayarit.

Drug Trafficking and Heightened Violence and Crime in Mexico⁸

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.⁹ Mexico is also increasingly becoming a consumer of illicit drugs, particularly in northern states where criminal organizations have been paying their workers in product rather than in cash. A small number of Mexican drug trafficking organizations control the most significant drug distribution operations along the Southwest border. U.S. government reports have characterized Mexican drug trafficking organizations as representing the “greatest organized crime threat” to the United States today.¹⁰ Mexican drug trafficking organizations have expanded their U.S. presence by increasing their transportation and distribution networks, as well as displacing other

⁵ “Alliance Surpasses Expectations in Mexican Gubernatorial Elections,” *Latin American Weekly Report*, July 8, 2010.

⁶ “Crece Nivel de Aprobación de Calderón,” *El Nuevo Herald*, August 1, 2011.

⁷ “Country Report: Mexico,” *Economist Intelligence Unit (EIU)*, August 2011.

⁸ For more information, see CRS Report R41576, *Mexico’s Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel, CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea.

⁹ U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2011, available at: <http://www.state.gov/p/inl/rls/nrcrpt/2011/>.

¹⁰ U.S. Department of Justice, National Drug Intelligence Center (NDIC), *2009 National Drug Threat Assessment*, December 2008, <http://www.justice.gov/ndic/pubs31/31379/31379p.pdf>.

Latin American traffickers, primarily Colombians.¹¹ At the same time, violent struggles within and among the DTOs in Mexico has escalated as an increasing number of groups have battled each other for control of lucrative drug trafficking routes into the United States and local drug distribution routes within Mexico. President Obama and top officials in his Administration have acknowledged that some of that violence has been fueled by U.S. drug demand, and by the trafficking of firearms and illicit funds from the United States into Mexico.¹²

Since taking office in December 2006, President Calderón has made combating drug trafficking and organized crime a top priority of his administration. His government's anticrime strategy has involved (1) carrying out joint police-military operations to support local authorities and citizens; (2) increasing the operational and technological capacities of the state, such as increasing the size of the Federal Police¹³; (3) initiating legal and institutional reforms; (4) strengthening crime prevention and social programs; and (5) strengthening international cooperation.¹⁴ President Calderón has secured legislative approval of a number of constitutional reforms and laws related to national security, including, most recently, an anti-kidnapping law. Other initiatives that he has proposed, including a reform of the national security law, remain pending. The Calderón government has also used extradition as a tool to combat drug traffickers, extraditing 94 individuals to the United States in 2010. Increased intelligence-sharing with U.S. law enforcement agencies have resulted in high-profile arrests and killings of DTO leaders, which have accelerated since the December 2009 killing of Arturo Beltrán Leyva.¹⁵

Despite these advances, the increasingly brazen violence committed by the drug traffickers, which has occurred partially in response to government pressure, has led to increasing criticism of Calderón's strategy. According to recent Mexican government estimates, more than 34,500 people died in violence related to organized crime between January 2007 and December 2010. The toll may now exceed 40,000.¹⁶ One media source, *Grupo Reforma*, recorded 8,600 drug trafficking-related deaths from January through August, 2011.¹⁷ Targets of that violence have most often included rival DTOs or affiliated gang members, but have also included Mexican police, military, and government officials, journalists, and civilians—including Americans. The recent firebombing of a casino in Monterrey that killed more than 50 people provided dramatic evidence of that trend. The increasingly violent illegal drug trade has also increased the prevalence of related crimes. According to recent estimates, kidnappings in Mexico have increased by 188% since 2007, armed robbery by 47%, and extortion by 101%.¹⁸ Experts assert that in order to regain popular support for its security policies, the Calderón government will have to show success in dismantling the DTOs, while also reducing drug trafficking-related violence.

¹¹ NDIC, *2010 National Drug Threat Assessment*, February 2010, available at: <http://www.justice.gov/ndic/pubs38/38661/index.htm>.

¹² White House, Office of the Press Secretary, "Remarks by President Obama and President Calderón of Mexico at Joint Press Conference," press release, March 3, 2011.

¹³ The size of the Federal Police has increased from 6,500 officers in 2006 to roughly 35,500 officers (including 7,000 college graduates) in 2010.

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

¹⁵ In 2009, the Mexican government identified the country's 37 most wanted criminals and by the end of 2010 at least 20 of those alleged criminals had been captured or killed. See: Government of Mexico, "Mexico's Fight for Security: Actions and Achievements," February 2011.

¹⁶ "Expert: Drug Gangs Control Half of Mexico," *EFE*, August 26, 2011.

¹⁷ Trans-Border Institute, *Justice in Mexico: August 2011 News Report*, August 2011.

¹⁸ Mária de la Luz González, "Delitos Aumentan en el País, Alertan," *El Universal*, August 23, 2011, citing data from México Evalua that are available in Spanish at: <http://www.mexicoevalua.org/>.

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.¹⁹ U.S. federal officials deny that the recent increase in drug trafficking-related violence in Mexico has resulted in a spillover into the United States, but they acknowledge that the prospect is a serious concern.²⁰ 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 pending CBP staff increases. The National Guard deployment was scheduled to end in June 2011, but the Department of Homeland Security (DHS) requested authority from Congress to extend the deployment through September 2011.

Economic Conditions²¹

In the late 1980s, Mexico began to transition from a protectionist economy to a free market economy with a strong export sector. This transition accelerated after Mexico entered into the North American Free Trade Agreement (NAFTA) with the United States and Canada in 1994. Through NAFTA, the United States, Mexico, and Canada form the world's largest free trade area, with about one-third of the world's total GDP. Since NAFTA took effect, U.S.-Mexican trade has more than tripled, with the value of total bilateral trade reaching some \$393 billion in 2010.²² Mexico remains the second-largest U.S. oil supplier, but its top exports to the United States now also include automobiles and automobile parts. The value of U.S. foreign direct investment in Mexico has increased from \$17 billion in 1994 to close to \$100 billion in 2009.

One downside of this economic integration is that the Mexican economy remains extremely dependent on the United States, the destination for the vast majority of its exports and its primary supplier of tourism revenues and investment. The Mexican economy grew 3.3% in 2007, the first year of the Calderón government. Slower growth was already anticipated for 2008 due in part to decreasing consumer demand in the United States and declining Mexican oil production. The global financial crisis further reduced GDP growth in 2008 to just 1.4%. For 2009, the Mexican economy contracted by 6.5%, the worst decline in six decades. Experts do not expect Mexico's real GDP to recover 2008 levels until later this year.

In 2009, the Calderón government struggled to cope with the combined effects of the U.S. and global recessions, a nationwide outbreak of H1N1 "swine" flu, and declining oil production. The U.S. recession resulted in steep declines in demand for Mexican exports, particularly in the manufacturing sector. Mexico's exports to the United States declined by 18.5% in 2009 as compared to the previous year. The economic decline in the United States also resulted in declining remittance flows to Mexico. Remittances fell to an estimated \$21.2 billion, the lowest level since 2005. These developments were further exacerbated by the outbreak of pandemic H1N1 "swine flu" in April 2009, which prompted the government to close restaurants and retail establishments for nearly two weeks and resulted in significant declines in tourism revenues.

¹⁹ For background, see CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

²⁰ See for example, Department of Homeland Security, "Remarks by Secretary Napolitano on Border Security at the University of Texas at El Paso," press release, January 31, 2011.

²¹ For background on the Mexican economy and U.S.-Mexican economic relations, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

²² Data compiled by CRS using Global Trade Atlas database.

Declining oil prices and production also provided economic setbacks for Mexico, which depends on oil proceeds for over one-third of government revenue.

The Calderón government took a number of measures to cushion the Mexican economy from the fallout of the global economic crisis and U.S. recession. The government used billions in its international reserves to shore up the peso, and the Mexican central bank established a temporary reciprocal currency swap line with the U.S. Federal Reserve for up to \$30 billion. The government also hedged its oil exports for 2009 at a price of \$70 a barrel in an effort to protect the economy from a decline in oil prices. The central government increased liquidity in the banking system. It also increased its credit lines with the World Bank, International Monetary Fund, 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.²³

Since late 2009, the Mexican economy has rebounded, partially as a result of a resumption in U.S. demand for Mexican manufacturing exports. Indeed, even though its domestic economy continued to struggle, Mexico experienced a higher than expected growth rate of 5.5% in 2010. 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 Federal Reserve and continued to hedge its oil exports.

Despite this recovery, some investors are still concerned about Mexico's long-term growth potential. Economists have warned that continued sluggish growth in the U.S. economy could be a "material drag"²⁴ on economic growth in Mexico. The Economist Intelligence Unit is lowering its 2011 full-year GDP growth prediction for Mexico from 4.2% to below 4%.²⁵ Some analysts are also concerned that drug trafficking-related violence may be discouraging tourism and deterring foreign investment in some parts of the country, including the business and financial capital of Monterrey.²⁶ Still others have identified Mexico's low tax base and over-reliance on declining oil revenues, rigid labor market, weak education system, and lack of competition in many sectors as additional obstacles to more sustainable economic growth.²⁷

Social Conditions

As elsewhere in Latin America, the 2009 economic downturn in Mexico has had a negative impact on the country's recent progress in reducing poverty. With a population of 112.5 million (July 2010), Mexico is classified by the World Bank as an upper middle income developing country, with a per capita income level of \$9,330 (2010). According to officials from the U.N.

²³ 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.

²⁴ 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>.

²⁵ "Mexico Economy: Quick View - Growth Slows," *EIU*, August 19, 2011.

²⁶ J.P. Morgan's chief economist for Mexico estimated that drug trafficking-related violence cost the country some \$4 billion in foreign direct investment in 2010. Nicholas Casey and James R. Hagerty, "Companies Shun Violent Mexico," *Wall Street Journal*, December 17, 2010.

²⁷ 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.

Economic Commission for Latin America and the Caribbean, the percentage of Mexicans living in poverty fell between 2000 and 2006, but rose again between 2006 and 2008 to include almost 45% of the population. Recent data from the Mexican government show that the percentage of Mexicans living in poverty increased again between 2008 and 2010 to include 46.2% of the population, or roughly 52 million people. This increase in poverty occurred despite successful government efforts to expand access to health care, social security, and housing.²⁸

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.²⁹ The Calderón government has established a new program within *Oportunidades* for people in urban areas such as Ciudad Juárez. In 2010, more than 1.3 million urban beneficiaries began receiving assistance through that program.

Another key aspect of Mexico's recent social policy efforts has been to expand access to health insurance for people who are not covered by the country's social security system under a program known as *Seguro Popular* (Popular Health Insurance). In 2003, the Mexican Congress passed a law establishing a system by which public funding for health care would be gradually increased over seven years to achieve universal health insurance. Some 43 million people benefitted from the *Seguro Popular* program in 2010 and the Calderón government aims to enroll a total of 49 million people in the program by the end of 2011.³⁰ Many have praised *Seguro Popular* for expanding low-income Mexicans' access to medication and health care, while some have criticized it for being inefficient and for not reaching the poorest communities.³¹

Foreign Policy Challenges

While the bilateral relationship with the United States has continued to dominate Mexican foreign policy, former President Fox and current President Calderón have pursued more diversified foreign policies than their recent predecessors. The Fox Administration pursued other policy initiatives after the September 2001 terrorist attacks turned U.S. attention away from Mexico and toward the Middle East. Mexico held a temporary seat on the U.N. Security Council in 2002 and 2003 and voted against the U.S. invasion of Iraq, which disappointed the Bush Administration. Fox promoted Plan Puebla-Panama, now called the Mesoamerican Plan, a series of energy,

²⁸ Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de Pobreza 2010*, July 29, 2011, available at: <http://www.coneval.gob.mx/>.

²⁹ Santiago Levy, *Good Intentions, Bad Outcomes—Social Policy, Informality and Economic Growth in Mexico*. Washington D.C.: Brookings Institution, April 2008.

