

# CRS Report for Congress

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## **Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress**

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## Summary

The United States and Mexico have a special relationship as neighbors and partners under the North American Free Trade Agreement (NAFTA). The friendly relationship has been strengthened by President Bush's meetings with President Fox but has been weakened by disagreements over Iraq and other issues. Major congressional issues are trade, migration/border security, drug trafficking, and political issues.

**Trade.** Since 1994, NAFTA institutions have been functioning, trade between the countries has tripled, and allegations of violations of labor and environmental laws have been considered. The Bush Administration has argued that NAFTA has had modest positive impacts on all three member countries, but Mexican farmers have strongly criticized the effects of NAFTA. Recent trade disputes with Mexico have involved trucking, telecommunications, tuna, sweeteners and sugar.

**Migration/Border Security.** In February 2001, Presidents Bush and Fox agreed to establish high-level talks to ensure safe, legal, and orderly migration flows between the countries, but the talks stalled after the September 2001 terrorist attacks, and border controls were later strengthened under the new Department of Homeland Security. In January 2004, President Bush proposed a major immigration reform "to match willing foreign workers with willing U.S. employers when no Americans can be found to fill the jobs." In December 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458), with provisions to increase immigration law enforcement personnel and to adopt more stringent border control and identity document standards.

**Drug Trafficking.** Bush Administration officials have regularly praised Mexico's counter-narcotics efforts under Fox, especially action against major traffickers, and have characterized the bilateral cooperation in this area as unprecedented. The State Department reported in April 2004, however, that marijuana and opium poppy cultivation increased significantly in Mexico in 2003. In recent law enforcement actions, on October 19, 2004, DEA officials announced the dismantling, through Operation Money Clip, of a major Mexican money-laundering and drug trafficking organization operating in the United States.

**Political and Human Rights.** In nation-wide elections on July 6, 2003, to renew the Chamber of Deputies, President Fox's PAN fared poorly, while the previously dominant PRI and the leftist PRD increased representation, making congressional approval of President Fox's reform measures less likely. Local elections are being held in an environment in which the parties are positioning themselves for the July 2006 presidential elections. On human rights issues, President Fox has designated special prosecutors to prosecute those responsible for human rights abuses in the 1970s and 1980s, but little progress has been made. On December 10, 2004, President Fox, responding to an analysis by the U.N. High Commission for Human Rights, presented a series of proposed reforms to discourage torture and to strengthen the rights of defendants in Mexico.

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# Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress

## Most Recent Developments

On November 3, 2004, President Fox congratulated President Bush on his reelection and called for attention to major bilateral issues. On November 9, 2004, the cabinet-level Binational Commission meetings were held in Mexico City, Mexico, after which Secretary of State Powell stressed the growing bilateral cooperation on counter-narcotics, border security, and immigration matters. On November 17, 2004, when President Bush met President Fox at the APEC meeting in Santiago, Chile, he indicated that the countries would be working together on immigration and border security issues. On December 6, 2004, the body of Enrique Salinas, the younger brother of former President Carlos Salinas de Gortari (1988-1994) was found, apparently murdered, and authorities later released a letter, apparently written by the deceased, expressing concern for his safety and financial situation. On December 7, 2004, Mexico put forward Foreign Minister Ernesto Derbez as a candidate to be the Secretary General of the Organization of American States. On December 10, 2004, President Fox, responding to an analysis by the U.N. High Commission for Human Rights, presented a series of proposed human rights reforms to strengthen the rights of defendants in Mexico. On December 10, 2004, the U.S. Supreme Court agreed to hear the case of a Mexican inmate on Texas' death row who claims that the state violated international law by failing to notify Mexican consular officials before his trial for murder. On December 17, 2004, President Bush signed into law the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458), with provisions to increase immigration law enforcement personnel and to adopt more stringent border control and identity document standards.

## U.S.-Mexico Relationship

### Major Bilateral Linkages

Mexico surpassed Japan in 1999 to become the United States' second most important trading partner following Canada. It is also one of the leading countries in Latin America in terms of U.S. investment, with total stock of investment of about \$35 billion in 2001. In addition, cooperation with Mexico is vital in dealing with illegal immigration, the flow of illicit drugs, and a host of border issues.

The United States is Mexico's most important customer by far, receiving about 87% of Mexico's exports, including petroleum, automobiles, auto parts, and winter vegetables, and providing about 77% of Mexico's imports. The United States is the

source of over 60% of foreign investment in Mexico, and the primary source of important tourism earnings.

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

## **Fox Administration**

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

Fox was elected with 42.52% of the vote in the July 2, 2000 elections, with support from the conservative National Action Party (PAN) and the Green Ecological Party of Mexico (PVEM), which formed the Alliance for Change. Francisco Labastida from the long-ruling and centrist Institutional Revolutionary Party (PRI) came in second with 36.10% of the vote. Cuauhtemoc Cardenas from the leftist Alliance for Mexico came in third with 16.64% of the vote, with support from the center-left Party of the Democratic Revolution (PRD) and four minor leftist parties.

Results from the July 2000 legislative elections produced a pluralistic legislature where none of the major parties had a majority in either chamber. In the 128-member Senate, the PRI has 60 senators, the PAN has 46, and the PRD has 15; while in the 500-seat Chamber of Deputies, the PRI had 211 deputies, the PAN had 206, and the PRD had 50.<sup>1</sup>

Following the July 2003 Chamber of Deputies elections, the PAN dropped from 206 deputies to 153 deputies (31% of the total), putting it in a weaker position to support Fox's program, while the PRI's delegation increased to 224 (45% of the total) and the PRD's delegation increased to 95 (19% of the total).<sup>2</sup>

**Economic and Social Challenges.** Mexico has suffered from the effects of the slowdown in the United States, and the decline in tourism following the

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<sup>1</sup> For more detail on the 2000 elections, see CRS Report RS20611, *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by (name redacted).

<sup>2</sup> For more detail on the 2003 elections, see CRS Report RS21561, *Mexico's Congress and July 2003 Elections*, by (name redacted).

September 2001 terrorist attacks. With nearly 90% of the country's exports going to the United States, Mexico's economy contracted 0.8% in 2001, grew only 0.9% in 2002, and grew about 1.3% in 2003. It is projected to grow nearly 4% in 2004. These meager growth results under Fox contrast with economic growth averaging over 5% in the previous six years. President Fox has been forced to operate under austere budgets in 2001, 2002, 2003, and 2004, reducing the funding for promised health and education programs. Lacking majority support in Congress, Fox has been unable to obtain approval of major legislation, including a proposed tax reform and a proposed energy reform that would permit greater private participation in the hydrocarbon and electricity sectors, although Congress did pass a social security reform in July 2004. President Fox has threatened to veto parts of the congressionally approved spending package even though it is unclear whether he has the constitutional authority to take this action.

**Political and Security Challenges.** President Fox has promised to end corruption, to operate a more transparent and open government, and to strengthen the government's commitment to human rights. He has attempted to professionalize the police under a new public security ministry to deal with widespread public concerns with security and police corruption, and he has undertaken vigorous efforts against illicit drug traffickers. In late March 2004, he proposed a judicial reform that would make the criminal justice system more efficient, transparent, and public. Congress began consideration of this measure but did not complete action. In December 2004, President Fox followed up with a series of proposed human rights reforms to discourage torture and to strengthen the rights of defendants in Mexico.

President Fox took several steps in 2001 to end the unresolved situation in Chiapas, including the introduction of indigenous rights legislation, withdrawal of the military from some areas, and release of over 30 Zapatista prisoners. However, when the Mexican Congress passed a modified version of the indigenous rights legislation, the Zapatistas denounced the legislation as inadequate and withdrew from any dialogue with the government.

