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Mexico-U.S. Relations: Issues for the 107th Congress

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Mexico-U.S. Relations: Issues for the 107th Congress

SUMMARY

The United States and Mexico have a special relationship under the North American Free Trade Agreement (NAFTA), which removes trade and investment barriers between the countries. The friendly relationship has been strengthened by President Bush's meetings with President Fox in Mexico, Canada, and the United States. Major issues of concern to Congress are trade, immigration, drug trafficking, and political rights.

Trade. NAFTA institutions have been functioning, trade between the countries has tripled since 1994, and allegations of violations of labor and environmental laws have been considered. While the Clinton and Bush Administrations have argued that NAFTA has had modest positive impacts on all three member countries, public and congressional criticisms of NAFTA have been factors in the delay of legislation to give the president fast track trade negotiation authority. Recent trade disputes with Mexico have involved trucking, sugar, telecommunications, and tuna. President Fox has been urging an expanded European Union-like conception of NAFTA.

Immigration. Following major immigration reforms in 1996, Congress acted to enlarge the Border Patrol and to strengthen immigration controls along the border. Despite Mexican complaints about these efforts, the two countries issued a Binational Study on Migration in November 1997, and since the mid-1990s, have been consulting regularly on border safety and consular issues. Presidents Fox and Bush in early September 2001 meetings praised the work of the high level working group on migration begun in February 2001, and instructed it to reach agreements as soon as possible on border safety, a temporary worker program, and the status of undocumented Mexicans in the United States. Since

the September terrorist attacks, some Members are urging tighter border controls.

Drug Trafficking. After the escape from prison of major drug lord Joaquin "El Chapo" Guzman on January 19, 2001, President Fox announced a national crusade against drug trafficking and corruption. During the February and September 2001 Bush-Fox meetings, the leaders agreed to strengthen law enforcement cooperation, including the sharing of seized assets, and to find more effective mechanisms for multilateral cooperation. With several Members pressing proposals to modify U.S. drug certification requirements, the Senate Foreign Relations Committee approved measures in April and August 2001 that would modify the existing process for three years, and the Senate passed the FY2002 Foreign Operations Appropriations bill (H.R. 2506), which would modify the process for one year for Western Hemisphere countries.

Political and Human Rights. Mexico held historic nationwide elections on July 2, 2000, in which Vicente Fox of the Alliance for Change (PAN/PVEM) won the presidency. Recent human rights concerns have focused on the killing of human rights lawyer Digna Ochoa on October 19, 2001, and the killing of two judges in Sinaloa on November 11, 2001, prompting criticisms and calls for action. In related action, on November 8, 2001, President Fox freed two well known anti-logging activists, and on November 27, 2001, he welcomed a report by the National Human Rights Commission on human rights abuses in the 1970s and early 1980s, and promised to designate a special prosecutor to prosecute those responsible for the abuses and to consider compensation for the families of the disappeared persons.



MOST RECENT DEVELOPMENTS

On November 16-18, Senate Majority Leader Thomas Daschle and House Minority Leader Richard Gephardt visited Mexico to continue a dialogue on migration and security issues. On November 19, 2001, Mexican National Security Adviser Adolfo Aguilar met with U.S. Homeland Security Director Tom Ridge to discuss cooperative border and security arrangements. On November 20, 2001, Mexican and U.S. foreign affairs officials met to discuss migration issues, with the press reporting that agreements were deferred because of terrorism concerns. On November 27, President Fox received a report from the National Human Rights Commission documenting abuses and disappearances in the 1970s and early 1980s, and he promised the appointment of a Special Prosecutor to prosecute those responsible for the abuses. Around December 1, 2001, the one-year anniversary of his inauguration, President Fox recognized that the economy was struggling because of the global slowdown but argued that respect for law and human rights had advanced and that the basis for economic progress had been established.

BACKGROUND AND ANALYSIS¹

U.S.-Mexico Relationship

Major Bilateral Linkages

Mexico surpassed Japan in 1998 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 \$34 billion in 1999. In addition, cooperation with Mexico is vital in dealing with illegal immigration, the flow of illicit drugs to the United States, 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

¹ This issue brief draws from CRS Issue Brief IB10047, *Mexico-U.S. Relations: Issues for the 106th Congress*, which contains more information on the Zedillo Administration in Mexico. It is out of print, but may be requested through the author, Larry Storrs, at (202) 707-5050.