³⁰ Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

³¹ Julio Frenk, Octavio Gómez Dantés, and Felicia Marie Knaul, "The Democratization of Health in Mexico: Financial Innovations for Universal Coverage," *Bulletin of World Health Organization*, 2009; Jason M. Lakin, "The End of Insurance? Mexico's Seguro Popular: 2001-2007," *Journal of Health, Politics, and Law*, Vol. 35, No. 3, June 2010; Elisabeth Malkin, "Mexico's Universal Health Care is a Work in Progress," *New York Times*, January 29, 2011.

infrastructure, and regional connectivity initiatives with Central America. He attempted to revive the G-3 group trade preferences (Colombia, Venezuela, and Mexico); Venezuela formally withdrew from the group, however, in November 2006. Fox also sought better ties with countries in South America. He attempted to expand trade with the European Union under the EU-Mexico free trade agreement (FTA) that went into effect in July 2000, and with Japan under the Mexico-Japan FTA that entered into force in April 2005.

President Calderón has also sought to pursue an independent foreign policy with closer ties to the rest of Latin America. Calderón regularly met with former Colombian President Álvaro Uribe, and is continuing close collaboration with Colombia under the government of Juan Manuel Santos, with whom he recently signed a series of agreements that included an extradition treaty. The Calderón government is still exploring the possibility of forming a Brazil-Mexico FTA, as well as developing greater energy cooperation between PEMEX and Petrobras, Brazil's state-owned oil company. Security cooperation between Mexico and the Central American Integration System (SICA) has expanded, as evidenced by President Calderón's participation in a SICA summit on Central American security issues held in Guatemala in June 2011. Progress has also continued to advance, albeit slowly, on the aforementioned Mesoamerican Plan. The Mexican government sent significant financial support and humanitarian supplies to Haiti in the aftermath of the devastating earthquake that hit that country in January 2010. President Calderón has also tried to mend Mexican relations with Cuba and Venezuela, which had become tense during the Fox Administration.

Mexican-U.S. Relations: Issues for Congress

Background

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

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

Under the Calderón government, security cooperation, rather than immigration, has dominated the U.S.-Mexican relationship. During then-President Bush's March 2007 visit to Mexico, President Calderón called for U.S. assistance in combating drug and weapons trafficking. Calderón's willingness to increase narcotics cooperation with the United States led to the

development of the Mérida Initiative, a multi-year U.S. assistance effort announced in October 2007 to help Mexico and Central America combat drug trafficking and crime.

Obama Administration

U.S.-Mexican relations have continued to be close under the Obama Administration, largely focusing on cooperation in combating organized crime and drug trafficking. In mid-January 2009, President Calderón visited then President-elect Obama in Washington, DC. That pre-inaugural meeting, which has become somewhat of a tradition for recent U.S. presidents, demonstrated the importance of strong relations with Mexico. Secretary of State Hillary Clinton then traveled to Mexico in March 2009 to discuss a broad range of bilateral issues, including the Mérida Initiative. Perhaps most significantly, Secretary Clinton criticized the failure of past U.S. antidrug policy and acknowledged that an “insatiable demand for illegal drugs” in the United States “fuels the drug trade.”³² Clinton’s visit to Mexico was followed in early April 2009 with trips by Homeland Security Secretary Janet Napolitano and Attorney General Eric Holder.

Presidents Obama and Calderón met twice more in 2009. In April 2009, President Obama traveled to Mexico to discuss security issues, immigration reform, and climate change with President Calderón. During the visit, President Obama acknowledged the U.S. demand for drugs was helping to keep the Mexican drugs traffickers in business, and that “more than 90% of the guns recovered in Mexico come from the United States.”³³ At the North American Leaders’ Summit in Guadalajara, Mexico, in August 2009, President Obama praised Mexico’s response to the H1N1 swine flu outbreak and gave his full support for President Calderón’s struggle against organized crime. President Obama, President Calderón, and Canadian Prime Minister Harper pledged to work to restore economic growth in North America and to combat climate change.

Throughout 2010, U.S.-Mexican consultations continued at the highest levels. On March 23, 2010, Secretary Clinton chaired a cabinet-level delegation to Mexico that included then-Defense Secretary Robert Gates, Chairman of the Joint Chiefs Admiral Michael Mullen, Homeland Security Secretary Napolitano, and then-Director of National Intelligence Admiral Dennis Blair. The delegation participated in a Mérida Initiative High-Level Group meeting with their Mexican counterparts at which they agreed to a new strategy for the Mérida Initiative. President Obama welcomed President Calderón to the White House for a two-day state visit on May 19, 2010, during which the leaders pledged to continue working together to combat the organized criminal groups that traffic drugs into the United States and illicit weapons and cash into Mexico. They also reaffirmed their commitment to bilateral efforts to foster economic competitiveness, produce clean energy, and build a 21st century border. Secretary Clinton also met with her Mexican and Canadian counterparts in December to discuss regional issues and to prepare for another North American Leader’s Summit to be held in November 2011.

U.S. officials have continued to praise the Calderón government’s efforts against organized crime and to tout the increase in bilateral cooperation that has occurred as a result of the Mérida Initiative, but tensions have emerged between the two governments. While U.S. officials have generally expressed any concerns that they have had about the efficacy of Mexican institutions

³² Mark Lander, “Clinton Says Demand for Illegal Drugs in the U.S. ‘Fuels the Drug Trade’ in Mexico,” *New York Times*, March 26, 2009.

³³ “President Obama and Mexican President Felipe Calderón Hold News Conference,” *CQ Newsmaker Transcripts*, April 16, 2009.

involved in antidrug efforts through private diplomatic channels, some of those concerns have been leaked to the press. Bilateral tensions have reportedly escalated since February 15, 2011, when two U.S. Immigration and Customs Enforcement (ICE) agents were shot by Mexican DTOs, one fatally, raising U.S. concerns about the safety of U.S. officials working in Mexico. President Calderón has expressed frustration at the limited steps that the U.S. government has taken to reduce drug demand and the flow of automatic weapons to the DTOs. These tensions were likely discussed during private meetings that took place between Presidents Obama and Calderón in Washington D.C. On March 3, 2011, the two leaders publicly vowed to bolster bilateral security efforts. They also announced a proposal to resolve a longstanding trade dispute regarding NAFTA trucking provisions.

While some analysts maintain that bilateral efforts—particularly Mérida Initiative programs—may be hindered by the March 2011 resignation of the U.S. Ambassador to Mexico Carlos Pascual, others predict that cooperation will continue to advance.³⁴ On April 29, 2011, Secretary Clinton and Mexican Foreign Secretary Patricia Espinosa chaired another meeting of the Mérida Initiative High-Level Group in Washington D.C. after which both governments “ratified their shared commitment to achieving long-term solutions to challenges to the rule of law posed by transnational organized crime.”³⁵ As part of that commitment, the U.S. government pledged to deliver \$500 million worth of training and equipment to Mexico in 2011. Earl Anthony Wayne, a former Ambassador to Argentina and Deputy Chief of Mission in Afghanistan, has been confirmed by the Senate to succeed Pascual as U.S. Ambassador to Mexico.

U.S. Assistance to Mexico

In recent years, Congress has played an increasingly active role in shaping U.S.-Mexican relations through funding and overseeing the Mérida Initiative³⁶, an anticrime and counterdrug assistance package first funded in FY2008. Prior to that time, Mexico, a middle income country, had not been a major recipient of U.S. foreign assistance. As a result of the Mérida Initiative, U.S. assistance to Mexico rose from \$65 million in FY2007 to almost \$406 million in FY2008. **Table 1** provides an overview of recent U.S. assistance to Mexico funded through State Department aid accounts, while **Table 2** provides a breakdown of Mérida assistance by account. Mérida Initiative assistance to Mexico has flowed through the International Narcotics Control and Law Enforcement (INCLE), Foreign Military Financing (FMF), and Economic Support Fund (ESF) accounts. At times, Congress has earmarked funds for specific purposes in order to ensure that certain programs are prioritized, such as efforts to support institutional reform in Mexico. Congress has also included funding for Mexico in supplemental appropriations measures in an attempt to hasten the delivery of certain equipment.

Congress has also influenced U.S.-Mexican relations in the area of human rights by placing conditions on Mérida-related assistance beyond the requirements in Section 620J of the Foreign Assistance Act (FAA) of 1961. Section 620J of the FAA states that units of a foreign country's

³⁴ Prior to his resignation, Ambassador Pascual was criticized by President Calderón for the comments he made about deficiencies in Mexico's antidrug efforts in confidential diplomatic cables that were leaked to the press. Denise Dresser, “U.S. Ambassador to Mexico Resigned ‘for Doing his Job,’” *Miami Herald*, April 18, 2011.

³⁵ U.S. Department of State, “Joint Statement on U.S.- Mexico Merida High Level Consultative Group on Bilateral Cooperation Against Transnational Criminal Organizations,” press release, April 29, 2011, available at: <http://www.state.gov/r/pa/prs/ps/2011/04/162245.htm>.

³⁶ CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*.

security forces are prohibited from receiving assistance if the Secretary of State receives "credible evidence" that such units have committed "gross violations of human rights." The conditions, first included in P.L. 110-252 and included in all subsequent appropriations for Mérida, require that 15% of INCLE and FMF assistance be withheld until the Secretary of State reports in writing that Mexico is taking action in certain human rights areas.

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

Table I. U.S. Assistance to Mexico by Account, FY2007-FY2012
(U.S. \$ millions)

| Account | FY2007 | FY2008 ^a | FY2009 ^b | FY2010 | FY2011 (est.) | FY2012 (req.) |
|-------------------------|-------------|---------------------|---------------------|--------------------|---------------|---------------|
| INCLE | 36.7 | 242.1 | 454.0 ^c | 365.0 ^d | 117.0 | 248.5 |
| ESF | 11.4 | 34.7 | 15.0 | 15.0 | 18.0 | 33.3 |
| FMF | 0.0 | 116.5 | 299.0 ^e | 5.3 | 8.0 | 8.0 |
| IMET | 0.1 | 0.4 | 0.8 | 1.0 | 1.1 | 1.7 |
| NADR | 1.3 | 1.4 | 3.9 | 3.9 | 5.7 | 5.4 |
| GHCS^f | 3.7 | 2.7 | 2.9 | 3.5 | 3.5 | 3.7 |
| DA | 12.3 | 8.2 | 11.2 | 10.0 | 25.0 | 33.4 |
| TOTAL | 65.4 | 405.9 | 786.8 | 403.7 | 178.3 | 334.0 |

Sources: U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012, FY2010 Supplemental Spending Plan; FY2011 653(a) allocation data provided by the State Department.*

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

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

Bilateral Cooperation on Counternarcotics and Security Efforts

In the 1980s and 1990s, U.S.-Mexican counternarcotics efforts were often marked by mistrust, especially following the 1985 killing of DEA Special Agent Enrique Camarena in Mexico. Beginning in 1986, when the U.S. President was required to certify whether drug-producing countries and drug-transit countries were cooperating fully with the United States, Mexico often was criticized for its lack of effort, which in turn led to Mexican government criticism of the U.S. assessment. Reforms to the U.S. drug certification process enacted in September 2002 (P.L. 107-228) essentially eliminated the annual drug certification requirement, and instead required the President to designate and withhold assistance from countries that had “failed demonstrably” to make substantial counternarcotics efforts.³⁷ In the aftermath of this legislative change, U.S. bilateral cooperation with Mexico on counternarcotics efforts improved considerably during the Fox administration (2000-2006).

Mérida Initiative³⁸

As previously stated, upon taking office in December 2006, Mexican President Calderón made combating drug trafficking and organized crime a top priority of his administration. In response to the Calderón government’s request for increased U.S. cooperation, in October 2007 the United States and Mexico announced the Mérida Initiative, a new package of U.S. assistance for Mexico and Central America that would begin in FY2008 and last through FY2010.³⁹ The Mérida Initiative, as it was originally conceived, sought to (1) break the power and impunity of criminal organizations; (2) strengthen border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and (4) curtail gang activity and diminish local drug demand. The Bush Administration first requested funds for Mérida in its FY2008 supplemental appropriations request, with the bulk of funds requested focused on training and equipping Mexican police and military forces engaged in counterdrug efforts.