**Foreign Policy Challenges.** President Fox has indicated that Mexico will pursue a more activist and diversified foreign policy, with greater involvement in U.N. activities, and stronger ties to Latin America and Europe. He has promoted the so-called Puebla-Panama Plan, which promotes cooperative development efforts among the Central American countries and the southeastern states of Mexico. He is reviving the G-3 group (Colombia, Venezuela, and Mexico), and is seeking better ties with the Southern Common Market (Mercosur) countries in South America. He has sought to expand trade with the European Union under the EU-Mexico free trade agreement that went into effect in July 2000, and with Japan under the Mexico-Japan free trade agreement that will enter into force in April 2005. Mexico held a temporary seat on the U.N. Security Council in 2002 and 2003 and expressed support for continuing diplomatic efforts under United Nations auspices to achieve the disarmament of Iraq, leading to expressions of disappointment from the Bush Administration.

President Fox has encouraged warm and friendly relations with the United States, and he has called for greater cooperation under NAFTA and for a bilateral migration agreement that would regularize the status of undocumented Mexicans in

the United States. (See below for more detail.) In 2001, Presidents Fox and Bush met in mid-February in Mexico, in mid-April in Canada, in early May in the United States, in early September in the United States on an official state visit, and in early October in the United States when President Fox expressed solidarity with the United States following the terrorist attacks. In 2002, the Presidents met in March in Monterrey, Mexico, following the U.N. conference on development, and in October in Los Cabos, Mexico, at the Asia-Pacific Economic Cooperation (APEC) summit. Relations seemed to be especially warm in 2001 when hopes were high for some sort of migration agreement, but the relationship cooled to some extent when the migration talks stalled following the terrorist attacks on the United States and when Mexico was reluctant to support U.S. action in Iraq in the U.N. Security Council. In 2003, the Presidents met in October, in Bangkok, Thailand, at the Asia-Pacific Economic Cooperation (APEC) summit, where they reaffirmed the desire to discuss bilateral immigration issues. In 2004, the Presidents met in January, in Monterrey, Mexico, for the Special Summit of the Americas, in March at President Bush's ranch in Crawford, Texas, and in November at the APEC summit in Santiago, Chile, with all three occasions providing opportunities to discuss President Bush's new immigration proposal.

## **Bilateral Issues for Congress**

### **Trade Issues**

Trade between Mexico and the United States has grown dramatically in recent years, encouraged by the adoption of the North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada. Total U.S. trade with Mexico increased from \$81.5 billion in 1993 to a high of \$247.2 billion in 2000, but then declined slightly in recent years, registering \$220.3 billion in 2003. However, the U.S. trade balance with Mexico has shifted from a surplus of \$1.3 billion in 1994 to a generally growing deficit of \$54.1 billion in 2003 (exports of \$83.1 billion; imports of \$137.2 billion), in part because of the late 1994 devaluation of the peso which made Mexican products cheaper. This change in the trade balance has caused some Members of Congress to question the benefits of NAFTA. Despite the deficit, Mexico is one of the fastest growing export markets for the United States in recent years, and it became the second most important trading partner after Canada in 1999.

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

**Functioning of NAFTA Institutions.** Several NAFTA institutions mandated by the agreements have been functioning since 1994. The tripartite

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

The NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider nongovernmental petitions under the labor and environmental side agreements. Under the *labor* side agreement, 28 petitions have been submitted alleging noncompliance by one of the NAFTA countries with existing labor legislation, and 15 of these have been against Mexico, although some of the cases against the United States involve working conditions and compensation for migrant workers. Seven submissions against Mexico were advanced to the next stage of ministerial consultations; two submissions were essentially dropped on grounds that the workers who were fired in Mexico accepted severance pay; two submissions were withdrawn, in one case when Mexico recognized a union just before a scheduled hearing; one submission was rejected on procedural grounds, although a study on reconciliation of the right to strike and national interests was initiated; and one submission is pending.

In one case advanced to ministerial consultation, involving the dismissal of workers for union organizing activities at a SONY electronics plant in Nuevo Laredo, Mexico, the labor ministers agreed to a plan of action including meetings with the affected workers, public seminars, and studies of union registration procedures. In the case of alleged discrimination against pregnant Mexican workers in border assembly (maquiladora) plants, ministerial consultations led to an implementation agreement and a conference on the rights of working women. With regard to the union association and health and safety issues in the Han Young maquiladora plant in Tijuana and the Itapsa maquiladora plant in the state of Mexico, ministerial consultations were held and led to trilateral seminars on the relevant issues. With regard to the occupational safety and health issues in the Auto Trim/Custom Trim in Tamaulipas, Mexico, ministerial consultations were held that led to the establishment of a bilateral working group of experts on the relevant issues. The most recent cases, filed in the United States and Canada in late September and early October 2003, allege violations of workers' rights in garment factories in Puebla, Mexico.

Under the trilateral CLC, the countries are cooperating in many areas, especially occupational safety and rights of working women and children. Some argue that the provisions have encouraged Mexico to enforce its own labor legislation. Others

argue that the provisions have been extremely weak and that numerous abuses persist.<sup>3</sup>

Under the *environmental* side agreement, 26 petitions have been submitted alleging non-compliance with environmental legislation, but only 9 of these have involved Mexico. In a major case involving the environmental impact of the construction of a cruise boat port in Cozumel, Mexico, the Council requested a response from the Mexican government and after evaluation directed the CEC Secretariat to prepare a full factual record on the case to highlight deficiencies. In two cases involving pollution of the Magdalena River and Lake Chapala the Council is reviewing the response from the Mexican government. In three recent cases the Council has requested responses from the Mexican government; in another case the complaint is still being reviewed; and another case was rejected on grounds that it did not allege a violation of environmental law. The CEC is cooperating on many environmental projects, including the North American Bird Conservation Initiative to protect birds and conserve bird habitats; the Upper San Pedro River Initiative to protect this Sonora-Arizona eco-system that is an important corridor for millions of migratory birds; and the Sound Management of Chemicals Project to dramatically reduce the use of PCBs, DDT, chlordane, mercury, and other pollutants.<sup>4</sup>

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

With respect to trucking issues, the Mexican government objected to the Clinton Administration's refusal, on safety grounds, to allow Mexican trucks to have access to U.S. highways under the terms of the NAFTA pact. A NAFTA dispute resolution panel supported Mexico's position in February 2001. President Bush indicated a willingness to implement the provision, but the U.S. Congress required additional safety provisions in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87). On November 27, 2002, with safety inspectors and procedures in place, the Administration announced that it would begin the process that will open U.S. highways to Mexican truckers and buses, but environmental and labor groups went to court in early December to block the action. On January 16, 2003, the U.S. Court of Appeals for the Ninth Circuit ruled that full environmental impact statements were required before Mexican trucks would be allowed to operate on U.S. highways. On June 7, 2004, the U.S. Supreme Court reversed the lower court decision brought by environmental and labor groups and agreed with the Bush Administration that an environmental impact statement is not required before Mexican trucks may gain access to U.S. highways. On September 22, 2004, the

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<sup>3</sup> For more information on the functioning of this institution, see CRS Report 97-861, *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate*, by (name redacted).

<sup>4</sup> For more information, see CRS Report 97-291, *NAFTA: Related Environmental Issues and Initiatives*, by (name redacted).

House approved 339-70 an amendment to the Transportation-Treasury Appropriations (H.R. 5025) that would prohibit implementation of a rule allowing Mexican and Canadian truck operators an additional two years to bring their trucks into compliance with U.S. safety provisions, and this was eventually incorporated into the Consolidated Appropriations Act for FY2005 (H.R. 4818/P.L. 108-447) that was approved by Congress and the President in November-December 2004.