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 was inaugurated as President on December 1, 2000, for a 6-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, with no party or coalition having a majority in either chamber of Congress. In the 128-member Senate, the PRI has 60 senators, the PAN has 46 and the PVEM has 5 (giving the Alliance for Change a total of 51), while the PRD has 15, the Labor Party (PT) has one and the Democratic Convergence (CD) has one (giving the Alliance for Mexico a total of 17). In the 500-seat Chamber of Deputies, the PAN has 206 seats and the PVEM has 17 seats (giving the Alliance for Change 223 seats), while the PRI has 211 deputies. The Alliance for Mexico has a total of 66 seats, with 50 for the PRD, 7 for the PT, 3 for the CD, 3 for the Party of the Nationalist Society (PSN), and 2 for the Social Alliance Party (PAS). (For more detail on the 2000 elections, see CRS Report RS20611, Mexico's Presidential, Legislative, and Local Elections of July 2, 2000, by K. Larry Storrs.)

Economic and Social Challenges. After four years of economic growth rates averaging over 5% per year in 1996-1999, and estimated growth of 7% in 2000, with help from high oil prices, President Fox inherited a fairly robust economy, but with many social challenges. He named widely respected Francisco Gil Diaz as Secretary of the Treasury, and Luis Ernesto Derbez as Secretary of the newly formed Economic Development Ministry, and promised to follow sound macro-economic policies to control inflation. In early April 2001, the Fox Administration finally proposed a long-discussed fiscal reform that will increase tax revenues so that the government can reduce poverty and regional inequality, while increasing investment in health, security, and education. One element of the reform is the termination of the exemption from the value-added tax for food and medicine, although opposition parties have criticized that proposal, and the Administration has indicated some willingness to make adjustments. President Fox promised in his inaugural address not to privatize the Mexican oil monopoly (Pemex) and the Federal Electricity Commission (CFE), but he called for greater operational efficiency in Pemex, and expanding private investment in the power sector. He proposed an austere budget for 2001, but was forced to increase social and local expenditures to obtain congressional approval by the end of 2000. In the face of the economic slowdown in the United States, declining oil prices, and the fallout from the

September 2001 terrorist attacks, he has had to lower economic growth projections for the year from 4.5% to 2.5% and then to zero or slightly negative.

Political and Security Challenges. President Fox has promised to end corruption and to operate a more transparent and open government, with examination of some of the more notorious past cases. He has promised to end government surveillance of opposition politicians, and to strengthen the government's commitment to human rights. He has proposed the professionalization of the police under a new public security ministry to deal with widespread public concerns with security and police corruption, and he has promised vigorous efforts against illicit drug traffickers.

President Fox has offered to reinstate peace talks with the Zapatista rebels in the state of Chiapas, and has taken a number of initiatives to facilitate the talks, including introduction of indigenous rights legislation, withdrawal of the military from some areas, and release of over 30 Zapatista prisoners. On February 9, 2001, President Fox visited Chiapas for the third time, launched a railroad modernization project, and invited the Zapatista rebels to meet with him when they arrived in Mexico City after their announced march to the capital. The Zapatistas declined the offer to meet with Fox, but later agreed to meet with the congressional commission in Mexico City. Unarmed but masked Zapatista leaders marched from Chiapas to Mexico City from February 24 to March 9, 2001, and remained in the city to generate support for indigenous rights legislation. They spoke to the Chamber of Deputies on March 28, and while refusing to speak to President Fox until he complies with all of their stated pre-conditions, they agreed to enter into dialogue with the government. After 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. On July 13, 2001, with the approval of the 17th state, Mexico approved the new indigenous rights legislation, although eight states with heavy indigenous populations voted against the legislation.