Even though the implementation of Mérida programs is likely to continue for several more years, budgetary support for the original Initiative technically ended with the FY2010 budget cycle. As a result, the Obama Administration and the Mexican government agreed to a new strategic framework for security cooperation. The four pillars of the new strategy were outlined in the Administration’s FY2011 budget request and include (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st century border; and (4) building strong and resilient communities. In terms of funding priorities, the Administration has asked Congress for less funding to provide equipment for Mexican security forces and more funding for training and technical assistance programs in Mexico. Since training programs are less expensive than aircraft and other equipment, the overall level of funding requested for Mérida Initiative programs in Mexico has decreased since FY2011.

³⁷ See CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*, by K. Larry Storrs.

³⁸ See CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea. For historical information, see CRS Report RS22837, *Mérida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Clare Ribando Seelke.

³⁹ Congress split the Central America portion of Mérida into a separate Central America Regional Security Initiative (CARSI) in FY2010 (P.L. 111-117). See: CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

Funding the Mérida Initiative

To date, Congress has appropriated a total of more than \$1.6 billion for Mexico under the Mérida Initiative. Legislative action on Mérida appropriations has included the following.

- In June 2008, Congress appropriated \$400 million in supplemental assistance for Mexico in P.L. 110-252, the FY2008 Supplemental Appropriations Act. Congress divided the funding for Mexico in P.L. 110-252 between the International Narcotics and Law Enforcement (INCLE), Foreign Military Financing (FMF), and Economic Support Fund (ESF) accounts. Congress limited the amount of FMF and INCLE available to provide equipment to the Mexican military and made 15% of FMF and IMET contingent on meeting certain human rights conditions.⁴⁰ Congress also earmarked \$73.5 million for judicial reform, institution building, rule of law, and anti-corruption activities.
- In March 2009, Congress passed the Omnibus Appropriations Act, (P.L. 111-8) providing \$300 million for Mexico within the INCLE, ESF, and FMF accounts with not less than \$75 million for judicial reform, institution building, anti-corruption, and rule of law activities. The measure contained human rights conditions similar to those set forth in P.L. 110-252.⁴¹
- In June 2009, Congress passed the FY2009 Supplemental Appropriations Act, P.L. 111-32, which included \$160 million in INCLE assistance and \$260 million in FMF for Mexico, \$354 million more than the Administration's request. The same human rights conditions as in P.L. 111-8 applied to INCLE funds provided in P.L. 111-32, but not to the FMF funds.
- In December 2009, Congress passed the FY2010 Consolidated Appropriations Act (P.L. 111-117), which included \$210.3 million for Mexico in the INCLE, ESF, and FMF accounts subject to the same human rights conditions as P.L. 111-8. Congress provided less funding for Mérida-related programs in Mexico than the Administration's FY2010 request, but had appropriated significantly more for Mexico than requested in the FY2009 supplemental measure. Congressional appropriators considered \$254 million of the funds provided in P.L. 111-32 as intended to address in advance a portion of the FY2010 request.
- In July 2010, Congress passed the FY2010 Supplemental Appropriations Act (P.L. 111-212), which contained \$175 million in INCLE assistance for Mexico for "judicial reform, institution building, anti-corruption, and rule of law activities" subject to the same human rights conditions as in P.L. 111-8.

⁴⁰ Human rights conditions for Mexico in P.L. 110-252 include (1) improving transparency and accountability of federal police forces; (2) establishing a mechanism to conduct 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.

⁴¹ P.L. 111-8 also has a provision requiring that prior to the procurement or lease of aircraft, that the Director of the Defense Security Cooperation Agency, in consultation with the Secretary of State, shall submit to the Committees on Appropriations an analysis of alternatives for the acquisition of all aircraft for the Merida Initiative.

- After a series of continuing resolutions, the FY2011 Department of Defense and Full-Year Continuing Appropriations Act (P.L. 112-10) was signed into law on April 15, 2011. The legislation had no accompanying report and did not designate a funding level for Mérida. It did, however, direct the Obama Administration to report back to Congress within 30 days on its proposed allocations of the appropriated funds. After consultations with Congress, the Department of State allocated \$143.0 million for Mérida programs in FY2011.⁴² The funds are subject to the same human rights conditions as previous years.

Congress is currently in the process of considering the Administration's FY2012 budget request. The FY2012 request included \$281.8 million in Mérida assistance for Mexico: \$248.5 million in INCLE and \$33.3 million in ESF. For FY2012, the FMF assistance requested for Mexico is not considered part of the Mérida Initiative. Many have urged Congress to maintain support for equipment and bilateral intelligence-sharing and law enforcement efforts aimed at bolstering U.S.-Mexican efforts under pillar one of the strategy. At the same time, others have urged Congress to move away from providing equipment to security forces and to prioritize economic assistance to Mexico for rule of law programs and development efforts under pillars two and four of the new Mérida Initiative strategy. As future foreign aid budgets tighten, Congress is likely to have to decide how to balance the limited U.S. funding available to Mexico between security and economic assistance programs.

Status of Implementation

Over the past few years, Congress has maintained a strong interest in ensuring that Mérida-funded equipment and training are delivered to Mexico in the most efficient way possible. Congress has convened numerous oversight hearings on the Mérida Initiative and commissioned a series of reports by the Government Accountability Office (GAO)⁴³ on how implementation of the Mérida Initiative has proceeded. As of August 1, 2011, a total of \$473.8 million worth of assistance had been provided to Mexico, including \$324.0 million in equipment and \$106.6 million worth of training. Significant equipment deliveries thus far have included three UH-60 Black Hawk helicopters, eight Bell 412 helicopters, a case management system for the Attorney General's Office, and non-intrusive inspection equipment for scanning containers.⁴⁴ Scheduled equipment deliveries in 2011 should include: four UH-60 Black Hawk helicopters, a CASA 235 maritime surveillance aircraft, and a \$13 million secure communications system for use by law enforcement in sister cities along the U.S.-Mexico border.⁴⁵

⁴² FY2011 653(a) allocation data provided to CRS by the U.S. Department of State, August 2011.

⁴³ GAO, Status of Funds for the Mérida Initiative, 10-253R, December 3, 2009, <http://www.gao.gov/new.items/d10253r.pdf>; GAO, *Mérida Initiative: The United States has Provided Counternarcotics and Anticrime Support but Needs Better Performance Measures*, 10-837R, July 21, 2010, <http://www.gao.gov/new.items/d10837r.pdf>.

⁴⁴ U.S. Department of State, "Mérida Initiative at a Glance," August 1, 2011.

⁴⁵ U.S. Embassy in Mexico City, "The Mérida Initiative- What's Coming in 2011," May 2011, http://photos.state.gov/libraries/mexico/310329/12may/2011_Major_Deliveries_FINAL.pdf.

Table 2. FY2008–FY2012 Mérida Funding for Mexico by Aid Account and Appropriations Measure

(\$ in millions)

| Account | FY2008 Supp. (P.L. 110-252) | FY2009 Bridge (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) | Account Totals | FY2012 Request |
|--------------|--------------------------------|------------------------------------|------------------------|-------------------------------|--------------------------|--------------------------------|-------------------------|-------------------|-----------------------------|
| ESF | 20.0 | 0.0 | 15.0 | 0.0 | 15.0 ^b | 0.0 | 18.0 | 68.0 | 33.3 |
| INCLE | 215.5 | 48.0 | 246.0 | 160.0 | 190.0 | 175.0 | 117.0 | 1,151.5 | 248.5 |
| FMF | 116.5 | 0.0 | 39.0 | 260.0 | 5.3 | 0.0 | 8.0 | 428.8 | Not applicable ⁰ |
| Total | 352.0 | 48.0 | 300.0 | 420.0 | 210.3 | 175.0 | 143.0 | 1,648.3 | 281.8 |

Sources: U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012*, *FY2010 Supplemental Spending Plan*; *FY2011 653(a) allocation data provided by the State Department*.

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

- a. On April 14, 2011, Congress passed legislation to fund government programs for the remainder of FY2011 (P.L. 112-10). While the legislation reduced most foreign aid accounts from FY2010 enacted levels, final funding by country and program has not been established.
- b. \$6 million was later reprogrammed for global climate change efforts by the State Department.
- c. Beginning in the FY2012 request, FMF assistance is not included as part of the Mérida Initiative.

Status of Human Rights Conditions on Mérida Initiative Assistance

Congress has also remained interested in ensuring that the human rights conditions included in P.L. 110-252 and subsequent appropriations measures for the Mérida Initiative are met. The August 2009 submission of the State Department's human rights progress report for Mexico met the statutory requirement for the release of the FY2008 supplemental and FY2009 regular FMF and IMET funds that had been on hold. Those funds totaled roughly \$88.5 million. Another progress report submitted to congressional appropriators in September 2010 met the statutory requirements for \$36 million in FY2009 supplemental and FY2010 omnibus that had been on hold to be released. Even though it was not statutorily required to do so, the State Department held back \$26 million in FY2010 supplemental funding pending further human rights progress on the part of the Mexican government (see "Compliance with Human Rights Conditions in the Mérida Initiative"). Members of Congress have requested periodic briefings from State Department officials on human rights conditions in Mexico and have written letters to Secretary Clinton expressing concerns about particular human rights issues.

Department of Defense Assistance to Mexico

Apart from the Mérida Initiative, Congress has given DOD its own legislative authorities to provide certain counterdrug assistance. DOD programs in Mexico are overseen by the U.S. Northern Command (NORTHCOM), which is located on Peterson Air Force Base in Colorado. DOD can provide counterdrug assistance under certain circumstances outlined in Sec. 1004 of P.L. 101-510 as amended through FY2011, and can provide additional assistance to 22 countries as provided for in Sec. 1033 of P.L. 105-85 as amended through FY2011. DOD counternarcotics support to Mexico totaled roughly \$34.2 million in FY2009, \$89.7 million in FY2010, and \$71.7 million in FY2011.⁴⁶ DOD is developing a plan to use some \$50 million in FY2011 per Sec. 1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Total DOD support to Mexico in FY2012 may exceed \$75.5 million.⁴⁷

Related Southwest Border Initiatives⁴⁸

The prevalence of drug trafficking-related violence within and between the DTOs in Mexico—and particularly in those areas of Mexico near the U.S.-Mexico border—has generated concern among U.S. policy makers that this violence might spill over into the United States.⁴⁹ In March 2009, Secretary of Homeland Security Janet Napolitano announced a set of Southwest border initiatives aimed at (1) guarding against violent crime spillover into the United States; (2) supporting Mexico's crackdown campaign against drug cartels in Mexico; and (3) reducing the

⁴⁶ DOD response to CRS request, March 21, 2011. This data reflects non-budget quality estimates of DOD counternarcotics support provided or efforts in these nations/regions; DOD does not budget counternarcotics programs by regions/countries, but by program. These figures reflect both "direct" support to those countries (e.g., training, equipment, information sharing, infrastructure and other categories) and "indirect" support via DOD and other U.S. Government counterdrug operations with regard to those countries (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories).

⁴⁷ Ibid.

⁴⁸ See the Appendix of CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

⁴⁹ Ibid.

movement of contraband in both directions across the border.⁵⁰ On May 25, 2010, in response to rising state and local concerns about border security, President Obama authorized sending up to 1,200 National Guard troops to the U.S.-Mexico border. The troops began the deployment process on August 1, 2010, and are now serving in law enforcement support roles in high-crime areas along the Southwest border through September 2011. Escalating violence in Mexico has focused congressional concern on the efficacy of these efforts to secure the Southwest border.

