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# Mexico: Background and U.S. Relations

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## Summary

Mexico, the 10<sup>th</sup> most populous country globally, has the 15<sup>th</sup> largest economy in the world. It is currently the top U.S. trade partner and a major source of energy for the United States, with which it shares a nearly 2,000-mile border and strong economic, cultural, and historical ties.

Andrés Manuel López Obrador, the populist leader of the National Regeneration Movement (MORENA) party, which he created in 2014, took office for a six-year term in December 2018. López Obrador is the first Mexican president in over two decades to enjoy majorities in both chambers of Congress. In addition to combating corruption, he pledged to build infrastructure in southern Mexico, revive the poor-performing state oil company, address citizen security through social programs, and adopt a foreign policy based on the principle of nonintervention.

President López Obrador has remained popular (64% approval in December 2020), even as his government has struggled to address organized crime-related violence, the Coronavirus Disease 2019 (COVID-19) pandemic, and a deep recession. After high-profile massacres and record homicide levels, the López Obrador government has come under pressure to improve its military-led security strategy. Mexico's economy recorded zero growth in 2019, and the International Monetary Fund estimated it would contract 9.0% in 2020. Nevertheless, President López Obrador has not implemented an economic stimulus plan to mitigate the impact of COVID-19.

### U.S. Policy

U.S.-Mexico relations have remained generally cordial. Tensions have emerged, however, over trade policy and tariffs, border security issues, and U.S. arrests of high-level former officials on drug trafficking and related charges. The Mexican government concluded renegotiations of the North American Free Trade Agreement (NAFTA) and its replacement, the U.S.-Mexico-Canada Agreement (USMCA). It accommodated the Trump Administration's immigration policy changes, which shifted the burden of offering asylum to Mexico. After enacting labor reforms, a USMCA commitment, the López Obrador administration achieved a key foreign policy goal: U.S. congressional approval of implementing legislation for USMCA. In July 2020, President López Obrador traveled to Washington, DC, to meet with President Trump to mark the agreement's entry into force. Security cooperation could be hindered by Mexico's recent enactment of legislation limiting foreign law enforcement operations in Mexico.

### Legislative Action

The 116<sup>th</sup> Congress closely followed the Trump Administration's efforts to renegotiate NAFTA and recommended modifications to the proposed USMCA (on labor and the environment, among other topics) that led to signing of an amendment to the agreement. The House approved the implementing legislation for the proposed USMCA in December 2019; the Senate followed suit in January 2020 (P.L. 116-113). The FY2020 National Defense Authorization Act (NDAA; P.L. 116-92) required a classified assessment of drug trafficking, human trafficking, and alien smuggling in Mexico. Congress provided \$162.5 million in foreign assistance to Mexico in FY2019 (P.L. 116-6), \$157.9 million in FY2020 (P.L. 116-94), and some \$158.9 million in the FY2021 Consolidated Appropriations Act (P.L. 116-260). P.L. 116-260 directs the Secretary of State to enhance economic cooperation and educational and professional exchanges with Mexico and includes technical modifications to USMCA. The FY2021 NDAA (H.R. 6395) requires a report on U.S. support to Mexican security forces.

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## Introduction

Congress has maintained interest in Mexico, a neighboring country and top trading partner with which the United States has a close but complex relationship (see **Figure 1**). In recent decades, U.S.-Mexican relations have improved as the countries have become close trade partners and worked to address crime, migration, and other issues of shared concern. Nevertheless, the history of U.S. military and diplomatic intervention in Mexico and the asymmetry in the relationship has continued to provoke periodic tension.<sup>1</sup> For example, the U.S. investigation into and October 2020 arrest of Mexico's former defense minister damaged trust between the two governments.<sup>2</sup>

Congress remains concerned about the effects of organized-crime-related violence in Mexico on U.S. security interests and about U.S. citizens' safety in Mexico, and it has increased oversight of U.S.-Mexican security cooperation. Congress may continue to appropriate foreign assistance for Mexico and oversee bilateral efforts to address illegal drug flows, unauthorized migration, environmental issues, and the Coronavirus Disease 2019 (COVID-19) pandemic. Implementation of the United States-Mexico-Canada Free Trade Agreement (USMCA) and its labor commitments, Mexico's treatment of U.S. energy firms, and border environmental and water issues may receive oversight attention.

This report provides an overview of political and economic conditions in Mexico, followed by overviews of selected issues of congressional interest in Mexico: security and foreign aid, extraditions, human rights, trade, migration, energy, border environmental, water, and health.

## Background

Over the past two decades, Mexico has transitioned from a centralized political system dominated by the Institutional Revolutionary Party (PRI), which controlled the presidency from 1929-2000, to a true multiparty democracy.<sup>3</sup> Since the 1990s, presidential power has become more balanced with that of Mexico's Congress and Supreme Court. Partially as a result of these new constraints on executive power, the country's first two presidents from the conservative National Action Party (PAN)—Vicente Fox (2000-2006) and Felipe Calderón (2006-2012)—struggled to enact some of the reforms designed to address Mexico's economic and security challenges.

The Calderón government pursued an aggressive anticrime strategy and increased security cooperation with the United States. Mexico extradited many drug kingpins, but some 60,000 people died due to organized crime-related violence. Security challenges overshadowed the government's achievements, including its economic stewardship during the global financial crisis, health care expansion and management of the H1N1 pandemic, and efforts on climate change.

In 2012, the PRI regained control of the presidency 12 years after ceding it to the PAN with a victory by Enrique Peña Nieto over Andrés Manuel López Obrador, then standing for the leftist Democratic Revolutionary Party (PRD). In 2013, Peña Nieto shepherded reforms addressing energy, education, telecommunications, access to finance, and politics through the legislature by forming an agreement among the PRI, PAN, and PRD. The energy reform opened Mexico's energy sector to private investment and led to foreign companies committing to invest hundreds

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<sup>1</sup> Peter H. Smith and Andrew Selee, eds., *Mexico and the United States: the Politics of Partnership* (Boulder, CO: Lynne Rienner Publishers, 2013).

<sup>2</sup> Vanda Felbab-Brown, "A Dangerous Backtrack on the U.S.-Mexico Security Relationship," Brookings Institution, December 21, 2020.

<sup>3</sup> Emily Edmonds Poli and David A. Shirk, *Contemporary Mexican Politics*, 4<sup>th</sup> ed. (Lanham, MD: Rowman & Littlefield, 2020).

of billions of dollars in the country. Despite that, Peña Nieto left office with low approval ratings (20% in November 2018), after presiding over a term that ended with record levels of homicides, moderate economic growth (averaging 2% annually), and pervasive corruption and impunity.

**Figure I. Mexico at a Glance**



**Mexico at a Glance**

**Size:** 15<sup>th</sup> largest country in the world, almost three times the size of Texas

**Population:** 128.9 million (2020, IMF est.)

**Ethnic Groups:** Mestizo (indigenous-European) 62%, indigenous 28%, other (mostly European) 10% (2012, CIA est.)

**Gross Domestic Product (GDP):** \$1.0 trillion (2019, current prices, IMF est.)

**Real GDP Growth:** -0.3% in 2019, -9.0% in 2020 (constant prices, IMF est.)

**GDP per Capita:** \$8,070 (2019, current prices, IMF est.)

**Population below Poverty Line:** 44% (2019 est., CONEVAL)

*\*Mexico lists "Americas (unknown)" as the second highest export market at 3.7%*

**Key Trading Partners:** U.S. 66.9%, China 11.3%, Japan 2.25% (2019, total trade, GTA)

**Exports**

*Top export products:* vehicles and parts, electrical machinery, oil and oil products, data processing machines (2019, GTA)

*Major export market:* U.S. 84.8%,\* Canada 2.1%, unspecified areas of Asia 1.9%, China 1.4% (2019, GTA)

**Imports**

*Top import products:* Electrical machinery, machinery and parts, vehicles and parts (2019, GTA)

*Top import partners:* U.S. 49.4%, China 20.9%, Japan 3.9% (2019, GTA)

**Sources:** Created by CRS. Trade data from Global Trade Atlas and Ethnicity data from CIA, *The World Factbook*. Other data are from the International Monetary Fund (IMF).

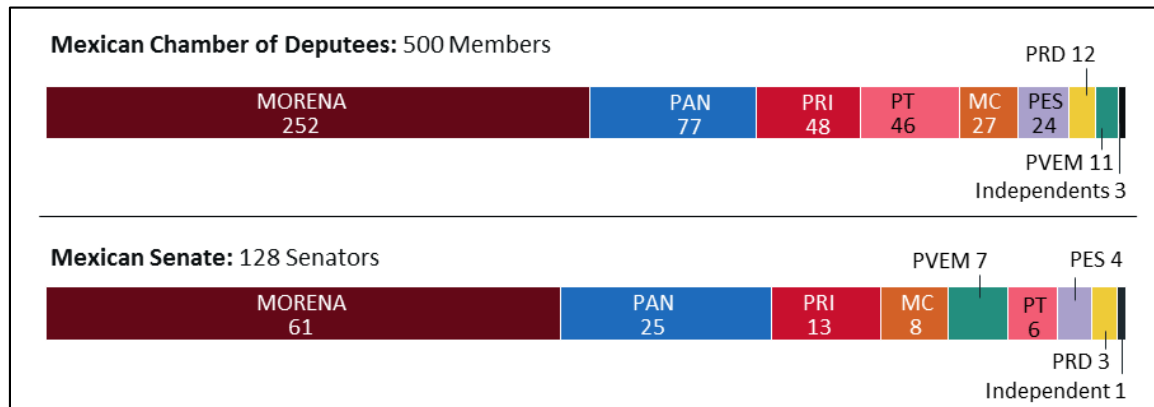
## López Obrador Administration

On July 1, 2018, Mexican voters gave López Obrador and MORENA a mandate to change the course of Mexico's domestic policies. López Obrador and his MORENA coalition dominated Mexico's presidential and legislative elections. Originally from the southern state of Tabasco, López Obrador, a former mayor of Mexico City (2000-2005), had run for president in the past two elections. After his 2012 loss, he left the center-left PRD and established MORENA.