Foreign Policy Challenges. President Fox and Foreign Minister Castaneda have indicated that Mexico will pursue a more activist and diversified foreign policy, with greater involvement in UN activities, and stronger ties to Latin America and Europe. President Fox has promoted the so-called Puebla-Panama Plan, which would provide for 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), seeking better ties with the Southern Common Market (Mercosur) countries, and he has sought to expand trade with the European Union under the EU-Mexico Free Trade Agreement that went into effect in July 2000. The Fox Administration has indicated that it will be more aggressive in defending the interests of Mexicans living in foreign countries, particularly those in the United States, and it established a Special Office for Mexicans Abroad. On various occasions, including his post-election visit to the United States, President Fox indicated that he expects to have warm and friendly relations with the United States, and he has called for greater cooperation under NAFTA and for a more open border between the countries over time. In 2001, Presidents Fox and Bush have 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 for Mexico to express solidarity with the United States following the terrorist attacks. The leaders set in motion procedures to advance progress on trade, migration, drug trafficking, and other issues.

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 has increased from \$81.5 billion in 1993 (exports of \$41.6 billion; imports of \$39.9 billion) to \$247.2 billion in 2000 (exports of \$111.3 billion; imports of \$135.9 billion). 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 \$24.6 billion in 2000, 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 1998.

The NAFTA agreement was negotiated in 1991 and 1992; side agreements on labor and environmental matters were completed in 1993; the agreements were approved by the respective legislatures in late 1993 and went into force on Jan. 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. On July 11, 1997, the Clinton Administration released a required report on the first 3 years of operations under NAFTA that argued that NAFTA had had a modest positive impact on U.S. jobs and income, and had facilitated Mexico's economic recovery following the peso crisis of 1994-1995. In subsequent statements, Clinton and Bush Administration spokesmen argued that NAFTA has been successful in increasing U.S. exports to Mexico, particularly heavily protected areas such as agricultural products, and in creating jobs and strengthening the economy.

At the Miami Summit of the Americas, in December 1994, the NAFTA partners announced that they would begin negotiations with Chile on accession to NAFTA, and the hemispheric presidents pledged to create a Free Trade Area of the Americas (FTAA) by the year 2005. These negotiations have been hampered by the inability of the legislative and executive branches in the United States to agree on conditions for granting the President fast track negotiation authority for new free trade agreements. Hemispheric negotiations leading toward the FTAA have continued and the goal was reaffirmed at the Summit of the Americas in Quebec City, Canada in April 2001, despite the executive branch's lack of free trade negotiating authority. In November 2000, the Clinton Administration began strictly bilateral free trade talks with Chile, and the Bush Administration is continuing these talks.

Functioning of NAFTA Institutions. Since 1994, the NAFTA institutions mandated by the agreements have been functioning. 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. During the Bush-Fox talks in Washington, D.C. in early September

2001, the two presidents pledged to take steps to strengthen the North American Development Bank and the Border Environmental Cooperation Commission.

These NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider non-governmental petitions under the labor and environmental side agreements. Under the **labor** side agreement, 23 petitions have been submitted alleging non-compliance by one of the NAFTA countries with existing labor legislation, and 14 of these have been against Mexico: five submissions were advanced to the next stage of ministerial consultations, although negotiations are ongoing in two cases; 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 negotiations are continuing.

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. (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 Mary Jane Bolle.)

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 the 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. (For more information, see CRS Report 97-291, *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.)

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, and the access of U.S. sweeteners to the Mexican market.

With respect to trucking issues, the Mexican government has criticized U.S. postponement on safety grounds of implementation of NAFTA provisions that would give Mexican trucks access to U.S. highways, and Mexico has been seeking settlement through NAFTA dispute settlement procedures. On February 6, 2001, the dispute resolution panel ruled that the United States was in violation of NAFTA for failure to allow Mexican trucks access to U.S. roads, although non-discriminatory safety procedures were permitted. The Bush Administration indicated a willingness to abide by the decision, and Presidents Bush and Fox announced after their mid-February 2001 meeting in Mexico that the two countries would begin immediate discussions to implement the NAFTA panel decision on trucking. The U.S. Department of Transportation announced a plan in March 2001 under which Mexican trucks will have full access to the United States in January 2002, but they will be required to comply over a period of time with U.S. safety regulations and to have insurance with U.S.-registered agents. Proposed rules were announced on May 1, 2001, and restrictions on Mexican investment in this sector were eased on June 6, 2001. Congressional opposition on safety grounds was demonstrated in the FY2002 Department of Transportation Appropriations (H.R. 2299). The House version, passed on June 26, 2001, contains an outright prohibition on the processing of applications of Mexican truckers to operate in the United States beyond the border commercial zones, and President Bush has threatened to veto the measure if this provision survives. The Senate version, passed on August 1, 2001, was subject to parliamentary delay for several days by Senators Gramm and McCain, who argued that the Murray-Shelby provisions requiring prior safety inspection of Mexican trucks were contrary to the NAFTA pact and were discriminatory toward Mexico. On November 29, 2001, House and Senate conferees agreed to basically retain the safety provisions but grant the Administration greater flexibility in implementation, and these provisions were approved by the House and the Senate in early December 2001.