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). In the last two years, DHS has doubled the number of personnel assigned to BEST task forces along the U.S.-Mexico border. ICE has also coordinated the establishment of Special Investigative Units in Mexico that work with ICE special agents on criminal investigations and prosecutions. DHS components such as ICE, Customs and Border Protection (CBP), and the U.S. Coast Guard have long-standing relationships with their Mexican counterparts to jointly disrupt the activities of drug trafficking organizations. CBP and Mexican Customs are now coordinating southbound inspections in search of bulk cash and weapons. For FY2009 and FY2010, DHS also provided more than \$123 million in funds to reimburse Southwest border states for border-security related expenses through Operation Stonegarden.⁵¹

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. Department of Justice components involved in the increased efforts include the FBI; Drug Enforcement Administration (DEA); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); U.S. Marshals Service (USM); the department's Criminal Division; and the Office of Justice Programs. Large-scale investigative operations against Mexican DTOs and their affiliates in the United States have led to the arrest of more than 5,500 suspects and the seizure of more than \$300 million in illicit funds.⁵² 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.

Pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act), the U.S. Department of the Treasury's Office of Foreign Assets Control targets and blocks financial assets, subject to U.S. jurisdiction, of drug kingpins and related associates and entities. The U.S. Treasury Department has designated 271 individuals and 135 entities as tied to the illicit activities of Mexican DTOs.⁵³ A July 2011 Executive Order targeting "significant transnational criminal organizations" imposes additional sanctions on Los Zetas.⁵⁴

⁵⁰ U.S. Department of Homeland Security, "Secretary Napolitano Announces Major Southwest Border Security Initiative," press release, March 24, 2009.

⁵¹ U.S. Congress, House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management, *On the Border and in the Line of Fire: U.S. Law Enforcement, Homeland Security and Drug Cartel Violence*, 112th Cong., 1st sess., May 11, 2011.

⁵² Ibid.

⁵³ U.S. Embassy in Mexico City, "Fact Sheet: Combating Money Laundering," press release, April 2011, <http://photos.state.gov/libraries/mexico/310329/7abril/Money%20Laundering%20April%202011%20Final.pdf>.

⁵⁴ U.S. Department of the Treasury, "Fact Sheet: New Executive Order Targets Significant Transnational Criminal (continued...)"

Increasingly, the challenges of securing the U.S.-Mexico border are seen through the lens of escalating drug-related violence in Mexico—a problem which came into sharper focus in December 2010 when a CBP agent was shot and killed in southern Arizona. In August 2010, the 111th Congress passed legislation (P.L. 111-230) that provided \$600 million in supplemental funding to strengthen U.S. border security efforts.⁵⁵ The 112th Congress has held hearings on the adequacy of DHS, DOJ, and other federal agencies' efforts to secure the Southwest border and may consider legislation to further bolster those efforts.⁵⁶ As discussed below, Congress has also convened hearings on combating bulk cash smuggling and firearms trafficking to Mexico.⁵⁷ Congress is likely to continue to closely scrutinize U.S. efforts to reduce firearms trafficking in the wake of recent allegations that Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) officials allowed suspected straw purchasers to amass large quantities of firearms, some of which were then smuggled across the Southwest border. As Congress continues to consider the Administration's FY2012 budget request, Members may debate how best to balance the amount of funding provided to Mexico with support for related domestic initiatives. Congress may also consider legislation (such as H.R. 1507/S. 803) that would direct the Department of Defense to deploy additional National Guard troops to the Southwest border.⁵⁸

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.⁵⁹ Much of the money is generated from the illegal sale of drugs in the United States and is laundered to Mexico through mechanisms such as bulk cash smuggling. While bulk cash smuggling has been a prominent means by which criminals move illegal profits from the United States into Mexico, they have increasingly turned to stored value cards to move money.

By using stored value cards, criminals are able to avoid the reporting requirement under which they would have to declare any amount over \$10,000 in cash moving across the border. Current federal regulations regarding international transportation only apply to monetary instruments as defined under the Bank Secrecy Act.⁶⁰ Stored value cards are not considered monetary

(...continued)

Organizations," press release, July 25, 2011, <http://www.treasury.gov/press-center/press-releases/Pages/tg1255.aspx>.

⁵⁵ With that funding, DHS is hiring 1,000 Border Patrol Agents, 250 ICE agents focused on transnational crime, and 250 CBP officers. DHS is also creating two new forward operating locations to coordinate border security efforts and expanding the number of unmanned aircraft systems monitoring the border.

⁵⁶ 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.

⁵⁷ Hearings have included: U.S. Congress, Senate Drug Caucus, *Money Laundering and Bulk Cash Smuggling across the Southwest Border*, 112th Cong., 1st sess., March 9, 2011; U.S. Congress, House Committee on Oversight and Government Reform, *Operation Fast and Furious: Reckless Decisions, Tragic Outcomes*, 112th Cong., 1st sess., June 15, 2011.

⁵⁸ CRS Report R41286, *Securing America's Borders: The Role of the Military*, by R. Chuck Mason.

⁵⁹ DHS, *United States-Mexico Bi-National Criminal Proceeds Study*, June 2010.

⁶⁰ 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."

instruments under current law. As required by (P.L. 111-24), The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has issued a notice of proposed rulemaking, intending to define "stored value" as "prepaid access" and to implement regulations regarding the recordkeeping and suspicious activity reporting requirements for prepaid access products and services.⁶¹ The proposed rule would not, however, directly address whether stored value or prepaid access cards would be subject to current regulations regarding the international transportation of monetary instruments.

Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move and launder money by using digital currency accounts, e-businesses that facilitate money transfers via the Internet, online role-playing games or virtual worlds that enable the exchange of game-based currencies for real currency, and mobile banking wherein traffickers have remote access—via cell phones—to bank and credit card accounts as well as prepaid cards.⁶² The proceeds may then be used by DTOs and other criminal groups to acquire weapons in the United States and to corrupt law enforcement and other public officials.

Countering financial crimes—including money laundering and bulk cash smuggling—is one effort outlined by the National Southwest Border Counternarcotics Strategy (SWBCS).⁶³ To curb the southbound flow of money from the sale of illicit drugs in the United States, the SWBCS includes several goals: stemming the flow of southbound bulk cash smuggling, prosecuting the illegal use of electronic payment devices, increasing targeted financial sanctions, enhancing multilateral/bi-national collaboration, and empirically assessing the money laundering threat.⁶⁴ Legislation has been introduced (S. 1419) in the 112th Congress that would seek to prevent the use of stored value cards and other electronic fund access means as being used for currency smuggling or money laundering.

In 2005, ICE and CBP launched a program known as "Operation Firewall," which increased operations against bulk cash smuggling in the U.S.-Mexico border region. Since 2005, Operation Firewall has resulted in more than 999 arrests and 5,123 seizures totaling more than \$494 million.⁶⁵ U.S. efforts against money laundering and bulk cash smuggling are increasingly moving beyond the federal level as well, as experts have recommended.⁶⁶ 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

⁶¹ U.S. Department of the Treasury, FinCEN, "Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access," 75 *Federal Register*, pp. 36589-36608, June 28, 2010, <http://edocket.access.gpo.gov/2010/pdf/2010-15194.pdf>.

⁶² Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative*, Woodrow Wilson International Center for Scholars, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, p. 161, available at <http://www.wilsoncenter.org/topics/pubs/Farah.pdf>. (Hereafter, Farah, *Money Laundering*.)

⁶³ 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.

⁶⁴ *Ibid.*, pp. 31 – 36.

⁶⁵ Email from DHS official, February 7, 2011.

⁶⁶ Farah, *Money Laundering*.

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.⁶⁷

The United States and Mexico have created a Bilateral Money Laundering Working Group to coordinate the investigation and prosecution of money laundering and bulk cash smuggling. A 2010 Bi-national Criminal Proceeds Study revealed that some of the major points along the Southwest border where bulk cash is smuggled include San Ysidro, CA; Nogales, AZ; and Laredo, McAllen, and Brownsville, TX.⁶⁸ 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.

*Firearms Trafficking*⁶⁹

Many view illegal gun trafficking from the United States as a significant factor in the escalating drug-related violence in Mexico. To stem the flow of illegal guns, ATF has stepped up enforcement of domestic gun control laws in the four Southwest border states under a program known as “Project Gunrunner.” In November 2010, the DOJ Inspector General (IG) released an evaluation of Project Gunrunner.⁷⁰ The IG recommended that ATF work with DOJ to develop a reporting requirement for multiple long gun sales, because Mexican DTOs have demonstrated a marked preference for military-style firearms capable of accepting high-capacity magazines. The IG also recommended that ATF focus its investigative efforts on more complex criminal conspiracies involving high-level traffickers rather than on low-level straw purchasers.

In December 2010, DOJ and ATF requested that OMB approve a “60-day emergency notice of information collection” by January 5, 2011 under the Paperwork Reduction Act (44 U.S.C. § 3507).⁷¹ Under this proposed initiative, ATF would require federally licensed gun dealers to report whenever they make multiple disposals of one or more rifles within five consecutive business days to an unlicensed person. Such reporting would be limited to firearms that are (1) semiautomatic, (2) chambered for ammunition of greater than .22 caliber, and (3) capable of accepting a detachable magazine. Several Members of Congress strongly opposed the proposal. They maintain that if Congress authorized multiple handgun sales reporting in statute in 1986, then it is incumbent upon ATF to request similar statutory authority from Congress for multiple rifles sales reporting. While OMB initially denied ATF emergency approval, it approved this information collection request on July 11, 2011.⁷² In addition, instead of the of the one-year “pilot” period originally requested by ATF, OMB approved the information collection request for

⁶⁷ 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>.

⁶⁸ DHS, *United States - Mexico Bi-National Criminal Proceeds Study*, 2010.

⁶⁹ 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.

⁷⁰ U.S. Department of Justice, Office of the Inspector General, *Review of ATF’s Project Gunrunner*, I-2011-001, November 2010, 138 pp., <http://www.justice.gov/oig/reports/ATF/e11101.pdf>.

⁷¹ Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, “60-Day Emergency Notice of Information Collection Under Review: Report of Multiple Sale or Other Disposition of Certain Rifles,” *75 Federal Register* 79021, December 17, 2010.

⁷² U.S. Department of Justice, “Statement of Deputy Attorney General James Cole Regarding Information Requests for Multiple Sales of Semi-Automatic Rifles with Detachable Magazines,” press release, July 11, 2011; Evan Perez, “U.S. News: New Rules on Border Gun Sales,” *Wall Street Journal*, July 12, 2011.

a three-year period (through July 31, 2014).⁷³ Opponents of this initiative quickly responded. On July 12, 2011, Representative Denny Rehberg successfully amended the FY2012 Commerce, Justice, Science Appropriations bill in full committee markup to prohibit ATF from implementing its information collection initiative by a vote of 25 to 16.⁷⁴

In February 2011, Project Gunrunner came under scrutiny for a Phoenix, AZ-based investigation known as Operation Fast and Furious, when ATF whistleblowers alleged to Members of Congress that suspected straw purchasers were allowed to amass relatively large quantities of firearms as part of a long-term gun trafficking investigation.⁷⁵ They alleged further that ATF allowed those firearms to “walk,” meaning that ATF allowed known straw purchasers to transfer firearms to gunrunners, without taking additional steps to surveil those suspects, monitor the movement of those firearms, or expeditiously arrest either the suspected straw purchasers or gunrunners. Two of those firearms—AK-47 style rifles—were reportedly found at the scene of a shootout near the U.S.-Mexico border where U.S. Border Patrol Agent Brian Terry was shot to death.⁷⁶ Questions, moreover, have been raised about whether a firearm—an AK-47 style handgun—that was reportedly used to murder U.S. 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 ATF Project Gunrunner investigation.⁷⁷ 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,⁷⁸ neither DOJ nor ATF informed their Mexican counterparts about these investigations and the possibility that some of these firearms could be reaching Mexico.⁷⁹

Legislators in both countries have voiced their concerns about Operation Fast and Furious. Repeated Congressional inquiries prompted U.S. Attorney General Eric Holder to direct his Inspector General to conduct a third, yet-to-be completed, evaluation of Project Gunrunner.⁸⁰

⁷³ 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, available at <http://www.reginfo.gov/public/do/PRAMain.jsessionid=9f8e89cb30d6399089b4c8ac4da993b6c0e60ddbfeff2.e340bxiKbN0Sci0SbhaSa3aLchr0n6jAmljGr5XDqQLvpAe>.