Regarding telecommunications issues, the United States filed a complaint with the World Trade Organization (WTO) in August 2000, following previous warnings, over Mexico's failure to reduce Telmex's continuing dominant position in the telecommunications industry. A late December 2000 agreement between Telmex and rival carriers Alestra and Avantel, under which Telmex agreed to lower interconnection fees, was said to reduce the likelihood that the United States would pursue the complaint with the WTO. However, the USTR's April 2001 report on telecommunication trade barriers cited Mexico for continued failure to open its long-distance market to competition, and in mid-February 2002, it requested a WTO dispute resolution panel to rule on the U.S. complaint. On March 12, 2004, the WTO dispute panel issued its final report, generally upholding U.S. claims and finding that Telmex interconnection fees were above what cost-oriented rates should be. On June 1, 2004, Mexico and the United States agreed to settle their dispute by adopting the recommendations of the WTO panel.

With regard to sugar/sweetener issues, Mexico argues that it is entitled to ship its net sugar surplus to the United States duty free under NAFTA, while the United States argues that a sugar side letter negotiated along with NAFTA limits Mexican shipments of sugar. Mexico also complains that imports of high fructose corn syrup (HFCS) sweeteners from the United States constitute dumping, and it imposed anti-dumping duties for some time, even though NAFTA and WTO dispute resolution panels upheld U.S. claims that the Mexican government colluded with the Mexican sugar and sweetener industries to restrict HFCS imports from the United States. In the last days of 2001, the Mexican Congress imposed a 20% tax on soft drinks made with corn syrup sweeteners to aid the ailing domestic cane sugar industry. President Fox suspended the duties until September 30, 2002, in part because of U.S. objection to the tax and the devastating impact on HFCS and corn sales from the United States, but Mexico's Supreme Court overturned his action. In late 2002, the Mexican Congress extended the 20% tax on soft drinks made with HFCS.

During 2003, there were various efforts to achieve a compromise that would increase Mexican exporters' access to the U.S. sugar market and U.S. exporters' access to the Mexican HFCS market, but no agreement was reached, and in late 2003 the Mexican Congress extended the 20% tax on soft drinks made with HFCS. In October 2003, Corn Products International, Inc., based in Illinois, announced that it was filing a claim for \$325 million under NAFTA's investment provisions against Mexico for losses caused by the tax on HFCS-sweetened drinks, and Archer Daniels Midlands (ADM) said that it was planning similar action for over \$100 million in damages. In November 2003, Senate Finance Committee Chairman Charles Grassley introduced a bill (S. 1952) that would impose retaliatory tariffs on Mexican tequila and other agricultural products unless Mexico rescinded the tax on HFCS products, and in January 2004 he urged USTR to initiate WTO dispute settlement proceedings against Mexico's HFCS tax. On March 16, 2004, USTR announced that it was

initiating WTO dispute settlement proceedings against Mexico's HFCS tax, and on June 22, 2004, the United States formally requested that the WTO establish a dispute settlement panel to consider the U.S. claims. In September 2004, the United States and Mexico selected the panelists for the dispute settlement panel, although producer groups are still hoping to achieve a negotiated settlement.

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.

Mexico banned beef imports from the United States in December 2003 following the discovery of one cow infected with mad cow disease in Washington state. In early March 2004, following the announcement of new U.S. procedures that would exclude unhealthy or downer cattle from the food chain, Mexico announced that it was resuming beef trade with the United States, with some restrictions, and it expanded the list of eligible beef products in early April 2004.

With respect to other issues, both countries have alleged dumping of beef and cattle; Mexico has alleged U.S. dumping of apples, cotton, and sorghum; and the United States has alleged Mexican dumping of tomatoes and steel, although many of these complaints have been resolved to some extent. Mexico as a NAFTA partner was exempted from the Bush Administration's imposition of temporary safeguard tariffs on steel in March 2002. The United States has also claimed that Mexican sanitary standards have posed barriers to U.S. exports, and that Mexico's lax enforcement has permitted widespread piracy of recording and software products. Mexico has objected to U.S. sanctions against third countries with investments in Cuba under the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114), commonly called the Helms-Burton legislation.

In early October 2002, the U.S.-Mexico working group on agriculture dealt with major agricultural issues, including Mexico's recent anti-dumping decisions on apples, rice, swine, and beef, and safeguard actions on potatoes. In January 2003, the countries agreed to permit Mexican safeguard measures against U.S. imports of chicken legs and thighs, and in July 2003, these safeguard measures were extended until 2008, with tariffs declining each year. In October 2003, Mexico demanded further consultations on a U.S. request for a WTO dispute panel to rule on Mexico's imposition of anti-dumping duties on U.S. beef and rice imports, but a panel was formed in February 2004 and after a requested delay is expected to make a ruling in March 2005. At the Binational Commission meetings in November 2004, the countries announced agricultural agreements to advance cooperation on rural development programs.

## Migration\Border Issues

**Nature of the Immigration Problem.** The Immigration and Naturalization Service (INS) estimated in early 2003 that there were 4.8 million undocumented Mexican migrants residing in the United States in January 2000, accounting for 68.7% of the total estimated illegal alien population of 7.0 million. Mexico takes the view that the migrants are “undocumented workers,” making the point that since the U.S. market attracts and provides employment for the migrants, it bears some responsibility. Mexico regularly voices concern about alleged abuses suffered by Mexican workers in the United States, and for the loss of life and hardships suffered by Mexican migrants as they utilize increasingly dangerous routes and methods to circumvent tighter border controls. Mexico benefits from illegal migration in at least two ways: (1) it is a “safety valve” that dissipates the political discontent that could arise from higher unemployment in Mexico; and (2) it is a source of remittances by workers in the United States to families in Mexico, estimated to be about \$10 billion per year.

One of the main U.S. mechanisms for controlling illegal immigration is the Immigration Reform and Control Act of 1986 (P.L. 99-603). Main provisions of the act include civil and criminal penalties for U.S. employers who knowingly hire undocumented workers; increased border control and enforcement measures; anti-discrimination safeguards; provision for legalization of illegal aliens who resided continuously in the United States before 1982; and a special legalization for farm workers previously employed on American farms.

In the face of criticisms that illegal aliens deprive American citizens of jobs and are a growing burden on the educational, health, and welfare resources of certain states, recent Administrations sought to control illegal immigration partly as a means to preserve the program of legal immigration. Suits by the most affected states (California, Florida, Texas, and Arizona) against the federal government, and the passage in California in late 1994 of Proposition 187, which sought to deny health and educational benefits to illegal aliens, stimulated additional state and federal legislative proposals. Mexican authorities strongly criticized passage of Proposition 187, even though it was blocked by subsequent court action.

The Clinton Administration sought to control illegal entry into the United States with improved technology and additional Border Patrol agents and INS inspectors, using a strategy known as “prevention through deterrence,” modeled upon two border initiatives, Operation Hold the Line in the El Paso area and Operation Gatekeeper in the San Diego area. At the same time, Mexico and the United States formalized consultations through the Border Liaison Mechanisms, issued a Binational Study on Migration in 1997 that found that unauthorized migration carries costs for both countries, and pursued a Border Safety Campaign to reduce violence on the border through public information campaigns, search and rescue programs, and bilateral cooperation.

Congress passed two major immigration reform measures in 1996 to control illegal immigration and to limit the eligibility of aliens for federal programs. One was the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of the Omnibus Consolidated Appropriations Act for FY1997 (H.R.