MORENA, a leftist party, ran in coalition with the socially conservative Social Encounter Party (PES) and the leftist Labor Party (PT). López Obrador won 53.2% of the presidential vote, more than 30 percentage points ahead of his nearest rival, Ricardo Anaya, of the PAN/PRD/Citizen's Movement (MC) alliance who garnered 22.3% of the vote. López Obrador won in 31 of 32 states, demonstrating that he had broadened his support from his base in southern Mexico.

In addition to the presidential contest, all 128 seats in the Mexican senate and 500 seats in the chamber of deputies were up for election. Senators serve for six years, and deputies serve for three. Beginning this cycle, both senators and deputies will be eligible to run for reelection for a maximum of 12 years in office. MORENA's coalition won solid majorities in the senate and the chamber which convened on September 1, 2018.

**Figure 2. Composition of the Mexican Congress by Party, as of December 2020**



**Source:** Created by CRS. Information from the Mexican chamber of deputies, Mexican senate.

As of December 2020, MORENA controlled 61 of 128 seats in the senate and 252 of 500 seats in the chamber. The MORENA-led coalition, which is ad hoc but often includes the PT, PES, and Green Party (PVEM), has a two-thirds majority (needed to make constitutional changes) in the chamber but not in the senate. The PAN is the second-largest party in each chamber.

On June 6, 2021, Mexico is scheduled to convene legislative elections for 500 seats in the chamber of deputies as well as numerous state- and municipal-level elections. With deputies able to seek reelection for the first time, some 74% of incumbents polled intend to run again.<sup>4</sup> The PRI, PRD, and PAN have formed an opposition alliance that seeks to overturn MORENA's majority. Fifteen states are scheduled to elect governors.

<sup>4</sup> Ivonne Melgar, "368 Diputados Buscan Repetir; Podrán Reelegirse por su Distrito," *Excelsior*, December 23, 2020.

## President López Obrador: Priorities and Approach to Governing

In 2018, López Obrador promised to transform Mexico and govern differently than PRI and PAN administrations. In addition to combating corruption, he pledged to build infrastructure in southern Mexico, revive the poor-performing state oil company, address citizen security through social programs, and adopt a noninterventionist foreign policy. Given fiscal constraints, some observers questioned whether his goals were attainable. Although some of his advisers endorsed progressive social policies, López Obrador has opposed abortion and same-sex marriage.<sup>5</sup>

President López Obrador set high expectations for his government and promised many things to many different constituencies, some of which conflicted with each other. López Obrador promised to govern austere and bolster economic growth, but a lack of public investment hurt Mexico's pre-pandemic growth rate and the government's limited fiscal response to the pandemic has worsened its economic impact in Mexico, in comparison with other countries.<sup>6</sup> Although the López Obrador government promised to respect existing contracts with energy companies, the energy ministry has halted new auctions, canceled some contracts, and restricted private involvement in the renewable energy sector.<sup>7</sup> López Obrador worked to secure USMCA to update and modernize the agreement, assuaging investors concerned about his economic policies. However, in other policy measures with significant economic implications, he abandoned large infrastructure projects already underway, including a Mexico City airport project, after voters in popular referendums rejected them.<sup>8</sup> His government increased pensions for the elderly and increased the minimum wage three times but ended *Prospera*, Mexico's largest social program, which had won international praise for targeting those most in need.<sup>9</sup>

President López Obrador has proven adept at connecting with his constituents but has struggled to adjust his priorities, even as Mexico faces a recession and the effects of the COVID-19 pandemic (See "COVID-19, Low Oil Prices, and an Economic Recession," below). López Obrador has shaped daily news coverage by convening frequent, early morning press conferences and traveling throughout the country to attend large, campaign-style rallies. He reportedly continued to hold large public events after public health officials warned of the dangers of COVID-19. López Obrador has shunned media outlets that have questioned his policies and reduced funding for independent government entities and regulators that could check his presidential power.<sup>10</sup> His administration has cut public sector salaries and ministry budgets, which has led to the resignations of senior bureaucrats and weakened public institutions, including the public health system. He remains committed to implementing large infrastructure projects—such as a new oil refinery and a train through the Yucatán—despite their fiscal unfeasibility and potential negative impacts on the environment and indigenous communities.<sup>11</sup>

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<sup>5</sup> "How Andrés Manuel López Obrador will Remake Mexico-Tropical Messiah," *Economist*, June 21, 2018.

<sup>6</sup> IMF, Mexico: *Article IV Consultation: Staff Report and Press Release*, Country Report 20/293, November 2020.

<sup>7</sup> Ibid; Christopher Lenton, "Using Coronavirus as 'Excuse,' Mexico Pushes Through Power Rules Said Damaging to Private Sector," *Natural Gas Intelligence*, May 18, 2020.

<sup>8</sup> Santiago Pérez, "Planes, Trains and Beers: Mexican Referendums Give Voters Last Call," *Wall Street Journal*, March 2020.

<sup>9</sup> Stephen Kidd, "The Demise of Mexico's Prospera Programme: a Tragedy Foretold," *Development Pathways*, June 2, 2019.

<sup>10</sup> Shannon O'Neil, "Lopez Obrador Is Dismantling Democracy in Mexico," *Bloomberg*, March 11, 2019.

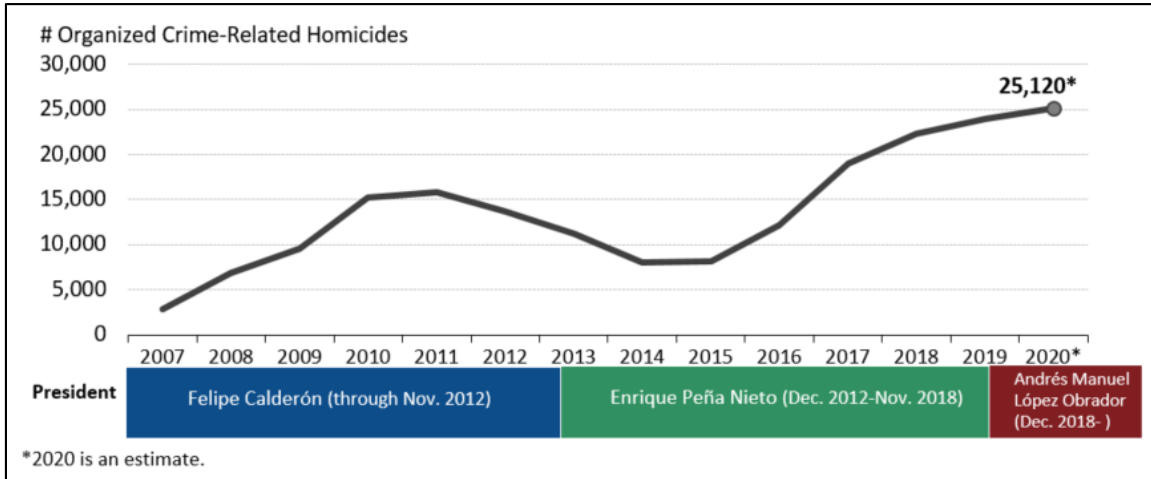
<sup>11</sup> Oscar Lopez, "A Turn Away from Mexico's Environment?" *US News & World Report*, April 22, 2019; Jude Webber, "Mexico's Slowdown Threatens López Obrador's Infrastructure Plans," *Financial Times*, February 5, 2020.



## Security Conditions

From 2015 to 2019, the homicide rate in Mexico surged some 80%, reaching a record 29 homicides per 100,000 people.<sup>12</sup> For over a decade, high levels of homicides have been driven, in part, by increasing organized crime-related violence (see **Figure 3**).<sup>13</sup> In contrast to other countries, this violence has increased in Mexico even during the COVID-19 pandemic.<sup>14</sup>

**Figure 3. Estimated Organized Crime-Related Homicides in Mexico (2007-2020)**



**Source:** Created by CRS. Information from Lantia Consultores, a Mexican security firm.

Femicides (targeted killing of women) and disappearances also have increased in recent years. Mexico recorded more than 1,000 femicides in 2019, a record high. Some predict femicides may increase in 2020 due to COVID-19 lockdowns, which reportedly have worsened domestic and interfamilial violence.<sup>15</sup> In September 2020, Mexico’s interior ministry announced that more than 77,700 people had been reported missing, most of whom had disappeared since former president

<sup>12</sup> In 2015, data from Mexico cited by the U.N. Office of Drugs and Crime (UNODC) recorded a homicide rate of 16.5 per 100,000. In February 2020 congressional testimony, a U.S. official estimated that Mexico recorded a homicide rate of 29 per 100,000 in 2019. Testimony of U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs Deputy Assistant Secretary of State Richard Glenn, in U.S. Congress, House Foreign Affairs Committee, Subcommittee on the Western Hemisphere, Civilian Security, and Trade, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 13, 2020. Hereinafter Glenn testimony, February 2020.