⁷⁴ Previously, on February 19, 2011, the House adopted an amendment offered by Representative Rehberg to the Full-Year Continuing Appropriations Act, 2011 (H.R. 1) that would have prohibited ATF from implementing this requirement. While the House passed H.R. 1, the Senate rejected this bill on March 9, 2011, for budgetary considerations.

⁷⁵ James v. Grimaldi and Sari Horwitz, “ATF Probe Strategy Is Questioned,” *Washington Post*, February 2, 2011.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ 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 Immigration and Customs Enforcement (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.

⁷⁹ Richard A. Serrano, “U.S. Embassy Kept in Dark as Guns Flooded Mexico,” *Salt Lake Tribune*, July 25, 2011.

⁸⁰ See U.S. Congress, Joint Staff Report, *Department of Justice’s Operation Fast and Furious: Accounts of ATF Agents*, prepared for Rep. Darrell E. Issa, Chairman, United States House of Representatives, Committee on Oversight and Government Reform & Senator Charles E. Grassley, Ranking Member, United States Senate, Committee on the Judiciary, 112th Cong., 1st sess., June 14, 2011; and U.S. Congress, Joint Staff Report, *Department of Justice’s Operation Fast and Furious: Fueling Cartel Violence*, prepared for Rep. Darrell E. Issa, Chairman, United States House of Representatives, Committee on Oversight and Government Reform & Senator Charles E. Grassley, Ranking Member, United States Senate, Committee on the Judiciary, 112th Cong., 1st sess., July 26, 2011. Jerry Seper, “ATF (continued...)”

Meanwhile, the House Oversight and Government Reform Committee has held three hearings related to this operation, and the House Appropriations Committee has approved report language (H.Rept. 112-269) that recommends that “an outside, independent investigator” be appointed and charged with conducting “a thorough investigation of the allegations against ATF with respect to Operation Fast and Furious and policies guiding this and similar operations.” To date, Operation Fast and Furious has resulted in the indictment of 20 individuals on multiple counts of straw purchasing and other federal offenses related to firearms, drug trafficking, and money laundering.⁸¹ Over the 15-month operation, they stand accused of trafficking 2,020 firearms, of which 227 have been recovered in Mexico and 363 have been recovered in the United States.⁸² On August 30, 2011, the Acting ATF Director was reassigned within DOJ and the Arizona U.S. Attorney resigned in the aftermath of this operation.⁸³

Human Smuggling

CBP and the Mexican government have partnered through the Operation Against Smuggling Initiative on Safety and Security (OASISS), a bi-lateral program aimed at enhancing both countries’ abilities to prosecute alien smugglers and human traffickers along the Southwest border. Through OASISS, the Mexican government is able to prosecute alien smugglers apprehended in the United States. From the time of its inception in 2005 through the end of FY2009, OASISS generated 1,579 cases.⁸⁴ This program is supported by the Border Patrol International Liaison Unit, which is responsible for establishing and maintaining working relationships with foreign counterparts in order to enhance border security.

Trafficking in Persons (TIP)

Mexico is a significant source, transit, and destination country for people trafficked for forced labor or sexual exploitation. According to the Mexican government, some 20,000 children are trafficked within the country each year for sexual exploitation. Mexico is also a transit country for Central American TIP victims, among them, an increasing number of child victims. In the State Department’s *Trafficking in Persons (TIP) report, June 2011*, Mexico was listed as a Tier 2 country that has taken steps to implement a federal anti-trafficking law passed in late 2007.⁸⁵

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Knew Risks in Border Operation; Instructed Arizona Gun Dealer To Engage in ‘Suspicious Sales’ Despite Concerns,” *Washington Times*, April 15, 2011, p. 5.

⁸¹ Indictment, United States v. Avila, No. 11-cr-00126-JAT (D. Ariz. Jan. 19, 2011).

⁸² Sari Horwitz, “A Gunrunning Sting Gone Fatally Wrong: Operation Meant to Seize Firearms Bound for Cartels Allows Weapons into the Streets,” *Washington Post*, July 26, 2011, p. A1.

⁸³ Evan Perez and Devlin Bartlett, “Two Fall in Gun Scandal --- Management Shake-Up Follows Troubled Operation Targeting Weapon Trafficking,” *Wall Street Journal*, August 31, 2011.

⁸⁴ Data provided to CRS by DHS Congressional Affairs.

⁸⁵ Since 2001, the U.S. State Department has evaluated foreign governments’ efforts to combat trafficking in persons in its annual Trafficking in Persons (TIP) reports, which are issued each June. Countries are grouped into four categories according to the U.S. assessment of efforts they are making to combat trafficking. Tier 1 is made up of countries deemed by the State Department to have a serious trafficking problem but fully complying with the minimum standards for the elimination of trafficking. Those standards are defined in the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) as amended. Tier 2 is composed of governments not fully complying with those standards but which are seen as making significant efforts to comply. Tier 2 Watch List, first added as a category in the 2004 report, is made up of countries that are on the border between Tier 2 and Tier 3. Tier 3 includes those countries whose governments the State Department deems as not fully complying with TVPA’s anti-TIP standards and not making (continued...)

During this reporting period, the Mexican federal government initiated 47 prosecutions and secured its first conviction for a case involving forced labor. Mexico City's prosecutors also secured four TIP convictions. The Mexican government identified 259 trafficking victims and provided \$8.3 million to support a network of shelters across the country, but still struggled to provide adequate support to trafficking victims. An inter-agency commission drafted a national anti-trafficking plan that was subsequently approved by the Mexican Congress. The Congress included \$4.2 million in Mexico's FY2011 budget to support its implementation.

Human Rights Issues

According to the State Department's human rights report covering 2010, the Mexican government generally respected human rights at the national level, but serious problems remained.⁸⁶ These included unlawful killing by security forces; kidnappings; physical abuse; poor and overcrowded prison conditions⁸⁷; arbitrary arrests and detention; corruption, inefficiency and lack of transparency that engendered impunity in the judicial system; confessions coerced through torture; and violence against journalists leading to self-censorship. In 2010, nine Mexican journalists were killed and four disappeared.⁸⁸ Societal problems highlighted in the report included domestic violence; trafficking in persons; social and economic discrimination against some members of the indigenous population; and child labor. The report mentions an increase in politically motivated killings likely committed by organized crime in 2010, including the deaths of 14 local mayors and a gubernatorial candidate. The report also cited an estimate from Mexico's National Human Rights Commission (CNDH) that some 20,000 migrants were kidnapped while attempting to transit the country in 2010, including 72 migrants killed in a massacre in Tamaulipas in August 2010. The National Migration Institute has disputed CNDH's figures.

The State Department report maintained that neither the Mexican government nor its forces committed any politically motivated killings, but that there were reports that security forces killed several people during the year, including two university students and one U.S. citizen. The report asserted that the number of allegations of human rights violations committed by military and police forces engaged in counterdrug efforts brought before Mexico's CNDH increased as compared to 2009. The report cites multiple cases of forced disappearances allegedly committed by army and police forces, a problem which the United Nations has also recently identified as a serious human rights issue that Mexico needs to address through prevention, investigation, punishment and reparation for victims.⁸⁹ Corruption was reported to be a major problem, particularly at the state and local level, with police involved in kidnapping, extortion, or providing protection for organized crime and drug traffickers. Impunity was pervasive, according to the report, and was a reason that many victims were reluctant to file complaints.

(...continued)

significant efforts to do so. Tier 3 countries have been made subject to U.S. sanctions since 2003.

⁸⁶ U.S. Department of State, *2010 Human Rights Report: Mexico*, April 2011, available at: <http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154512.htm>.

⁸⁷ According to the report, prisons were roughly 26% overcrowded at mid-year. By year's end, some 150 inmates had died and 407 had escaped from prison.

⁸⁸ Freedom House recently lowered Mexico's annual ranking on press freedom from "partly free" to "not free" as a result of the increased violence and intimidation being carried out against journalists in the country. Freedom House, *Freedom of the Press 2011 Survey*, May 1, 2011.

⁸⁹ U.N. Office of the High Commissioner for Human Rights, *United Nations Working Group on Enforced or Involuntary Disappearances Concludes Visit to Mexico*, March 31, 2011.

Compliance with Human Rights Conditions in the Mérida Initiative

Human rights organizations generally lauded the inclusion of human rights conditions in Mérida Initiative appropriations legislation. More recently, however, there have been concerns that Mexico has not been fulfilling the conditions set forth in the legislation. In particular, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses.⁹⁰ On July 13, 2009, Human Rights Watch issued a statement asserting that “Mexican military courts ... have not convicted a single member of the military accused of committing a serious human rights violation.”⁹¹ The Mexican army has since created a unit to handle citizen complaints about human rights abuses and developed a website to track cases of human rights abuses that are being handled in military courts. As of December 2010, one officer and seven soldiers had been convicted of abuses.⁹²

On August 13, 2009, the State Department submitted a human rights progress report for Mexico to Congress, thereby meeting the statutory requirements for FY2008 supplemental and FY2009 regular funds that had been on hold to be released. While acknowledging that serious problems remain, the report outlined steps that the Mexican government has made to improve police transparency and accountability, consult with Mexican human rights organizations and civil society on the Mérida Initiative, investigate and prosecute allegations of human rights abuses by security forces, and prohibit the use of torture.⁹³ Human rights groups criticized the State Department report, and the release of Mérida funds that were on hold.⁹⁴

On September 2, 2010, the State Department submitted a second human rights progress report on Mexico to Congress.⁹⁵ According to that report, the Mexican government had demonstrated enough progress to enable \$36 million in FY2009 and FY2010 regular funds that had been on hold to be released. The report credited the Calderón government with initiating legislation to strengthen the authority of the CNDH, carrying out human rights training for military and police officials, and formalizing a bilateral dialogue on human rights issues with the United States.

While acknowledging the aforementioned progress, the State Department report stated that further progress had to be made in the areas of transparency and combating impunity in order for roughly \$26 million in FY2010 supplemental funds on hold to be released. The State Department urged the Mexican Congress to approve pending legislation that would strengthen the power of the CNDH and the Calderón government to submit legislation to reform the Military Justice Code so that military officials accused of human rights crimes against civilians would be tried in civilian courts. In October 2010, President Calderón submitted legislation to the Mexican Congress that would reform the Military Justice Code to establish civilian jurisdiction in cases where soldiers are accused of forced disappearance, rape, and torture. That legislation is still

⁹⁰ See, for example, Human Rights Watch, *Uniform Impunity, Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations*, April 2009, available at: http://www.hrw.org/sites/default/files/reports/mexico0409web_0.pdf

⁹¹ Human Rights Watch, “Mexico: U.S. Should Withhold Military Aid: Rights Conditions in Merida Initiative Remain Unmet,” July 13, 2009.

⁹² Ignacio Alzaga. “Sedena se Abre al Escrutinio Público; Sube Quejas a Web.” *Milenio*. July 28, 2010; U.S. Department of State, *2010 Human Rights Report: Mexico*, April 2011.

⁹³ U.S. Department of State, *Mexico- Merida Initiative Report*, August 2009.

⁹⁴ Washington Office on Latin America (WOLA) et al., “Joint Letter to Secretary of State Hillary Clinton: Human Rights Concerns to Inform the U.S. Department of State’s Merida Initiative Reporting on Mexico,” May 27, 2010.

⁹⁵ U.S. Department of State, *Mexico-Mérida Initiative Report*, September 2, 2010.

pending. On July 12, 2011, the Mexican Supreme Court rendered a decision that may imply that the current Military Justice Code should be reinterpreted so that cases involving credible allegations of human rights abuses committed by military forces against civilians are tried in civilian courts.⁹⁶ In March 2011, 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.