Regarding telecommunications issues, the United States filed a complaint with the WTO in August 2000, following previous warnings, over Mexico's failure to reduce Telmex's continuing dominant position in the telecommunications industry. While Mexico's issuance of new regulations in mid-September 2000 was considered unsatisfactory, 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 will 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 it gave the country until June 1, 2001, to remove the barriers or the United States would pursue the WTO dispute resolution process.

With regard to sugar and 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. Efforts to resolve the issue have been unsuccessful, and Mexico has threatened to resort to NAFTA dispute resolution procedures. On a related matter, Mexico complains that imports of high fructose corn syrup (HFCS) sweeteners from the United States constitute dumping, and it has imposed anti-dumping duties, while the United States has invoked WTO and

NAFTA dispute resolution mechanisms, claiming that the Mexican government has colluded with the Mexican sugar and sweetener industries to restrict HFCS imports from the United States. In February 2000, the WTO upheld the U.S. claim, but Mexico has retained the anti-dumping duties and announced in November 2001 that it will submit new injury studies soon.

On tuna issues, the United States lifted the embargo on Mexican tuna in April 2000, after procedures were worked out to permit the unharmed release from nets of dolphins, but a federal judge in San Francisco blocked the Clinton Administration's plan to loosen the standards of a 1990 law for a dolphin-safe label, saying that the standards of the law had not been met. In mid-May 2000, the U.S. delegation to the Binational Commission meetings announced that the government was appealing the decision. The Federal Appeals Court in San Francisco reviewed the case in December 2000 but ruled unfavorably on July 23, 2001, prompting criticism from Mexican fishers who had hoped to be rewarded for their efforts.

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. 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, commonly called the Helms-Burton legislation.

Immigration Issues

Nature of the Immigration Problem. The Immigration and Naturalization Service (INS) has estimated that there were about 2.7 million undocumented Mexican migrants residing in the United States in late 1996, accounting for 54% of the total estimated illegal alien population of 5.1 million, but preliminary data from the 2000 Census suggest considerably higher numbers. Mexico regularly expresses concern about alleged abuses suffered by Mexican workers in the United States, and takes the view that the migrants are "undocumented workers," not illegal immigrants, making the point that since the U.S. market attracts and provides employment for the migrants, it bears some responsibility. Mexico also regularly voices concern for the loss of life and other maladies suffered by Mexican migrants as they are forced by increasing border controls to utilize increasingly dangerous routes and methods to enter the United States without proper documentation.

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, ranging, according to widely varying estimates, from \$1 billion to \$10 billion.

The main U.S. mechanism for controlling illegal immigration in the past was the Immigration Reform and Control Act of 1986 (P.L. 99-603), which was passed by Congress in late 1986. 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 amnesty or legalization for 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 to protect U.S. borders and 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 court action, and other restrictive immigration legislation as racist and discriminatory.

Clinton Administration and Congressional Initiatives to Curb Immigration.

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. With regard to bilateral cooperation with Mexico under Clinton, the countries 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 in recent years to reduce violence on the border through public information campaigns, search and rescue programs, and cooperation between U.S. and Mexican officials. In mid-May 2000, following expressions of concern over private ranchers detaining Mexican migrants in Arizona, the governments announced at the Binational Commission meetings that they would prosecute any unlawful behavior by private citizens, combat migrant smugglers, and expand regular consultation mechanisms.

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 5 years (FY1997-FY2001), along with additional personnel, equipment, and procedures. Both measures reduce 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, et al.)