<sup>13</sup> Fighting among criminal groups has intensified since the rise of the Jalisco New Generation, or CJNG, cartel. The January 2017 extradition of Joaquín “El Chapo” Guzmán prompted succession battles within the Sinaloa Cartel and emboldened the CJNG and other groups to challenge Sinaloa’s dominance. See CRS Report R41576, *Mexico: Organized Crime and Drug Trafficking Organizations*, by June S. Beittel; David Shirk et al., *Organized Crime and Violence in Mexico: 2020 Special Report*, Justice in Mexico, July 2020.

<sup>14</sup> International Crisis Group, *Virus-Proof Violence: Crime and COVID-19 in Mexico and the Northern Triangle*, Latin America Report No. 83, November 11, 2020.

<sup>15</sup> Economist Intelligence Unit (EIU), “Women’s Protest and Strike Met with Government Indifference,” March 18, 2020; Amaranta Manrique De Lara and María De Jesús Medina Arellano, “The COVID-19 Pandemic and Ethics in Mexico Through a Gender Lens,” *Journal of Bioethical Inquiry*, August 25, 2020.

Calderón launched a “drug war” in 2006.<sup>16</sup> This figure is more than double the roughly 37,000 people reported missing by the Peña Nieto government.<sup>17</sup>

U.S. drug demand, as well as bulk cash smuggling and weapons smuggling into Mexico from the United States, have fueled drug trafficking-related violence in Mexico for over a decade. Recent violence may be attributable to competition for the production and trafficking of synthetic opioids.<sup>18</sup> Journalists and mayors have experienced particularly high victimization rates, which has prompted concern about freedom of the press and criminal control over parts of Mexican territory.<sup>19</sup> At least nine journalists were killed in 2020, and a former governor was killed in December.<sup>20</sup> In November 2019, drug traffickers killed nine women and children from an extended family of dual U.S.-Mexican citizens in Sonora, prompting significant U.S. concern.<sup>21</sup>

President López Obrador has rejected calls for a “war” on transnational criminal organizations. Instead, his administration’s security strategy includes a focus on addressing the socioeconomic drivers of violent crime and other novel policies.<sup>22</sup> The administration launched a program that provides scholarships to youth to attend university or complete internships; however, the program’s effects on youth employability and crime prevention are not being evaluated.<sup>23</sup> The congress enacted an “amnesty law” that allows certain individuals, including those serving sentences under four years, to be released from prison.<sup>24</sup> The senate passed legislation to decriminalize marijuana production and distribution to comply with a Mexican Supreme Court ruling; it is before the chamber.<sup>25</sup>

At the same time, President López Obrador’s abandoned a key campaign promise by expanding, rather than limiting, the military’s role in public security and using military forces to perform a broad array of other tasks.<sup>26</sup> In 2019, López Obrador backed constitutional reforms that created a National Guard, and in May 2020 he signed a decree to allow military involvement in public security to continue for five more years, under civilian supervision.<sup>27</sup> Mexico’s National Guard

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<sup>16</sup> Maritza Pérez, “Segob Reporta 77,171 Personas Desaparecidas en México al Corte de Septiembre de 2020,” *El Economista*, October 7, 2020.

<sup>17</sup> Mary Beth Sheridan, “More than 60,000 Mexicans have Disappeared Amid Drug war, Officials say,” *Washington Post*, January 6, 2020.

<sup>18</sup> Steve Dudley, “The End of the Big Cartels: Why There Won’t be Another El Chapo,” *Foreign Affairs*, February 27, 2019; Eimhin O’Reilly, “Fentanyl Trade Fuels Cartel Battle in Central Mexico,” *InSight Crime*, March 2, 2020.

<sup>19</sup> David Shirk et al., *Organized Crime and Violence in Mexico Report*, Justice in Mexico, April 2019.

<sup>20</sup> David Agren, “Mexican Photojournalist Killed after Taking Photos of Bodies Along a Road,” *Guardian*, December 11, 2020; Oscar Lopez, “An Ex-Governor Is Gunned Down, Punctuating a Deadly Year for Mexico,” *New York Times*, December 18, 2020.

<sup>21</sup> Lizbeth Diaz, “Nine Americans Killed in Mexican Ambush, Trump Urges Joint war on Drug Cartels,” Reuters, November 5, 2019.

<sup>22</sup> Vanda Felbab-Brown, *AMLO’s Security Policy: Creative Ideas, Tough Reality*, Brookings Institution, March 2019.

<sup>23</sup> Manu Ureste, “Jóvenes Construyendo el Futuro: Nadie Verifica que Becarios Salgan Capacitados, Dice Coneval,” *Animal Político*, July 7, 2020.

<sup>24</sup> With prisons facing outbreaks of COVID-19, this law has taken on added significance. Vanda Felbab-Brown, *Mexico’s Prisons, COVID-19, and the Amnesty Law*, Brookings Institution, May 22, 2020.

<sup>25</sup> Juan Montes, “Mexico Set to Become World’s Largest Legal Cannabis Market,” *Wall Street Journal*, December 29, 2020.

<sup>26</sup> Mary Beth Sheridan, “As Mexico’s Security Deteriorates, the Power of the Military Grows,” *Washington Post*, December 17, 2020; Catalina Pérez Correa, “AMLO’s Broken Campaign Promise: Demilitarizing Mexico,” *Americas Quarterly*, December 9, 2020. Those tasks include constructing infrastructure, conducting airport and highway surveillance, implementing health policy (including vaccine distribution), and administering social programs.

<sup>27</sup> Those reforms contradict a 2018 Mexico Supreme Court ruling that prolonged military involvement in public

(composed mostly of military police units of the army and navy, as well as former federal police) has been tasked with reasserting territorial control in high-crime areas, border and immigration enforcement, crime prevention, and communications interception.<sup>28</sup> Because Mexico's National Guard lacks investigatory authority, evidence it gathers is inadmissible in court; critics therefore have faulted the López Obrador administration for dismantling the U.S.-trained federal police and not adequately investing in the state and local police forces that investigate most crimes.<sup>29</sup>

Many observers have criticized the López Obrador administration's security strategy since a spate of massacres occurred in late 2019. After the high-profile failure of an army-led operation to arrest Joaquín "El Chapo" Guzmán's son in October 2019, the administration reportedly redeployed an elite navy unit that had previously tracked and arrested high-level kingpins, often based on U.S. intelligence.<sup>30</sup> Although the government resumed efforts to arrest and extradite high-level kingpins to the United States in early 2020, the COVID-19 pandemic slowed progress on that front and recent tensions in relations could hinder efforts. (see "Law Enforcement Cooperation and Extraditions").

## Addressing Corruption and Impunity

Corruption is an issue at all levels of government in Mexico and among all political parties. At least 20 former governors (many from former president Peña Nieto's PRI party) are under investigation for corruption.<sup>31</sup> In December 2019, Genaro García Luna, who served as public security minister during the PAN administration of President Calderón, was arrested in the United States on charges of accepting millions in bribes from the Sinaloa Cartel.<sup>32</sup> In October 2020, the U.S. arrest of former Defense Minister Salvador Cienfuegos (2012-2018) on drug and money-laundering charges surprised and angered the Mexican government. Responding to Mexican pressure, the United States agreed in November to drop the case and allow Cienfuegos to return to Mexico.<sup>33</sup> Although voters backed López Obrador for his perceived willingness to tackle corruption, his reliance on the military may complicate efforts to prosecute Cienfuegos in Mexico.<sup>34</sup> His government has requested García Luna's extradition to Mexico.<sup>35</sup>

President López Obrador has taken steps to combat corruption, but he has not invested in the institutions necessary to effectively detect and address corrupt offenses. López Obrador's efforts to eliminate unnecessary government expenditures, including his decisions to cut his salary and fly commercial, and his announcements returning seized assets to the public coffers have won

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security violated the Mexican Constitution. Maureen Meyer.

<sup>28</sup> Iñigo Guevara, *Mexico's National Guard: When Police are not Enough*, Woodrow Wilson Center's Mexico Institute, January 2020. "Vigila Guardia Nacional 84 Hospitales de IMSS," *Reforma*, April 15, 2020.

<sup>29</sup> Mary Speck, *Great Expectations, Grim Realities*, Center for Strategic & International Studies, May 2019.

<sup>30</sup> José de Córdoba and Sadie Gurman, "Mexico, Under U.S. Pressure, Adds Muscle to Fight Against Drug Cartels," *Wall Street Journal*, February 7, 2020.

<sup>31</sup> For background on the status of those cases, see CRS Report R41576, *Mexico: Organized Crime and Drug Trafficking Organizations*, by June S. Beittel.

<sup>32</sup> U.S. Department of Justice (DOJ), "Former Mexican Secretary of Public Security Arrested for Drug-Trafficking Conspiracy and Making False Statements," December 10, 2019.

<sup>33</sup> DOJ, "Joint Statement by Attorney General of the United States William P. Barr and Fiscalía General of Mexico Alejandro Gertz Manero," November 17, 2020.

<sup>34</sup> "Mexico: 'El Padrino' Case Marks Unprecedented Test for Security Cooperation with U.S.," *Latin News Security & Strategic Review*, December 2020.