Accountability for Abuses Committed During the “Dirty War” Period

During his administration, President Fox pledged to investigate and prosecute those responsible for past human rights violations, including the “Dirty War” period from the 1960s to 1980s. The CNDH presented a report to President Fox in November 2001 that documented human rights abuses and disappearances of persons in the 1970s and early 1980s, and President Fox named legal scholar Ignacio Carrillo in January 2002 as a Special Prosecutor to investigate these and other cases. In November 2006, Ignacio Carrillo presented his final report on the repressive era from the late 1960s to 1982. The report found that the repression was a matter of state policy and led to the summary execution of over 700 Mexicans, torture, and the razing of villages.

The report was praised by some as an acknowledgment of state responsibility. Others remain critical since no one has been convicted of charges relating to these alleged crimes.⁹⁷ Only one of the three presidents from this period, Luis Echeverria (1970-1976), is still alive. President Echeverria faced genocide charges for his role in the repression of a 1968 student protest that left dozens dead when he was interior minister. Echeverria tried to evade prosecution by claiming the 30-year statute of limitations had expired. A judge rejected this argument and reinstated the arrest order in November 2006 after he determined that the statute of limitations did not go into effect until Echeverria left public office in December 1976. In July 2007, the Criminal Tribunal absolved Echeverria of any responsibility for the 1968 killings. This ruling was upheld by a Mexican federal court in March 2009, and was criticized by human rights organizations. Amnesty International maintains that the Mexican government is effectively condoning the abuses of the past by not effectively prosecuting past human rights cases.⁹⁸

Migration

Trends in Mexican Immigration to the United States⁹⁹

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. For

⁹⁶ “Mexican Supreme Court Says Military Rights Violations Should be Reviewed by Civilian Courts,” *Associated Press*, July 13, 2011.

⁹⁷ U.N., March 2011, *op. cit.*

⁹⁸ Amnesty International, “Mexico: Hopes of Justice Vanish,” March 27, 2009.

⁹⁹ Marc R. Rosenblum and Ruth Wasem, Specialists in Immigration Policy, contributed to this section.

example, 58% of Mexicans who became LPRs in FY2009 did so 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 2010.¹⁰⁰

According to a 2009 report by the Pew Hispanic Center, migration from Mexico to the United States declined sharply since mid-decade, but there appeared to be no evidence of an increase in the number of Mexican-born migrants returning home during this period. This analysis drew on data from Mexico's National Survey of Employment and Occupation as well as the U.S. Current Population Survey. The authors concluded: "It remains to be seen whether either trend points to a fundamental change in U.S.-Mexico immigration patterns or is a short-term response to heightened border enforcement, the weakened U.S. economy, or other forces."¹⁰¹

More recent studies have confirmed the Pew study's findings.¹⁰² Economic growth in Mexico and the increasing dangers of unauthorized migration have been added to the forces deterring would-be Mexican emigrants from leaving their country. At the same time, despite better job prospects in Mexico and an ongoing slowdown in the U.S. economy, the RAND Corporation found that fewer Mexican-born migrants went back to Mexico in 2008 and 2009 than in 2006 and 2007.¹⁰³

Mexico's Immigration Policies

The Mexican government has actively promoted migrants' rights internationally and the rights of Mexican migrants in the United States, but has been criticized by human rights organizations for failing to protect migrants from other countries who transit its territory. In February 2006, the Mexican Congress unanimously approved a concurrent resolution on migration and border security calling for the development of a guest worker program in the United States under the principle of shared responsibility. The resolution commits Mexico to enforcing legal emigration "if a guest country offers a sufficient number of appropriate visas."¹⁰⁴ In the resolution, Mexico also accepts the need to revisit its migration policies to consider enforcement along its northern and southern borders, enforcement of Mexican immigration laws that respect the human rights of migrants, and the need to combat human trafficking. The Mexican government further acknowledges that Mexican workers will continue to emigrate until there are more opportunities

¹⁰⁰ Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010*, by Michael Hofer, Nancy Rytina, and Bryan C. Baker, 2011, 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>.

¹⁰¹ Jeffrey S. Passel and D'Vera Cohn, *Mexican Immigrants: How Many Come? How Many Leave?*, Pew Hispanic Center, July 22, 2009, <http://pewhispanic.org/files/reports/112.pdf>. Similar findings were included in Passel and Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010*.

¹⁰² Those studies are summarized here: Immigration Policy Center, "Mexican Migration Patterns Signal a New Immigration Reality," August 1, 2011, available at: <http://www.immigrationpolicy.org/just-facts/mexican-migration-patterns-signal-new-immigration-reality>.

¹⁰³ RAND Corporation, *Number of Mexican Immigrants Returning Home Dropped During Latest Recession*, July 13, 2011, available at: <http://www.rand.org/news/press/2011/07/13.html>.

¹⁰⁴ The resolution did not specify how many visas would be appropriate, but says that they should include "the biggest possible number of workers and their families." An English translation of the resolution is available at <http://hirc.house.gov/archives/109/Mexico%20Migration%20Phenomenon.pdf>.

in Mexico. The February 2006 resolution remains the most detailed explanation to date of the major principles behind Mexico's policy on immigration. President Calderón expressed similar sentiments on immigration during his address to a joint session of Congress in May 2010.

Mexican officials regularly voice concern about alleged abuses suffered by Mexican workers in the United States, and for the loss of life and hardships suffered by Mexican migrants as they utilize increasingly dangerous routes to circumvent tighter border controls. Between 3,861 and 5,607 immigrants are estimated to have died while crossing the border between 1994 and 2009, up from an average of about 10 per year during the 1980s.¹⁰⁵ The Mexican government has been particularly concerned since two Mexican youth were killed by U.S. border patrol agents within a 10-day span, including one youth shot on June 7, 2010, at the El Paso-Ciudad Juárez border crossing.¹⁰⁶ Despite these concerns, Mexico benefits from unauthorized migration to the United States in at least two ways: (1) it is a "safety valve" that dissipates the political discontent that could arise from higher unemployment in Mexico, and (2) it is a source of remittances sent by workers in the United States to families in Mexico.

In addition to serving as a country of origin for immigrants to the United States, Mexico is also a transit and destination country for migrants, the vast majority of whom originate in Central America. Reliable estimates on the number of migrants transiting Mexico on an annual basis are not available, but Mexico's National Migration Service has estimated that some 140,000 unauthorized Central American migrants transited the country in 2010, down from roughly 433,000 in 2005.¹⁰⁷ In 2010, the Mexican government detained approximately 69,903 migrants, of whom some 65,505 were voluntarily repatriated or deported.¹⁰⁸ In 2010, federal government "Beta Groups" rescued 4,163 migrants in distress, some of whom were U.S.-bound Mexicans, and others of whom were migrants from other countries.¹⁰⁹

Mexico's immigration policy is generally reflected in the General Population Act and its Regulations, which have been reformed several times in the last five years.¹¹⁰

- A 2007 law made human trafficking a criminal offense.
- A 2008 reform to the General Population Act made violations of the immigration statute—such as entering the country illegally or overstaying one's visa—no longer criminal offenses punishable by imprisonment, but administrative offenses punishable by fines and voluntary repatriation or deportation.

¹⁰⁵ Maria Jimenez, *Humanitarian Crisis: Migrant Deaths at the U.S.-Mexico Border*, ACLU of San Diego and Mexico's National Commission of Human Rights, 2009, <http://www.aclu.org/files/pdfs/immigrants/humanitariancrisisreport.pdf>.

¹⁰⁶ Investigations into both incidents are still ongoing. However, U.S. border patrol officials maintain that the agent in El Paso was defending himself against rock throwers who had illegally crossed into the U.S. side of the border. Tracy Wilkinson and Richard A. Serrano, "Mexico Protests Slaying at Border; The Second Such Incident in Two Weeks Occurred When an Agent Opened Fire in Self-Defense, U.S. Says," *Los Angeles Times*, June 10, 2010.

¹⁰⁷ Secretaría de Gobernación (SEGOB), Instituto Nacional de Migración, Centro de Estudios Migratorios, *Migración Centroamericana de Tránsito Irregular por México: Estimaciones y Características Generales*, No. 1, July 2011.

¹⁰⁸ Secretaría de Gobernación (SEGOB), *Boletín Mensual de Estadísticas Migratorias 2010*, available at <http://www.inm.gob.mx/estadisticas/2010/BoletinEst2010.pdf>.

¹⁰⁹ *Ibid.*

¹¹⁰ Ley General de Población, as amended, D.O., Jan. 7, 1974, latest amendments published in D.O., May 25, 2011, available at http://dof.gob.mx/nota_detalle.php?codigo=5190774&fecha=25/05/2011.

- A 2009 reform brought the General Population Act more into line with international human rights conventions. The Mexican government also has improved conditions in some migration detention centers and reduced the time migrants spend in those centers prior to being repatriated or deported.¹¹¹
- A 2010 law stiffened penalties for alien smuggling and another stiffened penalties for kidnapping.
- A 2011 reform to the General Population Act further aligns Mexican law with the International Convention on the Rights of Migrant Workers, generally establishes the principle that all immigrants enjoy the same legal protections in Mexico regardless of their migration status, and centralizes authority for migration enforcement within the interior ministry.

Despite these measures, Mexican and international NGOs have continued to document abuses against migrants in Mexico, which often have included intimidation, physical attacks, sexual violence, and kidnapping. Mexico's CNDH found that between April and September 2010 alone, approximately 11,333 unauthorized migrants were kidnapped while attempting to transit Mexico and cross the U.S.-Mexico border.¹¹² An increasing percentage of abuses, the most violent case of which resulted in the mass murder of 72 U.S.-bound migrants in Tamaulipas, have been perpetrated by criminal gangs and drug traffickers, sometimes with assistance from public officials.¹¹³ Los Zetas in particular have taken control of many migrant smuggling routes originating in Central America, enacting harsh penalties on those who fail to work for them or pay them quotas. Amnesty International and other human rights organizations have urged the Mexican government to develop an action plan to prevent, punish, and remedy abuses of migrants in Mexico. On August 31, 2010, the Mexican government presented a new strategy to prevent and combat the kidnapping of migrants. The strategy aims to (1) target the criminal groups that carry out such crimes; (2) harness the efforts of all branches of government to treat victims and punish perpetrators; (3) work with countries of origin and destination to find solutions; and, (4) support the efforts of civil society and human rights commissions to protect migrants.

Efforts to Enact Comprehensive Immigration Reform in the United States

Comprehensive immigration reform was debated in the 109th and 110th Congresses, but no comprehensive legislation was enacted.¹¹⁴ The Speaker of the House and the Senate majority leader pledged to take up immigration reform legislation in the 111th Congress. In the past, comprehensive bills 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.

¹¹¹ Amnesty International, *Invisible Victims: Migrants on the Move in Mexico*, April 2010, available at <http://www.amnesty.org/en/library/asset/AMR41/014/2010/en/8459f0ac-03ce-4302-8bd2-3305bdae9cde/amr410142010eng.pdf>.

¹¹² Comisión Nacional de Derechos Humanos (CNDH), *Informe Especial Sobre Secuestro de Migrantes en México*, February 2011, available at: http://www.insyde.org.mx/images/inf_especial_secuestro_migrantes.pdf.

¹¹³ Amnesty International, *op. cit.*

¹¹⁴ See CRS Report RL33125, *Immigration Legislation and Issues in the 109th Congress*, coordinated by Andorra Bruno, and CRS Report RL34204, *Immigration Legislation and Issues in the 110th Congress*, coordinated by Andorra Bruno.

President Obama reiterated his support for comprehensive immigration reform effort during a joint press appearance with President Calderón on May 19, 2010, but also said that he lacked the votes in Congress to move a reform bill forward.¹¹⁵ Some analysts have interpreted President Obama's decision to send 1,200 National Guard troops to the border and to request supplemental funds for border security as designed to gain support for an immigration reform measure from Members of Congress whose top priority is border security.¹¹⁶ Although the 111th Congress did not take up a comprehensive reform bill, it did consider a narrower DREAM Act bill to legalize the status of certain unauthorized alien students. On December 8, 2010, the House approved a version of the DREAM Act as an amendment to an unrelated bill, the Removal Clarification Act of 2010 (H.R. 5281) on a vote of 216 to 198. Ten days later, a cloture motion in the Senate to agree to the House DREAM Act amendment failed on a 55-41 vote.¹¹⁷ A comprehensive immigration reform bill (S. 1258) and DREAM Act bills (S. 952, H.R. 1842) have again been introduced in the 112th Congress, but it is unclear whether such legislation will be considered.