3610/P.L. 104-208). The other was the 1996 welfare law entitled the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (H.R. 3734/P.L. 104-193). The first measure sought to control illegal immigration by adding 1,000 Border Patrol agents per year for five years (FY1997-FY2001), along with additional personnel, equipment, and procedures. Both measures reduced the attractiveness of immigration by restricting the eligibility of aliens for federal programs. (See CRS Report 95-881, *Immigration Legislation in the 104th Congress*, by Joyce Vialet).

Congress also increased funding for the Immigration and Naturalization Service, including the Border Patrol, through the regular Commerce, Justice, State, and Judiciary Appropriations Acts, more than tripling INS's budget from \$1.5 billion in FY1993 to \$6.2 billion in FY2002. (For more details, see CRS Report RS20908, *Immigration and Naturalization Service's FY2002 Budget*.) With various groups, including the AFL-CIO in February 2000, calling for amnesty for illegal immigrants in the United States and a more lenient immigration policy, Congress considered measures to increase the number of H-2A agricultural workers and to legalize the status of undocumented aliens through registry and various forms of amnesty. (See the following CRS reports by (name redacted): CRS Report RL30780, *Immigration Legalization and Status Adjustment Legislation*, and CRS Report RL30852, *Immigration of Agricultural Guest Workers: Policy, Trends, and Legislative Issues*.)

**Bush Administration Initiatives.** When President Bush met with President Fox in mid-February 2001, migration issues were among the main topics, with Mexican officials expressing concern about the number of migrants who die each year while seeking entry into the United States. President Fox has been pressing proposals for legalizing undocumented Mexican workers in the United States through amnesty or guest worker arrangements as a way of protecting their human rights. In the Joint Communique following the Bush-Fox meeting, the two presidents agreed to hold cabinet-level negotiations to address migration and labor issues between the countries. Several months later, on May 25, 2001, President Bush telephoned President Fox to express condolences for the recent deaths of 14 Mexican migrants in the Arizona desert, and both leaders reaffirmed their commitment to enhance safety along the border and to continue to make progress on migration issues. Press reports suggested that proposals to regularize the status of Mexican workers in the United States were being considered by the Administration and by Congress, but President Bush indicated that blanket amnesty would not be proposed.

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

During the Bush-Fox meeting in Monterrey, Mexico, on March 22, 2002, the Presidents noted that important progress had been made to enhance migrant safety, and they agreed to continue the cabinet-level talks to achieve safe, legal, and orderly migration flows between the countries. In the press conference, President Bush

called for passage of legislation to extend the period for adjustment to legal status of undocumented persons under Section 245(i) of the immigration act. The Presidents also announced a U.S.-Mexico Border Partnership Action Plan with greater cooperation and technological enhancements at the border and a “Partnership for Prosperity” Action Plan with public-private initiatives to promote domestic and foreign investment in less developed areas of Mexico with high migration rates. During the cabinet-level Binational Commission meetings in Mexico City, on November 25-26, 2002, Secretary of State Powell and Foreign Secretary Castaneda reaffirmed the intention to continue talks toward a migration agreement.

Even so, in 2001 and 2002, most congressional action focused on strengthening border security and alien admission and tracking procedures through the USA Patriot Act of 2001 (P.L. 107-56), and the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173). With a similar security focus, the Homeland Security Act of 2002 (P.L. 107-296), incorporated the INS/Border Patrol, Customs, and other agencies into the new Department of Homeland Security, which officially began operations on March 1, 2003.

In mid-May 2003, 19 migrants from Mexico and Central America died from asphyxiation and heatstroke near Victoria, Texas, after being crammed into an insulated trailer truck, and this incident prompted President Fox to appeal again for U.S. action on an immigration accord. On June 3, 2003, U.S. and Mexican officials announced a joint effort to save the lives of migrants by deploying more resources in the desert regions and by taking more forceful measures against smugglers. On October 20, 2003, President Bush and Fox met at the Asia-Pacific Economic Cooperation (APEC) Summit in Bangkok, Thailand, and reaffirmed the desire to continue the discussion on bilateral immigration issues, which were to be discussed in the upcoming Binational Commission meetings on November 12, 2003.

In early 2004, President Bush seeking to revive the immigration discussion, proposed an overhaul of the U.S. immigration system on January 7, 2004, to permit the matching of willing foreign workers with willing U.S. employers when no Americans can be found to fill the jobs. Under the President’s proposal, temporary legal status would be available to new foreign workers who have work offers in the United States and to undocumented workers already employed in the United States for a term of three years that could be renewed but would end at some point. The proposal includes some incentives to encourage workers to return to their home countries, such as credit in the worker’s national retirement system and tax-deferred savings accounts that could be collected upon return.<sup>5</sup> A few days after his proposal, President Bush met with President Fox in Monterrey, Mexico, for a Special Summit of the Americas, and President Fox welcomed the Bush proposal as a very important step forward. On January 20, 2004, President Bush called for passage of his immigration reform proposal in the State of the Union address.

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<sup>5</sup> For information on the President’s proposal and the congressional initiatives, see CRS Report RL32044, *Immigration: Policy Considerations Related To Guest Worker Programs*, by (name redacted).

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

On March 5-6, 2004, President Fox visited President Bush at his ranch in Crawford, Texas, and it was announced that Mexicans with border crossing cards would be exempted from the end-of-the-year requirement to be photographed and finger-scanned upon entry into the United States under the US-VISIT program.

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

On July 22, 2004, the 9/11 Commission issued its final report, calling in one of its recommendations for the United States to undertake major efforts to collaborate with other governments in counter-terrorism efforts and to raise border security standards. The separate House and Senate versions of S. 2845, passed in October 2004, to implement the 9/11 Commission recommendations, contained differing measures to increase immigration law enforcement personnel and to adopt more stringent border control and identity document standards.<sup>6</sup> Some of the differing provisions were among the most difficult to resolve in conference, however. Eventually, after lengthy negotiations and an agreement to consider the left out matters early in the 109<sup>th</sup> Congress, the conferees agreed upon a report and bill (H.Rept. 108-796) that was filed on December 7, 2004.<sup>7</sup> The conference report was approved by the House and the Senate on December 7 and 8, respectively, and was signed into law (P.L. 108-458) as the Intelligence Reform and Terrorism Prevention Act of 2004 by the President on December 17, 2004. The enacted legislation contains provisions requiring more law enforcement personnel for enforcing immigration laws, closer monitoring of the entry and exit of aliens, and standards for identification documents and drivers’ licenses. Under a leadership agreement with certain Representatives, it was agreed that three issues in the House bill that were dropped in the conference report would be addressed early in the 109<sup>th</sup> Congress, namely,

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<sup>6</sup> For more information, see CRS Report RL32616, *9/11 Commission: Implications for U.S. Immigration Law and Policy*, by (name redacted) and (name redacted).

<sup>7</sup> See Cleared Intelligence Rewrite is Big Finish for the 108<sup>th</sup>, *CQ Weekly*, Dec. 11, 2004, p. 2937.

provisions that would have banned the acceptance of Mexican consular ID cards by federal officials, that would have prohibited the issuance of drivers' licenses to undocumented aliens, and that would have required the completion of a section of a wall along the border with Mexico in California.

Following the November 2004 Binational Commission meetings, Secretary of State Powell emphasized the growing bilateral cooperation on counter-narcotics and border security matters between the countries, including the creation of a new Working Group on Cyber-Security.