<sup>35</sup> "Mexico Asks U.S. to Extradite Its Former Security Minister," *Los Angeles Times*, December 7, 2020.

praise from some citizens. Others have dismissed them as merely symbolic actions.<sup>36</sup> Some observers worry cuts in public sector salaries have made officials more susceptible to bribes. López Obrador's backing of constitutional reforms that added corruption to the list of grave crimes for which judges must require pre-trial detention also proved divisive. U.N. officials and others expressed concern that the move violates the principle that one is innocent until proven guilty and could encourage politicians to pressure judges to punish their political rivals.<sup>37</sup>

### Key Institutions for Strengthening the Rule of Law

**New Criminal Justice System.** By the mid-2000s, most Mexican legal experts had concluded that reforming Mexico's corrupt and inefficient criminal justice system was crucial for combating criminality and strengthening the rule of law. In June 2008, Mexico implemented constitutional reforms mandating that by 2016, trial procedures at the federal and state levels had to move from a closed-door process based on written arguments presented to a judge to an adversarial public trial system, with oral arguments and the presumption of innocence. These changes aimed to make a new criminal justice system that would be more transparent, impartial, and efficient (through the use of alternative means of dispute settlement). Federal changes followed advances made in early adopters of the new system, including states such as Chihuahua.

Under then-President Enrique Peña Nieto, Mexico technically met the June 2016 deadline for adopting the new system, with states that received technical assistance from the United States showing, on average, better results than others. Nevertheless, problems in implementation occurred and public opinion turned against the system, as judges released criminals due to flawed police investigations or weak cases presented by prosecutors. According to the World Justice Project, the new system has produced better courtroom infrastructure, more capable judges, and faster case resolution than the old system, but more training for police and prosecutors is needed.

Thus far, President Andrés Manuel López Obrador has not dedicated significant resources to strengthening the justice system. His administration has implemented some reforms, including mandatory pre-trial detention for more crimes, that contradict the new system's goals. The López Obrador administration also considered pushing other policies that would have weakened protections against police and prosecutorial abuses; those changes were abandoned after a popular backlash.

**Building an Independent Prosecutor General's Office.** Analysts who study Mexico's legal system have long highlighted the inefficiency of the attorney general's office (known as the PGR). The PGR struggled with limited resources, corruption, and a lack of political will to resolve high-profile cases, including those involving corruption or human rights abuses. Three attorneys general resigned from 2012 to 2017, the last over allegations of corruption. Many civil society groups that pushed for the new criminal justice system also lobbied the Mexican Congress to create an independent prosecutor's office. Under 2014 constitutional reforms, Mexico's senate was to appoint an independent individual to lead the new prosecutor general's office for a nine-year term.

President López Obrador downplayed the importance of the new office during his campaign, but Mexico's Congress established the office, now known as the Prosecutor General's Office (FGR), after López Obrador's inauguration. In January 2019, Mexico's senate named Dr. Alejandro Gertz Manero, a close associate and former security adviser to López Obrador, as prosecutor general. Despite the limited overall budget and institutional capacity of the newly created FGR office, Gertz Manero has directed prosecutors to focus on emblematic cases. Still, critics maintain Gertz Manero's ties to the president have inhibited his willingness to take on difficult cases, particularly those involving the current administration.

**National Anti-corruption System.** In July 2016, Mexico's Congress approved legislation that contained several proposals put forth by civil society to fully implement the National Anti-corruption System (NAS) created by a 2015 constitutional reform. The legislation gave the NAS investigative and prosecutorial powers and a civilian board of directors; increased administrative and criminal penalties for corruption; and required three declarations (taxes, assets, and conflicts of interest) from public officials and contractors. Under the Peña Nieto government, federal implementation of the NAS lagged and state-level implementation varied.

In February 2019, Prosecutor General Gertz Manero named a special anti-corruption prosecutor, who received a significant budget for 2020 and 2021 amid generalized budget cuts for the institution. Cases involving corruption in the social development ministry and corrupt payments from the Brazilian construction company Odebrecht to the head of *Petróleos de México (Pemex)* during the Peña Nieto administration are moving forward. However, some 500

<sup>36</sup> "AMLO Uses his Anti-Corruption Drive to Gain Power and Scare Critics," *The Economist*, November 30, 2019.

<sup>37</sup> U.N. Office of the High Commissioner for Human Rights (OHCHR), "Statement of the UN High Commissioner for Human Rights, Michelle Bachelet, on her visit to Mexico," April 2019. Hereinafter OHCHR, April 2019.

reports of corruption referred to the FGR by the Ministry of Public Administration in the current administration have yet to be presented before a judge. Additionally, as of December 2020, the federal government and many states have not filled the positions needed to establish their anti-corruption systems.

**Sources:** Octavio Rodríguez Ferreira and David Shirk, *Criminal Procedure Reform in Mexico: 2008-2016 The Final Countdown to Implementation*, Justice in Mexico, October 2015; Guillermo Raúl Zepeda Lecuona, “¿Cómo Vamos en Procuración de Justicia?” *Animal Político*, July 18, 2018; Joshua Partlow, “Mexico’s Crisis of Justice,” *Washington Post*, December 29, 2017; Octavio Rodríguez and David Shirk, “Mexico’s Badly Needed Justice Reforms are in Peril,” *San Diego Union Tribune*, August 11, 2017; World Justice Project México, *Mexico’s new Criminal Justice System: Substantial Progress and Persistent Challenges*, June 2018; María Novoa, “Justice Reform Puts Mexico at a Dangerous Crossroads,” *Americas Quarterly*, January 27, 2020; Arturo Ángel, “Omissiones, Retrasos y Riesgo de Retroceso a dos Años de la ley que Puso en Marcha la FGR,” *Animal Político*, December 14, 2020; Maureen Meyer and Moses Ngong, *Mexico Faces a Test for its Anti-Corruption and Justice Reform Efforts*, WOLA, December 2020.

In December 2020, the Mexican Congress passed and President López Obrador signed a law to limit foreign law enforcement activity in Mexico, including the work of the U.S. Drug Enforcement Administration (DEA). As drafted, the law would require foreign law enforcement officials to share any information they gather with designated Mexican federal authorities and Mexican officials at all levels of government to report any contacts they have with foreign officials to those same authorities. Drafted in response to the U.S. investigation of General Cienfuegos, experts fear that the law, if not revised in implementing regulations, could severely limit the law enforcement cooperation and information-sharing that has proven crucial to prosecuting anti-corruption and drug trafficking cases in both countries.<sup>38</sup>

## Human Rights

Criminal groups, sometimes in collusion with state actors, have continued to commit serious human rights violations against civilians in Mexico.<sup>39</sup> The vast majority of those abuses have gone unpunished, whether they were prosecuted in the military or civilian justice systems. Under Mexico’s new justice system, judges have had to let many defendants go free, even if they may have been guilty, due to police misconduct in gathering evidence.<sup>40</sup> The government continues to receive criticism for not protecting journalists, human rights defenders, migrants, and others.

For years, human rights groups and the U.S. State Department’s *Country Reports on Human Rights Practices* have chronicled cases of Mexican security officials’ involvement in extrajudicial killings, torture, and “enforced disappearances.”<sup>41</sup> The unresolved case of 43 missing students who disappeared in Ayotzinapa, Guerrero, in September 2014—which allegedly involved the local police and federal authorities—galvanized global protests. Experts from the Inter-American Commission on Human Rights (IACHR) disproved much of the attorney general’s investigation, and in 2018, a federal judge dismissed that investigation as biased. President López Obrador established a truth commission on Ayotzinapa, and Prosecutor General Gertz Manero created a

<sup>38</sup> Earl Anthony Wayne, “A Better way Forward Than Mexico’s New Anti-Crime Legislation,” *The Hill*, December 21, 2020.

<sup>39</sup> See U.S. Department of State, *2019 Country Report on Human Rights Practices: Mexico*, March 2020.

<sup>40</sup> World Justice Project, *Mexico’s new Criminal Justice System: Substantial Progress and Remaining Challenges*, June 2018.

<sup>41</sup> According to the U.N., enforced disappearances occur when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government.” See <http://www.un.org/en/events/disappearancesday/background.shtml>.

special prosecutor's office to focus on the case. In March 2020, a federal judge issued arrest warrants for a former Marine and four government officials for torture and obstruction of justice related to the case; four of those five individuals have been detained.<sup>42</sup>

Among the human rights challenges facing Mexico, President López Obrador has prioritized enforced disappearances.<sup>43</sup> His administration has met regularly with families of the missing, launched an online portal for reporting missing persons, registered more than 3,600 clandestine graves, and increased the budget for Mexico's national search commission. The government has sought international assistance to identify tens of thousands of bodies that have been exhumed. Still, victims' families doubt those accused of disappearances, including Marines accused of a series of disappearances that occurred in Tamaulipas in 2018 and have been documented by Mexico's National Human Rights Commission, will be brought to justice.<sup>44</sup>

Human rights organizations have urged the López Obrador administration to fully enact the country's 2017 law against torture, investigate and punish cases of torture, and take steps to ensure that state agents do not commit acts of torture. After an April 2019 visit to Mexico, the U.N. Committee against Torture welcomed the passage of the 2017 law, but stated that torture by state agents occurred in a "generalized manner" and found torture to be "endemic" in detention centers.<sup>45</sup> The U.N. body also found that fewer than 5% of investigations into torture claims resulted in convictions. López Obrador has spoken out against torture, but his government has yet to develop a system to track statistics on torture cases as required by the 2017 law.