Congress also increased funding for the Immigration and Naturalization Service, including the Border Patrol, through the regular Commerce, Justice, State, and Judiciary Appropriations Acts, nearly tripling INS’s budget from \$1.5 billion in FY1993 to \$4.3 billion in FY2000. (For more details, see CRS Report RS20618, *Immigration and Naturalization Service’s FY2001 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, legislation was enacted in 2000 to increase the number of temporary H-1B professional workers, and 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 Ruth Ellen Wasem: CRS Report RS20836, *Immigration Legislation in the 106th Congress*, 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. Senator Gramm, after meeting with President Fox in early January 2001, has been proposing the development of a guest worker program that would bring Mexican workers legally to the United States on a temporary basis with various protections and benefits. A binational panel sponsored by the Carnegie Endowment for International Peace and the Autonomous Technological Institute of Mexico (ITAM) issued a report in mid-February 2001 called "Mexico-U.S. Migration: A Shared Responsibility" that called for improved treatment of Mexican migrants by making visas and legal status more widely available.

In the Joint Communique following the Bush-Fox meeting in mid-February 2001, the two presidents agreed to begin at the earliest opportunity cabinet-level negotiations aimed at achieving short- and long-term agreements to constructively address migration and labor issues between the countries. When President Bush released his FY2002 budget request on April 9, 2001, he proposed \$75 million for 570 new Border Patrol agents per year in FY2002 and FY2003, \$20 million for intrusion detection technology, and \$7 million for intelligence units along the Northern and Southwest borders. 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 has indicated that blanket amnesty will 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, some policy makers called for tighter border controls. On October 29, 2001, President Bush issued a presidential directive calling for measures to improve the tracking of terrorists, to review student visa policies, and to better coordinate the sharing of immigration and customs information with Mexico and Canada. On November 20, 2001, country representatives met on migration issues and essentially deferred decisions because of concerns over terrorism.

Drug Trafficking Issues

Nature of the Problem. Mexico is a major source of production of heroin and marijuana for the U.S. market and has become the major transit point in the flow of cocaine from South America. According to the State Department, it was the source of about 20-30% of the heroin, up to 70% of the foreign grown marijuana, and the transit point for 55-60% of the cocaine shipped to the United States. Although U.S.-Mexico efforts in this area have been marked by distrust at various times, particularly because of the killing of U.S. Drug Enforcement Administration (DEA) agents in the mid-1980s and the kidnaping of Mexican

officials in 1990, relations have been improving in recent years. In response to U.S. criticisms of widespread corruption, Mexican officials point to the numerous Mexican policemen and soldiers killed in confrontations with narcotics traffickers as evidence of their commitment to controlling the problem. They also criticize U.S. officials for failing to do more to control the demand for drugs in the United States, noting that the problem is one of supply and demand.

Presidential Certifications and Congressional Reactions. In general, the Clinton Administration's drug control policy in the domestic area stressed drug treatment and prevention, and in the international area it devoted more attention to eradication and source country institution building, particularly law enforcement and judicial institutions. Under recent pressure from Congress, through mechanisms like the Western Hemisphere Drug Elimination Act and the Supplemental FY1998 Appropriations Act, which were included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998 (H.R. 4328/P.L. 105-277), additional funding was provided to strengthen the Border Patrol and international interdiction efforts, including \$90 million in Southwest Border enhancements.

In other actions to encourage greater counter-narcotics efforts in Mexico, congressional resolutions to disapprove President Clinton's certification of Mexico as fully cooperative in drug control efforts were introduced in 1997, 1998, and 1999, in both houses but never fully enacted. (For details, see CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2001*.) In 1999, Congress passed the Foreign Narcotics Kingpin Designation Act, Title VIII of the Intelligence Authorization Act for FY2000 (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, and six well known Mexican drug lords were designated in June 2000. In early 2000, while some Members of Congress criticized Mexico's counter-drug efforts, no resolutions of disapproval were introduced in either house to overturn President Clinton's certification of Mexico during the 30-day congressional review period.

Following the election of Vicente Fox as President of Mexico in the July 2, 2000 election, bills were introduced by Senator Hutchison (S. 3021) and Representative Kolbe (H.R. 5155) to exempt Mexico from the drug certification requirement in FY2001, but neither bill was enacted. On October 11, 2000, the Senate agreed to S.Res. 366, introduced by Senator Kay Bailey Hutchison, that welcomed the constitutional transition in Mexico, and expressed the sense of the Senate that a one-year waiver of the drug certification requirement is warranted in order for incoming new governments in both countries to develop more effective and cooperative counter-narcotics programs.