## Drug Trafficking Issues

**Nature of the Problem.** Mexico remains a major supplier of heroin, methamphetamine, and marijuana, and the major transit point for cocaine sold in the United States. Although U.S.-Mexico counter-narcotics efforts have been marked by distrust at times, with criticisms mounting in March of each year when the President was required to certify that drug producing and drug transit countries were cooperating fully with the United States, relations have been improving in recent years. In the late 1990s, Congress acted to strengthen Border Patrol and international interdiction efforts along the Southwest Border, introduced resolutions to disapprove the certification of Mexico, and passed the Foreign Narcotics Kingpin Designation Act (H.R. 1555/P.L. 106-120), which strengthened the President's authority under the International Emergency Economic Powers Act (IEEPA) to block the assets in the United States of designated international drug traffickers. Following the July 2000 election of Vicente Fox as President of Mexico, bills were introduced but not enacted to exempt Mexico from the drug certification requirements or to modify the requirements.<sup>8</sup>

**Executive-Legislative Actions.** President Bush certified, on March 1, 2001, as previous presidents had done, that Mexico had been a fully cooperative country in efforts to control drug trafficking. He cited the arrest of two key members of the Tijuana-based Arellano Felix Organization, aggressive eradication programs, and growing cooperation with the United States by the new Fox Administration. In presidential meetings in 2001, Presidents Bush and Fox agreed to enhance law enforcement and counter-narcotics cooperation, and President Fox called for reform of the U.S. drug certification process. The Senate Foreign Relations Committee reported out S. 219 in April 2001 and S. 1401 (Foreign Relations Authorization for FY2002-FY2003) with similar language in August 2001 to modify the drug certification process. Lacking action on these measures, the drug certification requirements were temporarily modified in late 2001 by enactment of the Foreign Operations Appropriations Act for FY2002 (H.R. 2506/P.L. 107-115). This measure waived the drug certification requirements for FY2002 and required the President to designate only countries that had demonstrably failed to meet international counter-narcotics obligations.<sup>9</sup>

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<sup>8</sup> See CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*.

<sup>9</sup> See CRS Report RL30892, *Drug Certification Requirements and Congressional* (continued...)

The Bush Administration's overall drug control policy, as articulated in February 2002, seeks to prevent drug use before it starts through education and community action, to provide adequate treatment resources for drug users, and to disrupt the marketplace for drugs at home and abroad through eradication, interdiction, and anti-money-laundering activities. The State Department's March 2002 International Narcotics Control Strategy Report noted that Mexico's efforts had resulted in tangible successes against the three major drug cartels in the country — the Arellano Felix Organization (AFO), the Carrillo Fuentes Organization (CFO), and the Gulf Cartel. It also noted that the Fox Administration sustained the aggressive eradication program carried out by past administrations and increased the quantities of drugs seized. Later that month Mexican authorities announced the arrest of drug lord Benjamin Arellano-Felix, the killing of his brother Ramon Arellano Felix, and the arrest of Manuel Herrera Barraza, another key figure in the Arellano Felix organization.<sup>10</sup>

During the Bush-Fox meeting in Monterrey, Mexico in March 2002, the Presidents acknowledged "major successes achieved by Mexico in the fight against narco-trafficking" and agreed on "the importance of redoubling judicial cooperation" between the countries. On May 26, 2002, Jesus Albino Quintero Meraz and six associates in the Juarez drug cartel were arrested in Veracruz, marking another counter-narcotics success. On June 28, 2002, U.S. Drug Czar John Walters visited Mexico City and praised Mexico's counter-narcotics efforts.

In September 2002, Congress passed and the President signed the Foreign Relations Authorization for FY2003 (H.R. 1646/P.L. 107-228), with Section 706 of the act dealing with International Drug Control Certification Procedures. Drawing from S. 1401, the new procedures require the President to make a report, not later than September 15 of each year, identifying the major drug transit or major illicit drug producing countries. At the same time, he is required to designate any of the named countries that has "failed demonstrably," during the previous 12 months, to make substantial efforts to adhere to international counter-narcotics agreements (defined in the legislation) and to take other counter-narcotics measures. U.S. assistance would be withheld from any designated countries unless the President determines that the provision of assistance to that country is vital to the national interest of the United States or that the designated country subsequently made substantial counter-narcotics efforts. Notwithstanding the general suspension of the previous drug certification and sanctions procedures, subsection 706(5)(B) provides that the President may apply those procedures at his discretion. A transition rule provides that for FY2003, the required report was to be submitted at least 15 days before foreign assistance funds are obligated or expended.

In November 2002, President Fox presented a tougher, more comprehensive, multi-year National Drug Control Plan, which recognized Mexico's growing drug problem and the need for greater cooperation among agencies, while noting Mexican

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<sup>9</sup> (...continued)

*Modifications in 2001-2002*, by (name redacted).

<sup>10</sup> See CRS Report RL31412, *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to April 2002*, by (name redacted).

successes against major drug traffickers. U.S. officials praised Mexico's counter-narcotics efforts when President Bush's drug certification determinations were made in late January 2003, under new procedures, and when the State Department issued the International Narcotics Control Strategy Report in early March 2003. In mid-March 2003, Mexican law enforcement authorities captured alleged drug kingpin Osiel Cardenas-Guillen, reputed head of the Gulf Cartel. On June 20, 2003, the Mexican Attorney General's office announced that 31 soldiers had deserted the army to work for the Gulf Cartel and offered rewards for information leading to their arrests. On July 19, 2003, Mexican officials arrested Manuel Ruelas Martinez, the head of an important money-laundering cell for the Arellano Felix cartel.

On July 31, 2003, Mexican and U.S. officials announced the dismantlement of the Zambada Garcia drug cartel after a 19-month investigation that led to the arrest of 240 people in Mexico and the United States and the seizure of significant quantities of illicit drugs. On August 1, 2003, Mexican troops killed three suspected drug smugglers in Nuevo Laredo after an armed confrontation. On September 15, 2003, when President Bush designated the worst offending countries in counter-narcotics efforts under the new certification and designation procedures, there was no mention of Mexico. In a troubling development, in late January 2004, a number of Mexican state police officers were being held in the border state of Chihuahua on suspicion of involvement with drug traffickers in the killing of 11 men from rival drug gangs.

According to the State Department's March 2004 International Narcotics Control Strategy Report (INCSR), Mexico is the transit point for about 70% of the cocaine entering the United States, the leading foreign source of marijuana, one of two major suppliers of heroin, and a major producing and transit country for methamphetamine and other synthetic drugs. Despite Mexico's major role as a producing and transit country, the Fox Administration was credited with carrying out major efforts to eradicate and seize illicit drugs, with achieving tangible results against drug trafficking organizations, and with providing unprecedented cooperation with the United States. The State Department reported in April 2004, however, that marijuana cultivation increased 70% and opium poppy cultivation increased 78% in Mexico in 2003, in part because of unusually favorable growing conditions.<sup>11</sup>

In recent law enforcement actions with U.S.-Mexico cooperation, alleged Central American drug trafficker Otto Herrera-Garcia was arrested in Mexico on April 21, 2004, on drug trafficking charges, and Mexican national Jaime Ross-Castillo was arrested in Mexico on the same day on money-laundering charges. Later, Efrain Perez and Jorge Arellano Felix, two alleged lieutenants of the Arellano-Felix Organization (AFO) drug cartel, were arrested in Mexico on June 3, 2004. Still later, Ramiro Hernández, an alleged leader of the Gulf drug cartel, was arrested on August 10, 2004, and Gilberto Higuera Guerrero, an alleged leader of the Sinaloa drug cartel, was arrested on August 22, 2004. On October 19, 2004, DEA officials announced the dismantling through, Operation Money Clip, of a major Mexican money-laundering and drug trafficking organization operating in the United States.

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<sup>11</sup> For more detail, see CRS Report RL32669, *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to October 2004*, by (name redacted).

On November 24, 2004, the U.S. Treasury added the names of six leaders of the Arellano Feliz Organization, a Mexican narcotics cartel, to the list of persons subject to economic sanctions and restrictions under the Foreign Narcotics Kingpin Designation Act.