Analysts maintain that efforts to protect journalists, human rights defenders, and migrants remain insufficient and, in some cases, have worsened under López Obrador. Some 137 journalists and media workers have been killed in Mexico since 2000, including 6 in 2020.<sup>46</sup> Mexico ranks among the top 10 countries globally with the highest rates of unsolved journalist murders as a percentage of population, according to the nongovernmental Committee to Protect Journalists' *Global Impunity Index*. López Obrador has been critical of media outlets and reporters who have questioned his policies; some of those reporters subsequently have been attacked.<sup>47</sup>

Mexico is also a dangerous country for human rights defenders. In 2019, at least 23 human rights defenders were killed.<sup>48</sup> Nevertheless, the López Obrador government has cut the budget for the already underfunded mechanism intended to protect human rights defenders and journalists and the budget for prosecutors charged with investigating those crimes.

Migrants in Mexico are vulnerable to abuse by criminal groups and corrupt officials. In June 2019, the López Obrador administration reached a migration agreement with the Trump

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<sup>42</sup> For additional information, see Maureen Meyer, *6 Years After Ayotzinapa Disappearances, Mexico's Government Must Build on its Efforts to Provide Truth and Justice*, WOLA, September 14, 2020.

<sup>43</sup> CRS In Focus IF11669, *Human Rights Challenges in Mexico: Addressing Enforced Disappearances*, by Clare Ribando Seelke and Rachel L. Martin

<sup>44</sup> The alleged victims include a U.S. citizen. Parker Asmann, "Mexico's Navy May Accept Alleged Role in 2018 Border Kidnappings," *InSight Crime*, July 30, 2020; J. Weston Phippen, "The Kidnapped American Trump Forgot," *Politico*, December 21, 2020.

<sup>45</sup> U.N. Office of the High Commissioner for Human Rights, "Committee Against Torture Reviews the Report of Mexico," April 26, 2019.

<sup>46</sup> Article 19, "Periodistas Asesinados en México," accessed on December 28, 2020, available at <https://articulo19.org/periodistasasesinados/>.

<sup>47</sup> Santiago Pérez, "Mexico's Journalists Fear Hostile Turn Under President," *Wall Street Journal*, December 6, 2019.

<sup>48</sup> Frontline Defenders, *Global Analysis 2019*, 2020.

Administration to avoid U.S. tariffs.<sup>49</sup> As part of that agreement, Mexico agreed to step up immigration enforcement and allow more U.S.-bound migrants to be returned to Mexico to await their U.S. immigration proceedings. Migrants' rights advocates have documented 1,300 cases of migrants returned to northern Mexico who have been raped, kidnapped, or attacked.<sup>50</sup>

## Foreign Policy

In contrast to his predecessor, President López Obrador generally has maintained that the best foreign policy is a strong domestic policy and has traveled outside the country only once since assuming office, to meet with President Trump in Washington, DC, in July 2020. Foreign Minister Marcelo Ebrard (former mayor of Mexico City) has represented Mexico in global fora and led a return to Mexico's historic noninterventionist and independent approach to foreign policy (the so-called *Estrada doctrine*). Thus far, the current administration has reversed the active role Mexico had been playing in seeking to address the crises in Venezuela, established closer relations with Cuba, and granted temporary asylum to ousted Bolivian President Evo Morales.

Despite these changes, Mexico continues to participate in multilateral institutions and support development in Central America. Mexico garnered a seat on the U.N. Security Council for 2021-2022. In addition to working within trade fora, such as the Pacific Alliance, Mexico continues to promote its exports and seek new trade partners.<sup>51</sup> The López Obrador administration shares the view of prior Mexican governments that the best way to stop illegal immigration from the Northern Triangle of Central America (Guatemala, El Salvador, and Honduras) is to address the lack of opportunity and insecurity in that region. It has proposed a \$100 million program focused on promoting sustainable development in the Northern Triangle and signed agreements with the Trump Administration to bolster investment in the region.<sup>52</sup>

## Economic and Social Conditions

### Economic Overview

Beginning in the late 1980s, Mexico transitioned from a closed, state-led economy to an open market economy that has entered into free trade agreements with at least 46 countries. The transition accelerated after NAFTA's entry into force in 1994. Since NAFTA, Mexico has increasingly become an export-oriented economy, with the value of exports equaling 39% of Mexico's gross domestic product (GDP) in 2019, up from 12% of GDP in 1993.<sup>53</sup> Mexico remains a U.S. crude oil supplier, but its top exports to the United States are automobiles and auto parts, computer equipment, and other manufactured goods, many of which contain a significant percentage of U.S. value-added content.

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<sup>49</sup> U.S. Department of State, Office of the Spokesperson, "U.S.-Mexico Joint Declaration," June 7, 2019.

<sup>50</sup> Human Rights First, *Delivered to Danger*, December 15, 2020, at <https://www.humanrightsfirst.org/campaign/remain-mexico>.

<sup>51</sup> CRS Report R43748, *The Pacific Alliance: A Trade Integration Initiative in Latin America*, by M. Angeles Villarreal

<sup>52</sup> "México Destina 100 mdd para Exportar el Plan Sembrando Vida a Centroamérica," *Forbes*, June 21, 2019; U.S. Department of State, "United States-Mexico Declaration of Principles on Economic Development and Cooperation in Southern Mexico and Central America," December 18, 2018; U.S. Department of State, Office of the Spokesperson, "U.S.-Mexico Joint Declaration," June 7, 2019.

<sup>53</sup> World Bank, "World Development Indicators," accessed December 23, 2020.

Over the past 25 years, Mexico has recorded a somewhat low average economic growth rate of 2.3%. Some factors—such as plentiful natural resources, a relatively young labor force, and proximity to markets in the United States—may help Mexico’s economic growth prospects. At the same time, relatively weak institutions, an inefficient tax system, challenges in the education sector, and a persistently large informal economy have hindered Mexico’s economic performance.<sup>54</sup> Confusing regulations, corruption, and high levels of insecurity remain barriers to investment.<sup>55</sup>

Despite attempts to diversify its economic ties and build its domestic economy, Mexico remains heavily dependent on the United States as an export market (roughly 85% of Mexico’s exports in 2019 were U.S.-bound) and as a source of remittances, tourism revenues, and investment. Remittances, which reached a record \$36 billion in 2019 according to Mexico’s central bank, have replaced oil exports as Mexico’s largest source of foreign exchange. Mexico remained the leading U.S. international travel destination in 2019, despite U.S. travel warnings regarding violence in some resort areas. The total stock of U.S. foreign direct investment in Mexico stood at \$114.9 billion in 2018, a 4.7% increase from 2017.

When President López Obrador took office, he inherited an economy facing challenges but with strong fundamentals and an improving investment climate that had helped the country weather external volatility.<sup>56</sup> Although the IMF renewed Mexico’s flexible line of credit in November 2019, it expressed concerns about uncertainty in the administration’s economic policymaking.<sup>57</sup> After averaging 3.0% growth since 2010, the Mexican economy contracted by 0.1% in 2019, due in part to lower public and private investment. Some investors have expressed serious concerns about López Obrador’s promotion of government intervention in the economy, particularly support for Pemex (the state oil company), and his willingness to cancel major privately funded infrastructure projects. Uncertainty in policymaking, Pemex’s poor performance, and the government’s relatively weak fiscal response to COVID-19 reportedly have hurt investment prospects that could have been bolstered by the USMCA’s entry into force.<sup>58</sup> After pushback from business leaders, MORENA postponed consideration of two initiatives, one that would have limited outsourcing and another that reportedly threatened the independence of the central bank.<sup>59</sup>

## COVID-19, Low Oil Prices, and an Economic Recession

Mexico’s economy is particularly vulnerable to external volatility because of its strong reliance on export sectors. In its October 2020 World Economic Outlook, the IMF predicted that Mexico’s economy would contract by some 9.0% in 2020 due to a combination of the COVID-19 pandemic, low oil prices and demand, and a U.S. recession.<sup>60</sup> President López Obrador’s responses to these phenomenon could worsen their combined impacts. As the peso has plunged, job losses have mounted, and investment flows have left the country, observers have become

<sup>54</sup> Organisation for Economic Cooperation and Development (OECD), *Economic Survey of Mexico*, May 2019.

<sup>55</sup> U.S. Department of State, *2020 Investment Climate Statements: Mexico*, at <https://www.state.gov/reports/2020-investment-climate-statements/mexico/>.

<sup>56</sup> IMF, *Mexico: 2018 Article IV Consultation-Press Release; Staff Report; and Staff Statement*, November 2018.

<sup>57</sup> IMF, *Mexico: 2019 Article IV Consultation-Press Release; Staff Report; and Staff Statement*, November 2019.

<sup>58</sup> U.S. Department of State, *2020 Investment Climate Statements: Mexico*.

<sup>59</sup> Justin Villamil, “Mexico’s AMLO Delays Ban on Outsourcing amid Uproar by Business,” *Bloomberg*, December 9, 2020; Steven Baria, “Mexico: Regulator Flags Competition Concerns; Central Bank Reform Postponed,” *S&P Global Market Intelligence*, December 18, 2020.

<sup>60</sup> *World Economic Outlook Database, October 2020*,



increasingly concerned. The government has resisted most economic stimulus measures beyond increases in social spending and credits for small- and medium-sized enterprises (SMEs).