In early 2001, a number of Members introduced measures in an effort to avoid a confrontation with the new Fox Administration over the certification process. Senator Dodd introduced S. 219 and Representative Reyes introduced H.R. 841 that would suspend the existing drug certification process for all countries for two years in order to develop a more effective multilateral counter-narcotics strategy. Senator Kay Bailey Hutchison introduced S. 353 and Representative Kolbe introduced H.R. 753 that would exempt Mexico from the drug certification requirements in FY2001 and establish some other conditions. Senator Grassley introduced S. 376 that would modify the certification process for FY2002-FY2004 to require the President to identify only those countries subject to sanctions. Senator Boxer introduced S. 435 to provide that the drug certification procedures would not apply to countries with which the United States has bilateral agreements and other plans. At a Senate

Foreign Relations Committee hearing on the certification process in early March 2001, the Administration spokesman argued that the certification had been “an effective, if blunt, policy instrument” but recognized a growing sense in Congress that there may be more effective approaches. (For details on this and previous years’ actions, see CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2001*. For details on the various proposals, see CRS Report RL30892, *Drug Certification Requirements and Proposed Congressional Modifications in 2001*.)

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 continuing cooperation with the United States in a number of areas. Although noting the daunting challenges Mexico faces to control corruption, the State Department report stated that President Fox’s commitments to fight crime, drug trafficking, and corruption offered “unprecedented opportunities for greater cooperation and mutual assistance with the United States.” Among recent troubling developments for the Fox Administration that indicate the persistence of corruption was the escape from a high security prison in the state of Jalisco, of reputed Mexican drug lord Joaquin “El Chapo” Guzman, on January 19, 2001. This prompted the detention of prison officials for questioning and renewed commitments against drug trafficking and corruption. On January 24, 2001, President Fox announced a national crusade against drug trafficking, promising to eliminate corruption in the prison system and to enhance law enforcement efforts against drug traffickers. On February 1 and 2, 2001, in continuing efforts to reduce corruption, 43 of 47 regional directors of the Mexican Customs Service and 80 anti-drug agents in the state of Chihuahua were removed from office. In another troubling development, Mexican Brigadier General Ricardo Martinez and aides Captain Pedro Maya and Lieutenant Javier Quevedo were arrested on April 5, 2001, on charges of protecting members of the Gulf Drug Cartel.

Following up on previous hearings, on April 5, 2001, the Senate Foreign Relations Committee reported out a substitute version of S. 219, which would modify the existing drug certification procedures for a 3-year trial period, would require the President to sanction non-cooperative countries only, and would encourage efforts to develop a multilateral counter-narcotics approach. On August 1, 2001, the Senate Foreign Relations Committee approved the Foreign Relations Authorizations for FY2002-FY2003 (S. 1401) with similar language, and on October 24, 2001, the Senate passed the FY2002 Foreign Operations Appropriations bill (H.R. 2506, with an amendment by Senators Dodd and Hutchison with similar language that would modify the existing procedures for one year for Western Hemisphere countries). (For more details see the Legislation section of this brief and CRS Report RL30949, *Drug Certification Procedures: Side-by-side Comparison of Existing Procedures and S. 219 as Reported*, and CRS Report RL30950, *Drug Certification Procedures: A Comparison of Current Law to S. 219 and S. 1401 as Reported*, by K. Larry Storrs.)

President Bush’s FY2002 budget request, released April 9, 2001, called, in the area of combating crime and drug abuse, for expanding the range of community groups and parents engaged in local drug prevention efforts, increasing drug treatment, taking steps to improve the safety of schools, and enhancing the security of our borders. It called for fully funding the Western Hemisphere Drug Elimination Act and proposed \$278 million to upgrade drug interdiction efforts of the U.S. Coast Guard and Customs Service, \$731 million for the

Andean Counterdrug Initiative for Colombia and other South American countries, and \$31 million for other Western Hemisphere countries, including \$12 million for Mexico.