## Political and Human Rights Issues

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

Following the controversial July 1988 presidential election, President Salinas proposed and Congress approved three electoral reforms. In subsequent years, opposition governors were elected in several states, and nationwide mid-term legislative elections in August 1991 were considered to be generally fair. Presidential and legislative elections were held under peaceful conditions on August 21, 1994, with Ernesto Zedillo of the long-ruling PRI winning the presidency with 50.18% of the valid votes. In subsequent local elections, the opposition PAN won governorships in many states, particularly in the period following the 1995-1996 period of financial crisis and austerity.

In late July 1996, the parties agreed on major electoral reforms for the July 1997 legislative and local elections. These included the direct election of the mayor of the Mexico City Federal District, access to the media, and controls on campaign spending. On July 6, 1997, Mexico held nationwide midterm legislative elections along with gubernatorial contests in 6 states and the first direct election of the Mayor of the Mexico City Federal District. Although the Zedillo-supported PRI remained the single largest party, it lost its long-held majority in the Chamber of Deputies, it lost the two-thirds majority in the Senate, it lost two of the six governorships, and it lost the all-important race for Mayor of Mexico City. This prompted observers to suggest that the system was becoming more pluralistic and that passage of legislation would require more negotiation among the parties.

In the period leading to the July 2000 elections, former Government Minister Francisco Labastida was selected as the candidate of the PRI in an open nation-wide primary. Efforts by the PAN and the PRD to agree on a common candidate for the opposition came to an impasse, and former Governor of Guanajuato Vicente Fox was designated as the presidential candidate for the PAN, and former mayor of the Mexico City Federal District Cuauhtemoc Cardenas was designated as the presidential candidate for the PRD. On July 2, 2000, Vicente Fox of the Alliance for Change (PAN/PVEM) was elected President with 42.52% of the vote, marking the first election of a president from an opposition party in 71 years and erasing many doubts about the fairness of elections.<sup>12</sup>

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<sup>12</sup> For more detail, see CRS Report RS20611, *Mexico's Presidential, Legislative, and Local* (continued...)

In other elections in 2000, a coalition of opposition parties (PAN, PRD, etc.) won the governorship in the state of Chiapas in August 2000, the PRI won a majority in municipal and state legislature elections in the state of Veracruz in September 2000, the PRI won a governorship in disputed elections in the state of Tabasco in October 2000 (subsequently annulled by the Federal Electoral Tribunal), and the PAN won a governorship in a close race in the state of Jalisco in November 2000. After intervention by the Federal Electoral Tribunal to ensure the neutrality of the State Electoral Council in Yucatan, the candidate of the PAN-PRD coalition won the governorship of Yucatan in June 2001. The PRI won the governorship in Tabasco in the re-run election in August 2001, ending a string of PRI defeats in southern states.

In still other elections, on July 1, 2001, the PRI won control of the state legislature and most municipalities in the state of Chihuahua but initially lost to the PAN in a disputed mayoral election in the major border city of Ciudad Juarez. On July 8, 2001, the PAN demonstrated continuing dominance in Baja California, winning the governorship, 4 of 5 mayoral races, and 14 of 16 seats in the state legislature. On November 11, 2001, PRD candidate Lazaro Cardenas, the scion of a famous family, won the gubernatorial election in the bastion state of Michoacan. The election in Ciudad Juarez was subsequently annulled by the Federal Electoral Tribunal on grounds that the PAN had illegally run political campaign ads in El Paso, Texas, on the U.S. side of the border.

The re-run of the election was held on May 12, 2002, with many observers looking to the election for signs of the strength of the PAN and the PRI under new leadership. Official results showed the PAN winning the election again, and after investigation of alleged irregularities, the State Electoral Tribunal upheld the PAN victory. In local elections in Nayarit on July 7, 2002, the PRI recaptured 14 of 18 posts and a majority in the state legislature previously won by a PAN-PRD coalition. The PRI also retained pluralities in local elections in Coahuila, Guerrero, and Hidalgo held respectively in September, October and November 2002.

On March 9, 2003, in important and highly disputed local elections in the populous state of Mexico, which surrounds the Federal District, the PRI, in alliance with the PVEM, extended its legislative plurality in the state, which some saw as an omen for the coming congressional elections.

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

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<sup>12</sup> (...continued)

*Elections of July 2, 2000*, by (name redacted).

Democratic Revolution (PRD) increased representation in the Chamber to 19% of the seats, and consolidated local control in the Mexico City Federal District.<sup>13</sup>

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

In 2004, considerable attention has focused on the state and municipal elections in a number of states. In local elections in the state of Yucatan on May 16, 2004, the PAN won in 50 municipalities, including the capital city of Mérida, while the PRI won 50 and the PRD won 5 municipalities. In the state assembly, the PAN will have 13 deputies, the PRI will have 10, and the PRD will have 2. In state elections in Chihuahua, Durango, and Zacatecas on July 4, 2004, the PRI in alliance with the PVEM and the PT retained the governorships in Chihuahua and Durango, while the PRD in alliance with PAN retained control in Zacatecas. In state elections on August 1, 2004, the PRI won the mayoral race in the northern border city of Tijuana and claimed victory in the gubernatorial race in southern Oaxaca state where the result was contested, while the PAN won the gubernatorial election in Aguascalientes. On September 5, 2004, the PRI won the governorship in Veracruz in disputed elections, and on October 3, 2004, the PRI generally won in municipal elections in Oaxaca and Chiapas, winning control of several major cities previously controlled by the PAN.

**Allegations of Human Rights Abuses.** Charges of human rights abuse in Mexico, cited by human rights groups and the State Department's annual reports, include allegations of torture, harassment, and extra-judicial killings by law enforcement agents, and threats against journalists and human rights monitors. Other abuses include prison deficiencies, discrimination against women and indigenous peoples, and extensive child labor in the informal sector.

President Zedillo took a number of steps to deal with these abuses, including continuing support for the National Human Rights Commission. He named Antonio Lozano of the opposition PAN as Attorney General in 1994 and ordered him to carry out a major reform of the judicial and law enforcement system to eliminate corruption and human rights abuse. Judicial reform was approved in December 1994, increasing the independence and autonomy of the Supreme Court and of the Attorney General's Office. Under Zedillo, major attention focused on the December 1997 killing of 45 indigenous peasants in the village of Acteal in the state of Chiapas by armed men said to be linked to the PRI. President Zedillo urged prompt prosecution, and, eventually 77 persons were convicted and imprisoned.

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<sup>13</sup> For more detail, see CRS Report RS21561, *Mexico's Congress and July 2003 Elections*, by (name redacted).

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

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

On March 24, 2003, authorities charged Luis de la Barreda Moreno, the former head of the now disbanded secret police, with torture and murder of alleged guerrilla leader Jesus Piedra Ibarra in the mid-1970s. The State Department's March 2003 human rights report on Mexico states that Fox Administration efforts to improve the human rights situation continues to meet with limited success in many areas. Although a number of suspects have been arrested for involvement in the past abuses, Human Rights Watch issued a report in late July 2003 arguing that the special prosecutor has failed to produce significant results, and that the office has received inadequate support from the government. Critics argue that the government is reluctant to press human rights issues while courting support from the long-ruling PRI, and they point to the elimination, in early August 2003, of the position of Special Ambassador for Human Rights as evidence.