- **COVID-19.**<sup>61</sup> On March 30, 2020, Mexican health officials declared a health emergency due to COVID-19—requiring social distancing, travel restrictions, and the closure of nonessential businesses—several weeks after other countries and the U.S.-Mexican border had closed to nonessential travel. President López Obrador has resisted adopting the recommendations of his own health ministry (e.g., he did not suspend large rallies until mid-April or support lockdowns when cases spiked in December).<sup>62</sup> Although Mexico ranks fourth among Latin American countries in terms of pandemic preparedness,<sup>63</sup> budget cuts have severely reduced public health system personnel, testing availability, and hospital capacity. As of January 4, 2020, COVID-19 had caused at least 127,200 deaths in Mexico.<sup>64</sup> Mexico launched the first COVID-19 vaccination campaign in Latin America in December 2020. President López Obrador has credited President Trump with helping to secure those vaccines.<sup>65</sup> (See “U.S.-Mexican Health Cooperation,” below.)
- **Low Oil Prices.** Amid collapsing global demand and disputes among major oil-producing countries over how to reduce production, oil prices have fallen dramatically. Private companies could have helped Mexico adjust to the changing business climate (e.g., by building new storage capacity for excess oil), but President López Obrador has resisted enlisting their support.<sup>66</sup>
- **U.S. Recession.** As the U.S. economy contracted by some 4.3% in 2020,<sup>67</sup> Mexico experienced declines in demand for its exports, foreign direct investment, and tourism.

## Social Conditions

Mexico has long had relatively high poverty rates for its level of economic development (41.6% in 2018, as compared with 44.4% in 2008), particularly in rural regions in southern Mexico and among indigenous populations.<sup>68</sup> Traditionally, those employed in subsistence agriculture or in the informal sector tend to be among the poorest citizens. Since the government has not offered unemployment insurance or food aid during the COVID-19 pandemic, informal-sector workers have risked exposure to the virus by returning to crowded, unsafe work environments.<sup>69</sup> Despite

<sup>61</sup> For public health information, see <https://coronavirus.gob.mx/>. For economic policy responses, see IMF, “Policy Responses to COVID-19,” at <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#M>.

<sup>62</sup> Elisabeth Malkin, “Covid Fatalities Soar in Mexico as President Condemned for Inaction,” *The Guardian*, December 23, 2020.

<sup>63</sup> Johns Hopkins Center for Health Security, “Nuclear Threat Initiative”; and EIU, *Global Health Security Index*, 2019.

<sup>64</sup> Johns Hopkins University, “COVID-19 Dashboard,” accessed January 4, 2020, at <https://coronavirus.jhu.edu/map.html>.

<sup>65</sup> AP, “Mexican President Says Trump Helped Him Get Vaccine,” December 3, 2020.

<sup>66</sup> See *Mexico in the Age of Low Oil Prices*, Woodrow Wilson Center’s Mexico Institute, March 30, 2020.

<sup>67</sup> IMF, *World Economic Outlook Database*, October 2020.

<sup>68</sup> This figure is from Mexico’s National Council for the Evaluation of Social Development Policy (CONEVAL) and is available in Spanish at <https://www.coneval.org.mx/Medicion/MP/Paginas/Pobreza-2018.aspx>.

<sup>69</sup> Women have borne the brunt of COVID-related job losses, and many of these jobs have yet to be recovered. International Labor Organization, *Impact on the Labour Market and Income in Latin America and the Caribbean*,

predictions to the contrary, poor and working class household incomes have been supported by continued remittances sent from family members abroad. Even amid the pandemic, remittances sent from the United States to Mexico increased 10% from January to October 2020, as compared with 2019.<sup>70</sup>

Mexico also experiences relatively high income inequality. According to the *2019 Global Wealth Report* published by Credit Suisse, 62.8% of Mexico's wealth is concentrated in 10% of the population, although that percentage declined from 66.7% in 2000. Inequality has historically been due, in part, to the country's regressive tax system, oligopolies that dominate particular industries, a relatively low minimum wage, and a lack of targeting in some social programs.<sup>71</sup>

Economists have asserted that reducing the untaxed and unregulated informal sector, in which workers lack job protections and benefits, is crucial for addressing poverty, while also expanding Mexico's low tax base. Under the Peña Nieto administration, a financial sector reform aimed to increase access to credit for SMEs, which employ some 60% of Mexican workers. A fiscal reform sought to incentivize SMEs' participation in the formal economy by offering insurance, retirement savings accounts, and home loans to those that register with the national tax agency. Significant barriers to formalization remain.<sup>72</sup>

Although the Peña Nieto administration expanded social safety net programs, corruption within the social development ministry allegedly siphoned hundreds of millions of dollars from those programs.<sup>73</sup> The administration expanded access to federal pensions, started a national anti-hunger program, and increased funding for the *Prospera* conditional cash transfer program. In addition to corruption, some programs, such as the anti-hunger effort, proved ineffective.<sup>74</sup>

López Obrador's pledges related to social programs include (1) doubling monthly payments to the elderly; (2) providing regular financial assistance to a million disabled people; and (3) giving a monthly payment to 2.3 million youth aged 18-29 to stay in school or complete internships.<sup>75</sup> Some of these programs, combined with two minimum wage hikes, have improved people's socioeconomic conditions amidst a recession. Irregularities have already been detected, however, including within the youth scholarship program.<sup>76</sup>

## U.S.-Mexican Relations and Issues for Congress

Mexican-U.S. relations generally have grown closer over the past two decades. Common interests in encouraging trade flows and energy production, combating illicit flows (of people, weapons, drugs, and currency), and managing environmental resources have been cultivated over many

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September 2020.

<sup>70</sup> Juan José Li Ng, "Mexico: Despite the Pandemic, Remittances Continue Unstoppable—They Grew 14.1% in October," *BBVA Research*, December 1, 2020.

<sup>71</sup> Gerardo Esquivel Hernandez, *Concentration of Economic and Political Power*, Oxfam Mexico, 2015.

<sup>72</sup> Jorge Alvarez and Cian Ruane, *Informality and Aggregate Productivity: the Case of Mexico*, IMF Country Report, November 2019.

<sup>73</sup> Julia Love and Sharay Angulo, "Mexican Former Minister Detained, Deepening President's Anti-Graft Quest," Reuters, August 13, 2019.

<sup>74</sup> CIDAC, op. cit.; Nayeli Roldán, "La Cruzada Contra el Hambre ha Fallado en sus Objetivos: CONEVAL," *Animal Político*, December 19, 2016.

<sup>75</sup> Benjamin Russell, "What AMLO's Anti-Poverty Overhaul Says About His Government," *Americas Quarterly*, February 26, 2019.

<sup>76</sup> Karina Palacios, "Corrupción Mancha a Jóvenes Construyendo el Futuro," *Milenio*, August 11, 2019.

years. A range of bilateral talks, mechanisms, and institutions have helped the Mexican and U.S. federal governments—as well as stakeholders in border states, the private sector, and nongovernmental organizations—find common ground on difficult issues, such as migration and water management.

Until recently, U.S.-Mexican relations under the López Obrador administration have remained cordial. Nevertheless, periodic tensions have emerged over trade disputes and tariffs; immigration and border security issues, including President Trump’s determination to construct a border wall; and, most recently, U.S. investigations of Mexican officials. Mexico has accommodated increasingly restrictive U.S. immigration and border security policies, possibly to achieve one of its top foreign policy priorities: U.S. approval of USMCA. Experts predict the Joseph R. Biden Administration may reassess security cooperation; phase out Trump-era migration policies; monitor USMCA implementation and labor conditions in Mexico; and re-prioritize human rights, clean energy issues, health cooperation, and anti-corruption efforts.<sup>77</sup> (See “Outlook,” below).

### **Counternarcotics, Security Cooperation, and U.S. Foreign Aid<sup>78</sup>**

As a primary source of and transit country for illicit drugs destined for the United States, Mexico plays a key role in U.S. drug control policy. Mexican drug trafficking organizations continue to pose the greatest criminal threat to the United States, according to the DEA’s 2019 *National Drug Threat Assessment*. In September 2020, President Trump warned that Mexico, the primary source of heroin and methamphetamine seized in the United States and the transit route for most U.S.-bound cocaine, risked “being found to have failed demonstrably to uphold its international drug commitments.”<sup>79</sup> To avoid such an outcome, President Trump noted the need for “increased extraditions ... drug and asset seizures, data-based poppy eradication programming tied to alternative development, and ... targeting fentanyl and methamphetamine production and trafficking.”<sup>80</sup> Recent declines in Mexican poppy cultivation and potential heroin production have corresponded with increased production and trafficking of fentanyl in and through Mexico.<sup>81</sup> In 2020, Mexico’s seizures of fentanyl reportedly increased by some 500%.<sup>82</sup>

Mexico is a long-time recipient of U.S. counterdrug assistance, but cooperation was limited between the mid-1980s and mid-2000s due to U.S. distrust of Mexican officials and Mexican sensitivity about U.S. involvement in the country’s internal affairs. Close cooperation resumed in 2007, when then-President Calderón requested U.S. counterdrug assistance. While initial U.S. funding for what the U.S. and Mexican governments termed the “Mérida Initiative” focused heavily on training and equipping Mexican security forces, U.S. assistance shifted over time to place more emphasis on strengthening Mexican institutions. Until FY2016, U.S. assistance

<sup>77</sup> See, for example, Vanda Felbab-Brown, “The Upcoming Friction in US-Mexico Relations,” Brookings Institution, December 4, 2020; Maria Sacchetti and Nick Miroff, “Reversing Trump’s Immigration Policies Will ‘Take Time,’ Biden Team Says,” *Washington Post*, December 22, 2020; Lisa Viscidi, “Could the Biden Victory Help Redefine Mexican Energy Policy?” *Inter-American Dialogue*, November 12, 2020.