Mexico's Reaction to Arizona's S.B. 1070 and Other State Laws to Deter Unauthorized Immigration¹¹⁸

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

The enactment of S.B. 1070 has sparked significant legal and policy debate. Supporters argue that federal enforcement of immigration law has not adequately deterred the migration of unauthorized aliens into Arizona, and that state action is both necessary and appropriate to combat the negative effects of unauthorized immigration.¹¹⁹ Opponents argue, among other things, that S.B. 1070 will be expensive and disruptive, will be susceptible to uneven application, and may undermine community policing by discouraging cooperation with state and local law enforcement. While acknowledging the increasing frustration that some states and localities feel as a result of the federal government's failure to tackle immigration reform, President Obama has criticized S.B. 1070, stating that the law threatened "to undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and our communities that is so crucial to keeping us safe."¹²⁰ In part to respond to these concerns, the Arizona State Legislature modified S.B. 1070 on April 30, 2010, through the approval of H.B. 2162. Nonetheless, in July,

¹¹⁵ Michael Muskal, "Obama Calls for Help with Immigration Reform," *Los Angeles Times*, May 20, 2010.

¹¹⁶ Jennifer Benderyand John Stanton, "Obama Sends Mixed Messages on Immigration," *Roll Call*, June 1, 2010.

¹¹⁷ CRS Report RL33863, *Unauthorized Alien Students: Issues and "DREAM Act" Legislation*, by Andorra Bruno.

¹¹⁸ For background, see CRS Report R41221, *State Efforts to Deter Unauthorized Aliens: Legal Analysis of Arizona's S.B. 1070*, by Kate M. Manuel, Michael John Garcia, and Larry M. Eig.

¹¹⁹ Kris W. Kobach, "Why Arizona Drew a Line," *The New York Times*, April 28, 2010, online edition.

¹²⁰ Randal C. Archibold, "Arizona Enacts Stringent Law on Immigration," *The New York Times*, April 23, 2010, online edition.

the Department of Justice sued the State of Arizona in the U.S. District Court for the District of Arizona to block S.B. 1070.

In the immediate aftermath of S.B. 1070's enactment, Mexican President Felipe Calderón also expressed his disapproval of the measure and stated that it “opens the door to intolerance and hatred.”¹²¹ On April 27, 2010, the government of Mexico issued travel warnings to Mexicans planning to travel to Arizona and stated that Arizona's recent immigration changes show “an adverse political atmosphere for migrant communities and for all Mexican visitors.”¹²² On May 20, 2010, President Calderón again criticized S.B.1070 during his address to a joint session of Congress by stating that it creates a dangerous precedent of “using racial profiling as a basis for law enforcement.” And in July 2010, citing its right under international law and existing US-Mexican treaties to protect the interests of its citizens abroad, Mexico filed a friend of the court brief in another federal lawsuit to block the Arizona law. The brief argues that

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

On July 29, 2010, a federal judge blocked large parts of S.B. 1070, Arizona's controversial new state law against illegal immigration, from taking effect pending the results of a U.S. Department of Justice lawsuit challenging its constitutionality. The state of Arizona filed a countersuit, citing the federal government's failure to enforce immigration laws, but in April 2011 the Ninth Circuit Court of Appeals upheld the lower court's injunction, likely meaning that the legality of S.B.1070 will be determined by the U.S. Supreme Court in 2012.

Recently, several other states have enacted measures to facilitate the detection of unlawfully present aliens by state and local law enforcement officials.¹²³ Some of these measures have been subject to legal challenge. The Mexican government has filed a friend of the court brief that is supported by 15 other Latin American countries as part of a class action lawsuit that has been filed by a number of civil rights groups challenging a recently-passed Alabama immigration statute, H.B. 56. DOJ has filed a separate lawsuit challenging the law.

Environmental Cooperation

The U.S.-Mexico border region has been the focal point of bilateral conservation and environmental efforts, and some argue that it is an appropriate place to intensify U.S.-Mexican environmental cooperation.¹²⁴ The 2,000-mile border region includes large deserts, numerous mountain ranges, rivers, wetlands, large estuaries, and shared aquifers. According to the Environmental Protection Agency, border residents “suffer disproportionately from many

¹²¹ Sara Miller Llana, “Mexico Issues Sharp Rebuttal to Arizona Immigration Law,” *The Christian Science Monitor*, April 26, 2010.

¹²² Martha Mendoza, “Mexico Issues Travel Alert over New Arizona Law,” *The Washington Post*, April 27, 2010.

¹²³ CRS Report R41423, *Authority of State and Local Police to Enforce Federal Immigration Law*, by Michael John Garcia and Kate M. Manuel.

¹²⁴ Duncan Wood, “Environment, Development and Growth: US-Mexico Cooperation in Renewable Energies,” Working Paper, May 2010.

environmental health problems, including water-borne diseases and respiratory problems.”¹²⁵ The United States and Mexico have been working to address many of these issues through bilateral programs like Border 2012, which relies on local level input, decision-making, and project implementation to address environmental challenges, such as water scarcity.

The United States and Mexico have also 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, further exploring the potential of carbon markets, and strengthening the reliability of cross-border electricity grids. On January 26, 2010, the U.S. Department of State hosted the framework’s first bilateral meeting, which was attended by officials from an array of agency officials from both countries. Some maintain that efforts to advance progress under the bilateral framework may hasten now that Mexico has demonstrated a commitment to environmental issues by serving as host of the Sixteenth U.N. Climate Change Conference in Cancún in late 2010.

USAID is using \$6 million in FY2010 funds to connect Mexican suppliers of renewable energy equipment to markets, contribute to the development of a Mexican national strategy for reduced emissions from deforestation, and promote energy efficiency adoption by states and municipalities that borrow money on Mexican capital markets. Mexico and the United States also continue to work together, along with Canada, to complete a North American Carbon Storage Atlas by April 2012.

Trade Issues¹²⁶

The United States and Mexico have strong economic ties through the North American Free Trade Agreement (NAFTA), which has been in effect since 1994. Prior to NAFTA, Mexico had followed a strong protectionist policy for decades until it began to unilaterally liberalize its trade regime in the late 1980s. Since the implementation of NAFTA, U.S.-Mexico trade has tripled and the stock of U.S. foreign direct investment in Mexico has risen from \$17 billion in 1994 to close to \$100 billion today. Mexico ranks third as a source of U.S. imports, after China and Canada, and second, after Canada, as an export market for U.S. goods and services. Through NAFTA, the United States, Mexico, and Canada form the world’s largest free trade area, with about one-third the world’s total GDP. Most studies show that the net economic effects of NAFTA on both the U.S. and Mexican economies have been small but positive, though there have been adjustment costs to some sectors within both countries.

Since NAFTA, the Mexican economy has increasingly become a manufacturing-for-export nation that is dependent on the U.S. economy. Exports represent 32% of Mexico’s GDP, up from 10% twenty years ago, and about 80% of Mexico’s exports are destined for the United States. In 2010, the top three Mexican exports to the United States were: machinery/electrical goods (40%), cars/auto parts (17%), and oil (15%). Mexico remains the second-largest U.S. oil supplier. When the U.S. economy is expanding, the Mexican economy benefits. However, when the U.S.

¹²⁵ <http://www.epa.gov/usmexicoborder/framework/index.html>.

¹²⁶ For more information, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

economy stagnates or is in decline, the Mexican economy tends to be hit hard. In 2009, for example, GDP growth in the United States fell by 2.5% and Mexico's GDP declined by 6.5%. The Mexican economy rebounded in 2010, with better-than-expected GDP growth of 5.5%.

Functioning of NAFTA Institutions

Several NAFTA institutions mandated by the agreements have been functioning since 1994. The tripartite Commission on Environmental Cooperation (CEC) was established in Montreal, Canada; and the Commission for Labor Cooperation (CLC) was established in Dallas, TX. In addition, the bilateral Border Environment Cooperation Commission (BECC), located in Ciudad Juárez, Mexico; and the North American Development Bank (NADBank), headquartered in San Antonio, TX, were created to promote and finance environment projects along the U.S.-Mexico border. The NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider nongovernmental petitions under the labor and environmental side agreements. Following up on a March 2002 agreement by Presidents Bush and Fox in Monterrey, Mexico, to broaden the mandate of the NADBank, Congress agreed in March 2004 to permit the NADBank to make grants and nonmarket rate loans for environmental infrastructure along the border. Legislation has been proposed in the 112th Congress (H.R. 2216) and in the Mexican Congress to further broaden the functions of NADBank to include other types of infrastructure development to foster economic growth along the border.

Trade Disputes

Outstanding trade disputes between the countries include access for Mexican trucks to operate in the United States and access for Mexican tuna to the U.S. market. A long-standing dispute involving sugar and high fructose corn syrup was resolved in 2006.¹²⁷

*Trucking*¹²⁸

Since 1995, the implementation of NAFTA trucking provisions has been in dispute. In March 2009, Congress included a provision in P.L. 111-8, the FY2009 Omnibus Appropriations Act, to terminate a pilot program that had allowed Mexican-registered trucks to operate beyond the 25-mile border commercial zone inside the United States. This move prompted retaliation from Mexico, which argued that the U.S. action was protectionist. Mexico imposed tariffs on over 90 U.S. agricultural and industrial products. The goods accounted for a value of \$2.4 billion in U.S. exports to Mexico in 2007.¹²⁹ The FY2010 Consolidated Appropriations Act (P.L. 111-117) and FY2011 Full-Year Continuing Appropriations Act (P.L. 112-10) do not include language that was in P.L. 111-8 prohibiting the Department of Transportation from funding a pilot project for Mexican-registered trucks to operate in the United States.

¹²⁷ For more information on recent trade disputes, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹²⁸ *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.

¹²⁹ Christopher Conkey, Jose de Cordoba, and Jim Carlton, "Mexico Issues Tariff List in U.S. Trucking Dispute," *Wall Street Journal*, March 19, 2009.

Obama Administration officials have repeatedly expressed confidence that a resolution to the current trucking dispute can be found that will satisfy congressional concerns about the safety of Mexican trucks, but still fulfill U.S. market access obligations under NAFTA. In January 2011, the Obama Administration released a concept document for a proposed program to implement the trucking provisions. The proposed plan has been endorsed by the Mexican government and was published in the Federal Register on April 8, 2011.¹³⁰ The Mexican government agreed to phase out the retaliatory tariffs it has imposed once the plan was finalized and to end all retaliatory tariffs once the first Mexican carrier is certified to operate in the United States. On July 6, 2011, the Department of Transportation signed a formal agreement with Mexico that establishes a pilot trucking program and ends 50% of the retaliatory tariffs that had been imposed on U.S. exports to Mexico.¹³¹ Some Members of Congress continue to oppose the implementation of the trucking provisions because they remain concerned about the safety of Mexican trucks operating in the United States. Others support a resolution to the issue and contend that Mexico's retaliatory tariffs have had strong negative effects on local U.S. industries and jobs.

Tuna

On tuna issues, the Clinton Administration lifted the embargo on Mexican tuna in April 2000 under relaxed standards for a dolphin-safe label in accordance with internationally agreed procedures and U.S. legislation passed in 1997 that encouraged the unharmed release of dolphins from nets. However, a federal judge in San Francisco ruled that the standards of the law had not been met, and the Federal Appeals Court in San Francisco sustained the ruling in July 2001.