In late January 2004, President Fox named a special prosecutor to coordinate the federal and state efforts to find and punish those responsible for a decade of slayings of over 300 women in Ciudad Juarez, across the border from El Paso, Texas. On February 18, 2004, the former chief of Mexico's secret police, Miguel Nazar Haro, was arrested and charged with the torture and murder of alleged guerrilla leader Jesus

Piedra Ibarra in the mid-1970s. The State Department's March 2004 report on human rights conditions in Mexico notes that the government's efforts to improve the human rights situation appeared to stall, with a few exceptions. On July 24, 2004, a Mexican judge refused the special prosecutor's request for an arrest warrant against former President Luis Echeverria for involvement in a 1971 massacre, on grounds that the statute of limitations had expired. On December 10, 2004, President Fox, responding to an analysis by the U.N. High Commission for Human Rights, presented a series of proposed human rights reforms that would discourage torture and strengthen the rights of defendants in Mexico.

## Legislation

### **Foreign Relations Authorization for FY2004-FY2005 (H.R. 1950/S. 2144): Provisions Relating to Mexico**

The House passed H.R. 1950 on July 16, 2003, with several provisions relating to Mexico, but no further action was taken. The House-passed measure included a modified version of a sense of the Congress provision on a possible bilateral migration accord with Mexico, two amendments stating the sense of Congress on joint pollution control on the border and on Mexican extradition policy, and restrictions on Mexico's issuance of consular identification cards. No similar provisions were in the bill (S. 925) considered by the Senate on July 9-10, 2003. The Senate did approve an amendment to S. 925 authorizing \$100 million to support rural development in Mexico, but action was not completed on the bill. The Senate Foreign Relations Committee reported out a new bill (S. 2144) on March 18, 2004, with no provisions relating to Mexico.

**Migration Accord.** As indicated above in the section on immigration, the idea of a migration accord has been advanced by President Fox and by President Bush at presidential meetings beginning in 2001. When the House International Relations Committee marked up H.R. 1950 on May 8, 2003 (H.Rept. 108-105, Part 1), Representative Menendez offered an amendment that, in modified form, became Section 731. The initial amendment recounted the recent commitments on migration matters by the two governments as findings, and stated the sense of Congress that the United States should reach an agreement with Mexico on a migration accord that would ensure that migration to the United States is "safe, orderly, legal, and dignified."

Arguing that the Menendez provision was too broad, Representative Ballenger offered a substitute amendment, subsequently approved 24-22, that stated the sense of Congress that a Mexico-U.S. migration agreement should address the key issues of concern for both nations, and should include an accord to open Mexico's state-run petroleum monopoly (PEMEX) to reform and to investment by U.S. oil companies. It also added a finding that PEMEX "is inefficient, plagued by corruption and in need of substantial reform and private investment in order to provide sufficient petroleum products to Mexico and the United States to fuel future economic growth which can help curb illegal migration into the United States."

Representative Gallegly, expressing concern about fugitives from U.S. justice that Mexico will not extradite, offered an amendment to the Ballenger substitute measure, which was approved by unanimous consent, that the issues of extradition and law enforcement cooperation should be addressed in any migration agreement between the countries. In sum, Section 731, as reported, stated the sense of Congress that the United States should as soon as practicable commence negotiations to reach a migration accord with Mexico that addresses the key issues of concern in both countries, that opens PEMEX to reform and investment by U.S. oil companies, and that addresses extradition and law enforcement issues.

Mexican officials and commentators criticized the Committee-reported provisions related to PEMEX and extradition as an intrusion in the domestic affairs of Mexico. The Office of the Mexican Presidency issued a statement on May 11, 2003, acknowledging that the negotiation of a migration agreement was a priority for the Fox Administration, but pointing out that “negotiating such an agreement in exchange for opening up *Petróleos Mexicanos* (the state oil industry, PEMEX) to foreign investment would be wholly unacceptable.” The statement further asserted that “major changes have been undertaken at PEMEX to modernize its infrastructure and make its management transparent, and thus guarantee that oil shall remain in Mexican ownership.”

During floor consideration on July 15, 2003, the House approved, as part of an en bloc amendment, an amendment proposed by Representative David Dreier, as modified by House International Relations Committee Chairman Henry Hyde. The amendment, which became Section 730, removed the previously mentioned references to PEMEX and stated the sense of Congress that the United States and Mexico should conclude negotiations in an attempt to reach a migration accord. It further stated that the accord should be as comprehensive as possible and should address the key issues of concern for both nations; it stated that, as part of any agreement, the issues of extradition and law enforcement cooperation be addressed.

**Pollution Control.** During floor consideration on July 15, 2003, the House approved, as part of an en bloc amendment, an amendment proposed by Representatives Hunter, Cunningham, Davis, and Filner, that became Section 740. It expressed the sense of Congress that the U.S. Section of the International Boundary and Water Commission should give priority attention to treaty negotiations with Mexico on the building of a public-private wastewater treatment facility in Mexico that can treat sewage flowing from Tijuana to San Diego, as outlined in P.L. 106-457. The amendment recounted in the findings the damage to San Diego beaches and the three-year delay in negotiations and it required that monthly progress reports be submitted to appropriate congressional committees.

**Extradition Issues.** During floor consideration on July 15, 2003, the House approved Amendment 27 proposed by Representative McKeon that expresses in Section 744 the sense of Congress that the U.S. government should encourage the Mexican government to work closely with the Mexican Supreme Court to persuade the Court to reconsider its October 2001 ruling so that the possibility of life imprisonment in the United States will not have an adverse effect on the timely extradition of criminal suspects from Mexico to the United States.

**Consular ID Cards.** In floor action on July 15, 2003, the House voted 226-198 to accept Amendment 17 by Representative John Hostettler that would establish in Section 232 a series of restrictions on the issuance of consular identification cards by foreign missions. In recent years, the Mexican consulates have been issuing matrícula consular cards for identity purposes, and they have been increasingly accepted in the United States in situations where proof of identity is required, such as for establishing banking accounts and obtaining credit cards and transferring funds from the United States to Mexico. Critics argue that the cards are used primarily by illegal aliens seeking to obtain benefits not achieved through regular immigration law and procedures, and that they might facilitate money-laundering and terrorist activity. The amendment would have required that foreign missions issue consular identification cards only to bona fide citizens of the country as verified by birth certificates, voter IDs, and passports; that card recipients be required to notify the mission of any change of address; that automated records be kept by the missions to prevent duplicate or fraudulent issuance; that records be subject to audit by the United States; and that the United States be notified of each issuance, including the name and address. In the event that a foreign mission has issued consular ID cards in violation of these provisions, it could be required to suspend the issuance of cards; and in the event of noncompliance, the State Department would suspend the issuance of immigrant or nonimmigrant visas, or both, to nationals of that country until it was in compliance with the requirements. Supporters of the amendment argued that the issuance of the cards was out of control and needed to be controlled. Opponents argued that it was an attack on the Mexican identity card and persons of Hispanic heritage, and that the requirements were onerous and excessive.

**Rural Development.** When the Senate considered S. 925 on July 10, 2003, it adopted an amendment offered by Senator Reid to provide \$100 million in assistance to Mexico to deal with the existing rural development crisis in the country. The Senate did not complete action on S. 925 in 2003, and there is no similar provision in the Senate bill (S. 2144) reported out by the Senate Foreign Relations Committee in March 2004.