<sup>78</sup> See also CRS In Focus IF10578, *Mexico: Evolution of the Mérida Initiative, 2007-2020*; CRS In Focus IF10400, *Trends in Mexican Opioid Trafficking and Implications for U.S.-Mexico Security Cooperation*.

<sup>79</sup> President Trump, “Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2021,” memorandum for the Secretary of State, September 16, 2020.

<sup>80</sup> President Trump, “Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2021,” memorandum for the Secretary of State, September 16, 2020.

<sup>81</sup> As the Chinese government has placed strict controls on fentanyl, Mexican drug trafficking organizations are increasingly involved in supplying the U.S. market. U.S. Drug Enforcement Administration, *Fentanyl Flow to the United States*, March 6, 2020.

<sup>82</sup> AP, “Mexico Fentanyl Seizures Soar by Almost 500% in 2020,” December 31, 2020.

provided through the Mérida Initiative was subject to human rights withholding requirements (see “Human Rights,” below). Individuals and units receiving U.S. support are vetted for potential human rights issues in compliance with the Leahy Laws vetting requirements (22 U.S.C. 2378d).

President Trump’s executive orders on combating transnational criminal organizations (E.O. 13773) and enhancing border security (E.O. 13767) refocused the Mérida Initiative. Recent U.S. priorities have included combating drug production, improving border interdiction and port security, and addressing money laundering. In August 2019, the Trump Administration agreed to a Mexican government proposal to create a High-Level Security Working Group, which included the Mérida Initiative as one aspect of bilateral efforts.<sup>83</sup> The COVID-19 pandemic hindered bilateral cooperation. Recent tension in relations has led many analysts in both countries to recommend the Mérida Initiative be reassessed or replaced.

Congress has demonstrated bipartisan support for the Mérida Initiative, which has accounted for the majority of U.S. foreign assistance to Mexico over the past decade. (See **Table 1** for recent U.S. assistance to Mexico and **Table A-1** for a summary of Mérida Initiative funding.) Nevertheless, congressional concern about the efficacy of U.S.-Mexican efforts has increased.<sup>84</sup>

**Table 1. U.S. Assistance to Mexico: FY2017-FY2021**  
(appropriations in millions of current dollars)

Foreign Assistance Account	FY2017	FY2018	FY2019	FY2020 (enacted)	FY2021 (enacted)
Development Assistance (DA)	40.9	0.0	0.0	0.0	0.0
Economic Support and Development Fund (ESDF)	—	—	—	—	0.0
Economic Support Fund (ESF)	0.0	45.0	45.0	50.0	50.0
International Narcotics Control and Law Enforcement (INCLE)	90.0	100.0	110.0	100.0	100.0
Foreign Military Financing (FMF)	5.0	5.0	5.0	5.0	6.0
International Military Education and Training (IMET)	1.5	1.5	1.3	1.8	1.8
Non-proliferation, Antiterrorism, Demining, and Related Programs (NADR)	1.2	1.2	1.2	1.2	1.2
<b>Total</b>	<b>138.6</b>	<b>152.7</b>	<b>162.5</b>	<b>158.0</b>	<b>159.0</b>

**Sources:** U.S. Department of State, *Congressional Budget Justifications for Foreign Operations*, FY2019-FY2021; Explanatory statement accompanying P.L. 116-94; Explanatory statement accompanying P.L. 116-260.

The Trump Administration requested \$63.8 million for Mexico for FY2021, nearly 60% lower than the FY2020 estimated level. Its top foreign assistance priorities for Mexico were to deter unauthorized migrant flows to the United States and disrupt transnational criminal organizations by strengthening the rule of law, preventing crime, protecting human rights, and promoting

<sup>83</sup> Testimony of U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs Deputy Assistant Secretary of State Richard Glenn, in U.S. Congress, House Foreign Affairs Committee, Subcommittee on the Western Hemisphere, Civilian Security, and Trade, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 13, 2020.

<sup>84</sup> Western Hemisphere Drug Policy Commission, *Report of the Western Hemisphere Drug Policy Commission*, December 2020.

transparency in Mexico.<sup>85</sup> Congress provided nearly \$159 million for Mexico (including \$150 million in accounts that fund the Mérida Initiative) in the FY2021 Consolidated Appropriations Act (P.L. 116-260), approximately \$95 million above the budget request.<sup>86</sup> The explanatory statement expanded the scope of the withholding requirements on Foreign Military Financing (FMF). It also includes reporting requirements from H.Rept. 116-444, which require a comprehensive strategy on the Mérida Initiative, as well as reports on (1) steps Mexico is taking to meet human rights standards, (2) how Mexico is addressing highway crimes, and (3) the challenges facing U.S. citizen minors in Mexico.

### Evaluating the Mérida Initiative

Many analysts have observed the need for more reporting on Mérida Initiative outcomes to help Congress oversee the funds it has appropriated. The State Department has pointed to some indicators of success, including (1) intelligence-sharing and police cooperation that has helped capture and extradite high-profile criminals; (2) national training standards for police, prosecutors, and judges; and (3) assistance that has helped Mexico receive international accreditation of its prisons, labs, and police training institutes.<sup>87</sup> Despite these results, escalating violence in Mexico and drug overdose deaths in the United States have led many to question the efficacy of the Mérida Initiative. The Government Accountability Office is auditing how U.S. programs have been monitored and evaluated, among other topics.<sup>88</sup>

See CRS In Focus IF10578, *Mexico: Evolution of the Mérida Initiative, 2007-2020*, by Clare Ribando Seelke.

The Department of Defense (DOD) is not providing assistance through Mérida accounts. However, DOD oversaw the procurement and delivery of equipment provided through the FMF account, and bilateral military cooperation has increased along with Mérida-related law enforcement and intelligence-sharing. Some DOD equipment programs are funded by annual State Department appropriations for FMF, which totaled \$5.0 million in FY2020. International Military Education and Training (IMET) funds, which totaled \$1.8 million in FY2020, support training programs for the Mexican military, including courses in the United States. Apart from State Department funding, DOD provides additional training, equipping, and other support to Mexico that complements the Mérida Initiative through its own accounts and authorities. DOD assistance, which totaled some \$55.3 million in FY2019, supports Mexico's efforts to improve security in high-crime areas, track and capture suspects, strengthen border security, and disrupt illicit flows.

Congress may seek to influence how the incoming Biden Administration balances U.S. foreign assistance priorities in Mexico; monitor the efficacy of U.S.-funded efforts; and recommend ways to respond to challenges posed by evolving criminal activities and changes in Mexico's policies.

## Law Enforcement Cooperation and Extraditions

During the Calderón government (2006-2012), the State Department used extraditions as an indicator of the Mérida Initiative's success. Mexico extradited an average of 98 people per year to the United States, a significant increase over the prior administration. When President Peña Nieto

<sup>85</sup> U.S. Department of State, U.S. Agency for International Development (USAID), "FY2021 Foreign Assistance Budget Request," February 10, 2020.

<sup>86</sup> The explanatory statement accompanying Division K of H.R. 133 also includes \$6.3 million for forest conservation programs administered by USAID in the Maya Biosphere Reserve, which is located in Mexico, Guatemala, and Belize.

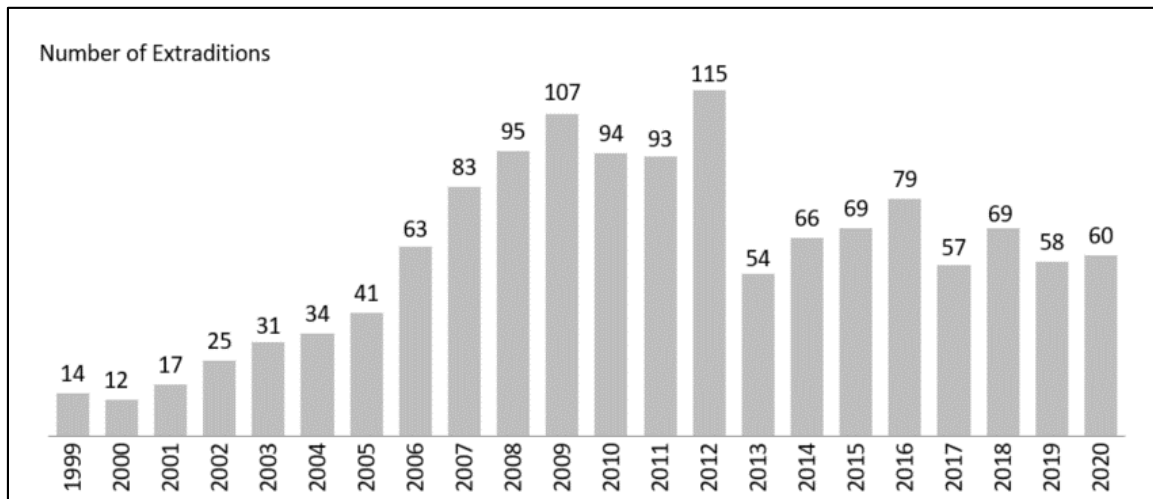
<sup>87</sup> As of December 2020, 93 forensic labs, 98 prisons, and 28 police agencies have been accredited at the federal and state levels across 22 states. CRS electronic correspondence with State Department, December 18, 2020.

<sup>88</sup> U.S. Government Accountability Office (GAO), *U.S. Assistance to Mexico: State Department Could Improve Its Monitoring of Mérida Initiative Projects*, GAO-20-388, May 12, 2020.

took office, extraditions fell to 54 in 2013 but rose to a high of 76 in 2016 (see **Figure 4**). In January 2017, Mexico’s decision to extradite Joaquín “El Chapo” Guzmán, leader of the Sinaloa Cartel and one of the DEA’s top global targets, was a high point in bilateral cooperation after years of multiagency cooperation. Total extraditions from Mexico fell from 69 in 2018 to 58 in 2019, and many of those extradited were not kingpins of high priority to the U.S. government.