On May 5, 2001, Mexico extradited to the United States for prosecution an alleged top lieutenant of the Arellano Felix or Tijuana Drug Cartel, Mexican citizen Arturo “Kitty” Paez Martinez, an action praised by U.S. Attorney General John Ashcroft. On June 20, 2001, the Drug Enforcement Administration, citing laudable cooperation from Mexican authorities, announced the culmination of an 18-month investigation, known as Operation Marquis, which netted more than 261 arrests against the multi-million dollar cocaine and marijuana smuggling Marquis Organization based in Nuevo Laredo, Mexico. In his speech to a joint session of Congress during the early September 2001 official visit, President Fox called for modification of the U.S. drug certification process.

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 since 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 the Congress enacted 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, after on and off negotiations, 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 captured 39% of the valid votes to remain 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. The PAN won 27% of the vote and two governorships, reinforcing its image of strength in urban and northern areas. The PRD won 26% of the vote, and performed particularly well in central Mexico, including victory by two time Presidential candidate Cuauhtemoc Cardenas in the race for mayor of the Mexico City Federal District.

In the period leading to the July 2000 elections, the parties picked presidential candidates. The PRI announced in mid-May 1999 that it would select the candidate of the party by a direct and open primary in November 1999, and former Government Minister Francisco Labastida was elected decisively over three other candidates in the November 7,

1999 nationwide primary. Efforts by the PAN and the PRD to agree on a common candidate for the opposition came to an impasse in late September 1999, and Vicente Fox was designated as the presidential candidate for the PAN, and 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. President Clinton congratulated President Zedillo and President-elect Fox on July 3, and the House of Representatives passed H.Res. 544 by voice vote on July 25, 2000, commending the government on the successful completion of the elections, and congratulating President-elect Fox on his victory.

In subsequent elections, 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 other recent elections, on July 1, 2001, the PRI won control of the state legislature and most municipalities in the state of Chihuahua but 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 Michoacan.

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 and harassment by law enforcement agents; threats against journalists, academics, and human rights monitors; and killings or "disappearances" of prominent critics and opposition politicians. 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. After trying several approaches on Chiapas, including an attempt to arrest Zapatista leaders, President Zedillo sought a negotiated settlement of the conflict but was unsuccessful despite agreement on indigenous issues in 1996. In July 1996, the Inter-American Commission on Human Rights visited Mexico for the first time, at the invitation of the Mexican government, and issued a report in September 1998, that indicated awareness of the difficulties, given the struggles against insurgencies and drug trafficking, and the various advances, but noted continuing failure to prosecute those guilty of human rights abuses.

Major attention has focused on the December 22, 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 quickly asked federal authorities to take over the case, vowed to prosecute those responsible, and appointed a new Minister of Government and a new peace negotiator for Chiapas. In subsequent action, the Governor of Chiapas resigned and federal authorities arrested more than 40 people, including the mayor of nearby Chenalho. Mexican and international human rights groups alleged that para-military groups linked to the PRI were responsible, and they called for independent investigations, for removal of the military from the region, and for renewed efforts to negotiate peace in Chiapas. Although some critics have charged that U.S. military assistance to Mexico may be involved, the Attorney General's Office concluded that the military was not involved and that revenge for a previous killing was the most likely cause for the incident. In July and September 1999, a Mexican court sentenced 44 members of an armed group to 35-year sentences for their involvement in the Acteal massacres. U.N. Special Reporter on extrajudicial killings Asthma Jahangir has made critical comments about continuing impunity after her investigations of the cases.

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, has 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. On November 27, 2001, the National Commission on Human Rights presented a report to President Fox that documents human rights abuses and disappearances of persons in the 1970s and early 1980s, and President Fox called for the appointment of a Special Prosecutor to investigate these and other cases.