### **Authorizing Amendment of Mandates of Border Environment Cooperation Commission and North American Development Bank (H.R. 254 / P.L. 108-215)**

H.R. 254 was introduced on January 8, 2003, to authorize amendment of the mandates of the jointly established Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank). The authorized amendments would permit the NADBank to make grants and below-market-rate loans in the U.S.-Mexico border region, with the defined border region being expanded to extend to 300 kilometers into Mexico from the border, while remaining 100 kilometers on the U.S. side. This was in keeping with a March 2002 agreement by Presidents Bush and Fox in Monterrey, Mexico, to broaden the mandate of the NADBank and to expand its loan portfolio, especially in support of water conservation projects. The House approved a similar bill (H.R. 5400) in October 2002, but action was not completed in the Senate. H.R. 254 was approved by the House under suspension of rules on February 26, 2003; it was approved by unanimous consent by the Senate on March 12, 2004, with an amendment limiting the

amount of funding for any one project; and it was approved by the House as amended under suspension of rules on March 25, 2004. The measure was signed into law (P.L. 108-215) on April 5, 2004.

### **Transportation-Treasury Appropriations for FY2005 (H.R. 5025 and H.R. 4818/P.L. 108-447): Provision Relating to Mexican Matrícula Consular Cards**

The House approved the Transportation-Treasury Appropriations for FY2005 (H.R. 5025) on September 22, 2004, with a number of amendments. Among the approved amendments was the Oxley-Frank amendment that restored funding for Treasury Department implementation of regulations established in May 2003 that permit financial institutions to accept the consular identification cards (matrícula consular) issued by Mexican consulates to Mexican citizens in the United States as a valid identity document for opening a bank account.<sup>14</sup>

The House Transportation-Treasury Appropriations Subcommittee voted 9-7, on July 15, 2004, to approve an amendment by Representative John Culberson to prohibit the use of funds by the Secretary of the Treasury “to publish, implement, administer, or enforce regulations [established in May 2003] that permit financial institutions to accept the matrícula consular identification card as a form of identification.” Representative Culberson claimed that his amendment had the support of the Department of Homeland Security, the FBI, the Justice Department, and a U.S. Attorney in Texas. He argued that the amendment was aimed at ending the use of a totally unreliable form of identification that could be obtained by criminals and terrorists. Those opposing the amendment argued that the consular cards were safe and that the Subcommittee was acting precipitously and without adequate information.<sup>15</sup>

The full Appropriations Committee approved the overall measure on July 22, 2004, after voting 25-26 to defeat an amendment by Representative Ed Pastor that would have stricken the language of the Culberson amendment described above. This action left intact the previously approved prohibition on Treasury funding for implementation of regulations permitting financial institutions to accept the matrícula consular cards. Representative Culberson argued that the cards are unreliable and could be used by terrorists to falsify their identities. Representative Pastor and others argued that the cards were reliable and that the Department of Homeland Security could write regulations to deal with their concerns, without blocking the use of the cards for financial transactions.<sup>16</sup>

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<sup>14</sup> For more detail on the controversy related to these cards, see CRS Report RL32094, *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by (name redacted) and (name redacted).

<sup>15</sup> See House Subcommittee Targets Elimination of Mexican ‘Matricula’ ID Cards, *CQ Today*, July 15, 2004; and Appropriations: As House Subcommittee Trims Amtrak, IRS, Enforcement, *Congress Daily*, July 15, 2004.

<sup>16</sup> See Transportation-Treasury Appropriations: Mexican Identity Card Provision (continued...)

When the House considered the Transportation-Treasury Appropriations for FY2005 (H.R. 5025) on September 14, 2004, Representatives Oxley and Frank, Chairman and Ranking Member of the House Committee on Financial Services, offered an amendment to strike the Culberson amendment described above, thereby restoring funding for the Treasury Department to continue to implement regulations on identity cards for banking services in effect since May 2003. The sponsors of the amendment argued that the existing regulations were working effectively and that they had the support of the Administration. Opponents of the amendment argued that the Treasury regulations were too lax in that they permitted the use of documents that are easily forged, that might be used by terrorists, and that are largely used by persons who are illegally in the United States. After consideration of other amendments, the overall measure was passed by the House on September 22, 2004, thereby restoring previous authorities with respect to consular ID cards. Eventually the Transportation-Treasury Appropriations Act was incorporated into the Consolidated Appropriations Act for FY2005 (H.R. 4818) that was approved by both houses of Congress on November 20, 2004, and, after passage of a corrective measure, was signed into law (P.L. 108-447) on December 8, 2004.

### **Transportation-Treasury Appropriations for FY2005 (H.R. 5025 and H.R. 4818/P.L. 108-447): Provision Relating to Safety Standards for Mexican Trucks**

When the House passed the Transportation-Treasury Appropriations for FY2005 (H.R. 5025) on September 22, 2004, it approved 339-70 an amendment by Representative Olver that would prohibit implementation of an Administration rule allowing Mexican and Canadian truck owners and operators an additional two years to bring their trucks into compliance with U.S. safety provisions. The sponsor argued that the carriers have had 30 months to bring the trucks up to standards and should not be given additional time. Eventually the Transportation-Treasury Appropriations Act was incorporated into the Consolidated Appropriations Act for FY2005 (H.R. 4818/P.L. 108-447) that was approved by Congress and the President in November-December 2004.

### **Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458): Provisions Relating to Mexico**

The versions of S. 2845, to reform intelligence operations and to implement the 9/11 Commission recommendations, that were passed by the Senate on October 6, 2004, and by the House on October 16, 2004, contained a number of immigration, border, and identity document provisions that would have implications for Mexico, especially those in the House-passed version, but some of those provisions were among the most difficult to resolve in conference. Eventually, after extended negotiations, an agreed conference report (H.Rept. 108-796) and bill were filed on December 7, 2004, with an agreement that some of the difficult issues would be addressed early in the 109<sup>th</sup> Congress. The conference report was approved by the

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<sup>16</sup> (...continued)

Complicates Debate on Bill, *CQ Today*, July 22, 2004.

House and the Senate on December 7 and 8, respectively, and was signed into law (P.L. 108-458) by the President on December 17, 2004. The enacted legislation contains provisions requiring more law enforcement personnel for enforcing immigration laws, closer monitoring of the entry and exit of aliens, and standards for identification documents and drivers' licenses. Under a leadership agreement with certain Representatives, it was agreed that three issues in the House bill that were dropped in the conference report would be addressed early in the 109<sup>th</sup> Congress, namely, provisions that would have banned the acceptance of Mexican consular ID cards by federal officials, that would have prohibited the issuance of drivers' licenses to undocumented aliens, and that would have required the completion of a section of a wall along the border with Mexico in California.

## For Additional Reading

### CRS Products

CRS Report RL32616. *9/11 Commission: Implications for U.S. Immigration Law and Policy*, by (name redacted) and (name redacted).

CRS Report RL32094. *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by (name redacted) and (name redacted).

CRS Report RL32038. *Drug Certification/Designation Procedures for Illicit Narcotics Producing and Transit Countries*, by (name redacted).

CRS Report RL30892. *Drug Certification Requirements and Congressional Modifications in 2001-2002*, by (name redacted).

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

CRS Report RL32169. *Immigration Legislation and Issues in the 108<sup>th</sup> Congress*, by (name redacted), Coordinator.

CRS Report RL32044. *Immigration: Policy Considerations Related to Guest Worker Programs*, by (name redacted).

CRS Report RL31386. *Industry Trade Effects Related to NAFTA*, by (name redacted).

CRS Report 98-174. *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*, by (name redacted).

CRS Report RL31412. *Mexico's Counter-Narcotics Efforts Under Fox, December 2000 to April 2002*, by (name redacted).

CRS Report RL32669. *Mexico's Counter-Narcotics Efforts Under Fox, December 2000 to October 2004*, by (name redacted).

CRS Report RL31412. *Mexico's Congress and July 2003 Elections*, by (name redacted).

CRS Report RS20611. *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by (name redacted).

CRS Report 97-861. *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate*, by (name redacted).

CRS Report 97-291. *NAFTA: Related Environmental Issues and Initiatives*, by (name redacted).

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