Under the Bush Administration, the Commerce Department ruled on December 31, 2002, that the dolphin-safe label may be applied if qualified observers certify that no dolphins were killed or seriously injured in the netting process, but Earth Island Institute and other environmental groups filed suit to block the modification. On April 10, 2003, the U.S. District Court for the Northern District of California enjoined the Commerce Department from modifying the standards for the dolphin-safe label. On August 9, 2004, the federal district court ruled against the Bush Administration's modification of the dolphin-safe standards, and reinstated the original standards in the 1990 Dolphin Protection Consumer Information Act. That decision was appealed to the U.S. Ninth Circuit Court of Appeals, which ruled against the Administration in April 2007, finding that the Department of Commerce did not base its determination on scientific studies of the effects of Mexican tuna fishing on dolphins.

In late October 2008, Mexico initiated World Trade Organization (WTO) dispute proceedings against the United States, maintaining that U.S. requirements for Mexican tuna exporters prevents them from using the U.S. "dolphin-safe" label for its products. In April 2009, the WTO agreed to set up a dispute panel to rule on Mexico's complaint. In June 2010, the WTO panel charged with resolving the dispute put off issuing a final decision in the case until February 2011, a deadline which has been extended until July of this year. The panel ruled in favor of Mexico, but the details of the ruling have not been publicly released.¹³² Separately, in September 2010, the U.S.

¹³⁰ Department of Transportation, Federal Motor Carrier Safety Administration, "Pilot Program on NAFTA Long-Haul Trucking Provisions," FMCSA-2011-097, April 8, 2011.

¹³¹ DOT, "United States and Mexico Announce Safe, Secure Cross-Border Trucking Program," press release, July 6, 2011, <http://www.fmcsa.dot.gov/about/news/news-releases/2011/MX-trucks.aspx>.

¹³² Jean Guerrero, "World News: WTO Sides With Mexico in Long U.S. Tuna Battle," *Wall Street Journal*, July 20, 2011.

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 since that time.¹³³

North American Cooperation on Security and Economic Issues

In addition to the increased U.S.-Mexican bilateral cooperation that has occurred during the past two decades, trilateral cooperation between the United States, Mexico, and Canada has also increased, particularly since NAFTA took effect. During the second George W. Bush Administration, annual meetings between the North American leaders and their ministers took place within the framework of the Security and Prosperity Partnership (SPP) of North America, established in March of 2005.¹³⁴ Through the SPP, which consisted of expanded cooperation and harmonization of policies, the three governments sought to advance the common security and prosperity of their countries. To make this partnership operational, the leaders established ministerial-led working groups to develop measurable and achievable goals in priority areas: competitiveness, smart and secure borders, energy security and environmental protection, food and product safety, and emergency response. Beginning in June 2005, the SPP working groups provided annual reports to the three North American leaders on their work and key accomplishments, with the last SPP report submitted prior to the April 2008 North American Leaders' Summit.

North American cooperation has continued to occur, albeit somewhat less intensely, under the Obama Administration, but that cooperation is no longer referred to as occurring under the SPP initiative. As previously discussed, the most recent North American Leaders' Summit took place in Guadalajara, Mexico, on August 9-10, 2009. In addition to important discussions that occurred with respect to combating drug trafficking and preparing for the fall flu season, the leaders produced, among other things, a list of energy deliverables aimed at reducing carbon emissions in North America.¹³⁵ The North American leaders did not meet in 2010, as had been planned, prompting some observers to argue that North American integration efforts have waned even as U.S.-Mexican and U.S.-Canadian bilateral efforts have intensified.¹³⁶ According to the State Department, another North American Leaders Summit is likely to take place in Hawaii in November 2011.

Legislation in the 112th Congress

Approved Measures

P.L. 112-10 (H.R. 1473), Department of Defense and Full-Year Continuing Appropriations Act, FY2011. Signed into law April 15, 2011, the measure funds government programs, including foreign assistance to Mexico, at reduced levels for the remainder of FY2011. The legislation had

¹³³ "Mexico Prevails in Tuna-Dolphin Fight, But Extent of Victory is Limited," *Inside U.S. Trade*, May 20, 2011.

¹³⁴ For more information, see CRS Report RS22701, *Security and Prosperity Partnership of North America: An Overview and Selected Issues*, by M. Angeles Villarreal and Jennifer E. Lake.

¹³⁵ The White House, Office of the Press Secretary, "North American Leaders' Declaration on Climate Change and Clean Energy," August 10, 2009.

¹³⁶ Andrés Oppenheimer, "The Slow Decline of North America," *Miami Herald*, March 5, 2011.

no accompanying report and did not designate a funding level for Mexico. It did, however, direct the Obama Administration to report back to Congress within 30 days on its proposed allocations of the appropriated funds. After consultations with Congress, the Department of State allocated \$178 million for Mexico in FY2011, including \$143 million in Mérida-related assistance.¹³⁷ The funds are subject to the same human rights conditions as previous years.

Considered Measures¹³⁸

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

H.R. 1540 (McKeon), National Defense Authorization Act for FY2012. Introduced April 14, 2011; House Committee on Armed Services held markup and ordered the bill reported (H.Rept. 112-78). House approved May 26, 2011. The measure contains a provision that allows for the Department of Defense to continue providing support for counter-drug activities in Mexico.

H.R. 1932 (Smith), Keep Our Communities Safe Act. Introduced May 23, 2011; House Judiciary Committee held markup and ordered the bill reported. Among other things, the bill would allow DHS to detain indefinitely, subject to six-month reviews, an alien under orders of removal who cannot be removed if: (1) the alien will be removed in the reasonably foreseeable future; (2) the alien would have been removed but for the alien's refusal to cooperate with the Secretary's identification and removal efforts; (3) the alien has a highly contagious disease that poses a public safety threat; (4) release would have serious adverse foreign policy consequences; (5) release would threaten national security; (6) release would threaten the safety of the community or any person and the alien has been convicted of either one or more aggravated felonies or crimes of violence and, because of a mental or personality condition, is likely to engage in future acts of violence; or (7) release would threaten the safety of the community or any person and the alien has been convicted of one or more aggravated felonies.

H.R. 2017 (Aderholt), Department of Homeland Security Appropriations Act, FY2012. Introduced May 26, 2011; House Committee on Appropriations ordered the bill reported (H.Rept. 112-91). House approved June 2, 2011. The bill reduces discretionary funding for DHS to \$40.6 billion, some 6.9% below the Administration's request. The bill fully funds the Administration's request for border security fencing and infrastructure, but reduces funding for border surveillance technology and technology pilot programs by \$25 million from the Administration's request. The bill increases funding for CBP by \$44 million above the Administration's request (\$557 million above the FY2011 budget) with increases mainly going to fund additional Border Patrol and CBP port of entry officers and additional cargo and targeting and screening programs. And the bill increases funding for ICE by \$26 million over the president's request (\$84 million over the FY2011 budget), with increases mainly going to Secure Communities (a fingerprint screening program implemented in jails) and increased detention space.

¹³⁷ FY2011 653(a) allocation data provided to CRS by the U.S. Department of State, August 2011.

¹³⁸ "Considered" measures includes bills that were reported out of committee and/or voted on.

Legislation in the 111th Congress

Approved Measures¹³⁹

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

P.L. 111-8 (H.R. 1105), Omnibus Appropriations Act, 2009. Signed into law March 11, 2009. In Division H, the measure appropriates \$300 million for Mexico as a second installment under the Mérida Initiative. Human rights conditions similar to those included in the FY2008 Supplemental Appropriations Act (P.L. 110-252) apply to 15% of the total funds provided, not including assistance for judicial reform, institution building, anti-corruption, and rule of law activities. In Division I, Section 136, the measure prohibits funds in the act from being used for a pilot program granting certain Mexican trucks access to U.S. highways beyond the commercial zone. In the joint explanatory statement for Division B, not less than \$5 million is provided for Project Gunrunner and other firearms trafficking efforts targeting Mexico and the border region.

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

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

P.L. 111-117 (H.R. 3288), Consolidated Appropriations Act, FY2010, Signed into law December 16, 2009. In Division F, the measure appropriates up to \$210.3 million in Mérida Initiative funding for Mexico: \$190 million in INCLE assistance, \$15 million in ESF, and \$5.25 million in FMF assistance. Human rights conditions apply to 15% of the total funds provided, not including assistance for judicial reform, institution building, anti-corruption, and rule of law

¹³⁹ For detailed information about immigration and border security legislation that was enacted or considered during the 111th Congress, see CRS Report R40848, *Immigration Legislation and Issues in the 111th Congress*, coordinated by Andorra Bruno.

activities. In the Joint Explanatory Statement to P.L. 111-117, the conferees direct the Secretary of State to submit a report to within 90 days of the enactment of the act addressing how prior Mérida funds have been used, progress to date, any planned adjustments in the uses of funds, and post-Merida plans. Apart from the Mérida Initiative, the measure includes \$10 million in DA assistance for Mexico. The measure does not include language prohibiting funds appropriated in the act from being used for a pilot program granting certain Mexican trucks access to U.S. highways beyond the commercial zone.

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

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

P.L. 111-230 (H.R. 6080). Signed into law August 12, 2010, the measure provides \$600 million in supplemental funds for law enforcement efforts along the U.S.-Mexico border. That total includes \$394 million for DHS: \$244 million to hire new CBP officers and Border Patrol agents, \$84 million to hire new ICE agents, \$32 million for two unmanned aerial detection systems, \$6 million for bases for Border Patrol agents, \$14 million for communications equipment, and \$8 million to train new law enforcement personnel. The supplemental funds also include \$196 million to support DOJ efforts on the Southwest border. Those funds will enable the creation of seven new ATF Gunrunner units and five FBI Hybrid Task Forces, as well as support additional DEA agents, federal attorneys, prosecutors, and immigration judges. The supplemental funds will also enable the U.S. government to provide increased technical assistance and training for Mexican law enforcement.

P.L. 112-242 as amended (H.R. 3081), Continuing Appropriations Act, 2011. Signed into law September 30, 2010, the measure, as amended, continued funding most programs, including assistance to Mexico, at the FY2010-enacted level through March 4, 2011.

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

Additional Considered Measures¹⁴⁰

H.R. 2410 (Berman), Foreign Relations Authorization Act, FY2010 and FY2011. Introduced May 14, 2009; House Committee on Foreign Affairs held markup and ordered the bill reported (H.Rept. 111-136). House approved June 22, 2009. Title IX, Subtitle A of the bill, as introduced, sought to enhance the Mérida Initiative, by, among other measures, designating a high-level coordinator within the Department of State to implement the program; adding Caribbean Community (CARICOM) countries to the Mérida Initiative; establishing and implementing a program to assess the effectiveness of assistance provided under the Mérida Initiative; and creating a reporting requirement regarding the programs and activities carried out under the Mérida Initiative. Title IX, Subtitle B of the bill would have required the President to establish an inter-agency task force on the prevention of illicit small arms trafficking in the Western Hemisphere; increase penalties for illicit trafficking in small arms and light weapons; and express congressional support for the ratification by the United States of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA). **H.Amdt. 201 (Peters) to H.R. 2410**, introduced and agreed to on June 10, 2009, would have required the Secretary of State to report to Congress on the flow of people, goods, and services across the borders shared by the United States, Canada, Mexico, Bermuda, and the Caribbean nations.

H.R. 5281 (Johnson), Removal Clarification Act of 2010. Introduced May 5, 2010. House approved December 8, 2010. This measure contained language commonly referred to as “DREAM Act” language that would have enabled certain unauthorized alien students to legalize their status.¹⁴¹

S. 3676 (Leahy), FY2011 Department of State, Foreign Operations, and Related Programs Appropriations Act. Introduced July 29, 2010; Senate Appropriations Committee ordered the bill reported (H.Rept. 111-237). The bill would have provided approximately \$120 million in assistance for Mexico: \$85 million in INCLE, \$25 million in DA, and \$10 million in ESF.

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¹⁴⁰ “Considered” measures includes bills that were reported out of committee and/or voted on.

¹⁴¹ CRS Report RL33863, *Unauthorized Alien Students: Issues and “DREAM Act” Legislation*, by Andorra Bruno.

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