LEGISLATION

H.R. 2299 (Rogers) / S. 1178 (Murray)

Department of Transportation Appropriations, FY2002. Reported out by the House Appropriations Committee (H.Rept. 107-108) on June 22, 2001. Passed House on June 26, 2001, with the Sabo amendment, approved 285-143, to prohibit the use of funds to process applications by Mexico-domiciled motor carriers for authority to operate beyond border commercial zones. The Senate version of the bill (S. 1178) was reported out on July 13, 2001, with provisions proposed by Senators Murray and Shelby requiring various safety inspections of Mexican trucks for access to U.S. highways. The text of S. 1178 was subsequently offered as a substitute amendment (S.Amdt. 1025) to H.R. 2299. The Senate considered H.R. 2299 on July 19-20 and 23-27, but action was not completed because of various parliamentary delays by Senators Gramm and McCain, who argued that the Mexican truck provisions were contrary to NAFTA and that President Bush was prepared to veto the measure for that reason. A motion to invoke cloture on debate was passed 70-30 on July 26, but another vote to invoke cloture failed 57-27 on July 27. On August 1, 2001, the Senate reconsidered and invoked cloture 100-0, after which H.R. 2299 with the Murray-Shelby

restrictions was passed by voice vote. On November 29, 2001, House and Senate conferees reached agreement on a compromise in Section 350 that generally retained the Senate-passed safety provisions but gave the Administration more flexibility in implementation. The conference report (H.Rept. 107-308) was passed by the House on November 30, 2001, and by the Senate on December 4, 2001.

S. 219 (Dodd) / S. 1401 (Biden)

The Senate Foreign Relations Committee acted to suspend the existing drug certification procedures for a 3-year trial period in early April 2001 when it approved S. 219, and in early August 2001 when it approved the Foreign Relations Authorization Act for FY2002-FY2003 (S. 1401) which included similar language. In place of the existing procedures, the approved measures would require the President to identify by October 1 of each year major drug-transit or major illicit drug producing countries, and to designate each country that has failed demonstrably, during the previous 12 months, to make substantial efforts to adhere to its obligations under international counternarcotics agreements (multilateral and bilateral) and other standards. U.S. assistance would be withheld from any designated countries unless the President determined that the provision of assistance was vital to the national interest of the United States or until the country made substantial counter-narcotics efforts. The measures express the sense of Congress that the United States should at the earliest feasible date in 2001 convene a multilateral conference of relevant countries to develop multilateral drug reduction and prevention strategies, and they urge the President to request legislative changes to implement the strategies no later than one year after enactment. They continue the requirement for the yearly International Narcotics Control Strategy Report (INCSR) detailing the performance of individual countries, and add the requirement to report on major drug trafficking organizations. They also amend the Foreign Narcotics Kingpin Designation Act to allow judicial review of executive branch decisions to freeze the assets of suspected drug kingpins. S. 219 was introduced on January 30, 2001; referred to the Senate Foreign Relations Committee, which considered it on February 7 and March 1, 2001; marked up on April 3, and reported out on April 5, 2001, with an amendment in the nature of a substitute and an amendment to the title. The Foreign Relations Authorization Act for FY2002-FY2003 (S. 1401) was approved by the Committee on August 1, 2001, and was reported out on September 4, 2001 (S.Rept. 107-60).

H.R. 2506 (Kolbe)

Foreign Operations Appropriations for FY2002. H.R. 2506 was reported in the House by the House Appropriations Committee on July 17, 2001 (H.Rept. 107-142) and passed by the House on July 24, 2001. It was reported in the Senate by the Senate Appropriations Committee with an amendment in the nature of a substitute on September 4, 2001 (S.Rept. 107-58). It was passed by the Senate on October 24, 2001, with an amendment (S.Amdt. 1959) by Senators Dodd and Hutchison to modify the existing drug certification procedures. The amendment contains provisions similar to the provisions in S. 219 and S. 1401 summarized above, except that the amendment would modify the drug certification procedures for FY2002 only, and for Western Hemisphere countries only.

FOR ADDITIONAL READING

CRS Products

CRS Report RL31008. *Appropriations for FY2002: Department of Transportation and Related Agencies*, by Robert S. Kirk and David Randall Peterman.

CRS Report RL30950. *Drug Certification Procedures: A Comparison of Current Law to S. 219 and S. 1401 as Reported*, by K. Larry Storrs.

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CRS Report 98-174. *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2001*, by K. Larry Storrs.

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CRS Report RS20611. *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by K. Larry Storrs.

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CRS Report 97-291. *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.

CRS Report RL31028. *North American Free Trade Agreement: Truck Safety Considerations*, by Paul Rothberg.