After an improvement in U.S.-Mexican cooperation on extraditions early in 2020, many fear cooperation could deteriorate if Mexico’s new law regulating foreign law enforcement is not made more flexible in implementing regulations currently being developed.<sup>89</sup> Attorney General William Barr visited Mexico in December 2019 and January 2020 to discuss the importance of extraditions and other bilateral cooperation. From January through February 25, 2020, Mexico extradited 30 suspects, including Rubén Oseguera, second in command of the Jalisco New Generation (CJNG) cartel.<sup>90</sup> In August 2020, U.S.-trained state officials in Guanajuato arrested the leader of the Santa Rosa de Lima Cartel and his successor. In November 2020, U.S.-Mexican cooperation helped lead to Mexico’s arrest of the head of La Linea Cartel. It is unclear whether Mexico will continue to extradite such suspects to the United States.

**Figure 4. Extraditions from Mexico to the United States: 1999-2020**



**Source:** CRS based on data from U.S. Department of Justice and U.S. Department of State.

## Human Rights

The U.S. Congress has expressed ongoing concerns about human rights conditions in Mexico. Congress has continued to monitor adherence to the Leahy vetting requirements that must be met under the Foreign Assistance Act (FAA) of 1961, as amended (22 U.S.C. 2378d), which pertains to State Department aid, and 10 U.S.C. 2249e, which guides DOD funding. DOD suspended assistance to a brigade based in Tlatlaya, Mexico, due to concerns about the brigade’s potential involvement in extrajudicial killings but has also worked with Mexico to rehabilitate units once suspended from receiving U.S. assistance.<sup>91</sup> Congressional concerns about labor conditions in

<sup>89</sup>Vanda Felbab-Brown, “A Dangerous Backtrack on the U.S.-Mexico Security Relationship,” Brookings Institution, December 21, 2020.

<sup>90</sup> Kirk Semple, “Under Pressure from Trump, Extraditions to U.S. from Mexico Soar,” *New York Times*, February 25, 2020.

<sup>91</sup> Michael Evans, *US: Mexico Mass Graves Raise “Alarming Questions” About Government “Complicity” in*

Mexico and the government's ability to implement USMCA commitments prompted the inclusion of \$210 million in funds for ILAB technical assistance programs in the USCMA's labor provisions in the agreement's implementing legislation (P.L. 116-113).<sup>92</sup>

From FY2008 to FY2015, Congress made conditional 15% of U.S. assistance to the Mexican military and police until the State Department sent a report to appropriators verifying that Mexico was taking steps to comply with certain human rights standards. In FY2014, Mexico lost \$5.5 million in funding due to human rights concerns.<sup>93</sup> For FY2016-FY2021, human rights reporting requirements applied to FMF rather than to Mérida Initiative accounts. In recent years, human rights reporting requirements have been in explanatory statements rather than the legislation. The State Department reportedly has not sent human rights reports to Congress since FY2017, as the agency maintains it is not legally obligated to do so.<sup>94</sup>

U.S. assistance to Mexico has supported the Mexican government's efforts to reform its judicial system and improve human rights conditions in the country.<sup>95</sup> Congress has provided funding to support Mexico's transition from an inquisitorial justice system to an oral, adversarial, and accusatorial system that aims to strengthen due process and human rights protections for victims and the accused.<sup>96</sup> The State Department has established a high-level human rights dialogue with Mexico, although the dialogue has not yet convened under the López Obrador government. The agency also regularly engages with human rights and freedom of expression organizations in Mexico and ensures that INCLE-funded training programs for police and other actors in the criminal justice sector incorporate units on protecting human rights.

The U.S. Agency for International Development (USAID) provides technical assistance to the Mexican federal and state governments as well as complementary support to think tanks and civil society organizations on human rights issues. USAID's human rights programming includes a new \$24 million initiative to support national and state implementation of laws against torture and enforced disappearances and to provide forensic assistance to address unidentified remains. Other ongoing initiatives seek to better protect journalists and human rights defenders, as well as to address enforced disappearances, femicides, and torture in selected states. In December 2020, USAID published its five-year strategy for Mexico, which integrates these efforts into a broader strategy to help state and local governments committed to addressing impunity and violence.<sup>97</sup>

Congress is likely to monitor human rights conditions in Mexico, including compliance with conditions included in the explanatory statement to the FY2021 Consolidated Appropriations Act

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*September 2014 Cartel Killings*, National Security Archive, Electronic Briefing Book No. 515, May 2015; Col. Andrew M. Leonard, "Leahy Law Diplomacy: Human Rights Vetting and Foreign Policy," *FAOA Journal of International Affairs*, 2019.

<sup>92</sup> The purpose of the funding is for ILAB to administer technical assistance grants to support worker-focused capacity building and efforts to reduce workplace discrimination, child labor, forced labor, human trafficking, child exploitation and other efforts related to implementation of Mexico's labor commitments.

<sup>93</sup> As a result of the State Department's decision not to submit a report for Mexico, some \$5 million in FY2014 International Narcotics Control and Law Enforcement (INCLE) assistance was reprogrammed by the State Department to Peru. Mexico lost close to \$500,000 in Foreign Military Financing (FMF), as well.

<sup>94</sup> CRS interview with State Department official, March 20, 2020.

<sup>95</sup> For an overview of recent programs, see GAO, *U.S. Assistance to Mexico: State and USAID Allocated over \$700 Million to Support Criminal Justice, Border Security, and Related Efforts from Fiscal Year 2014 Through 2018*, GAO 19-647, September 10, 2019.

<sup>96</sup> While DOJ has supported reform efforts at the federal level, USAID programs have been at the state level since 2016. See USAID, "Mexico: Rule of Law," September 2020, available at <https://www.usaid.gov/mexico/rule-of-law>.

<sup>97</sup> USAID, *Mexico: Country Development Cooperation Strategy*, available at <https://www.usaid.gov/mexico/cdcs>.

(H.R. 133) and commitments to improve labor conditions made under USMCA.<sup>98</sup> Some Members of Congress have written letters to U.S. and Mexican officials regarding human rights concerns, including allegations of extrajudicial killings by security forces, violence against journalists and human rights defenders, and abuses of migrants.

Congress may monitor how the López Obrador administration moves to punish past human rights abusers; how Mexico's National Guard, along with other security and judicial actors, is being trained to respect human rights; what mechanisms exist to address allegations of abuse and wrongdoing by such actors; and the adequacy of victims' assistance. Congress also may question how the State Department and USAID can provide support to emerging human rights priorities, as well as the effects of ILAB technical assistance programs on labor conditions in Mexico.

## Migration and Border Issues<sup>99</sup>

Mexico's status as both the largest country of origin of migrants in the United States and a continental neighbor means U.S. migration policies—including border and interior enforcement—have deeply affected Mexicans.<sup>100</sup> Due to many factors, including U.S. enforcement and an improved Mexican economy, more Mexicans have been leaving the United States than arriving since 2010.<sup>101</sup> Still, Mexicans comprise the vast majority of individuals who are removed (deported) from the United States each year,<sup>102</sup> as well as a majority of those who have received relief from removal through the Deferred Action for Childhood Arrival (DACA) initiative.<sup>103</sup> Protecting the rights of Mexicans living in the United States, including those who are unauthorized and those who are DACA beneficiaries, remains a top Mexican government priority.

<sup>98</sup> Those conditions maintain that

of the funds available for assistance for Mexico under the FMF heading, 25 percent shall be withheld from obligation until the Secretary of State determines and reports to the Committee that the Government of Mexico is: (1) thoroughly and credibly investigating and prosecuting violations of human rights in civilian courts; (2) vigorously enforcing prohibitions against torture and the use of testimony obtained through torture; and (3) searching for victims of forced disappearances and credibly investigating and prosecuting those responsible for such crimes." In addition, the State Department must withhold those funds until the Secretary of State determines that "the Government of Mexico is implementing credible counternarcotics and law enforcement strategies in cooperation with the United States that reflect the input of civil society, have realistic goals, and are consistent with the right of due process and protection of human rights.

For background, see CRS In Focus IF11308, *USMCA: Labor Provisions*, by M. Angeles Villarreal and Cathleen D. Cimino-Isaacs. Niv Ellis, "First USMCA Report Raises 'Serious Concerns' on Mexico Labor Law Implementation," *The Hill*, December 17, 2020.

<sup>99</sup> See CRS In Focus IF10215, *Mexico's Immigration Control Efforts*, by Clare Ribando Seelke.

<sup>100</sup> Mexicans are by far the largest group of immigrants in the United States, accounting for about 10.9 million people in 2019, or 24% of the U.S. foreign-born population. Emma Israel and Jeanne Batalova, *Mexican Immigrants in the United States*, Migration Policy Institute (MPI), November 5, 2020.

<sup>101</sup> Emma Israel and Jeanne Batalova, *Mexican Immigrants in the United States*, Migration Policy Institute (MPI), November 5, 2020.

<sup>102</sup> In FY2020, the Trump Administration removed 100,388 Mexicans, down from 141,045 in FY2018. U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal, *FY2018 and FY2020 ICE Enforcement and Removal Operations Reports*.

<sup>103</sup> The Deferred Action for Childhood Arrival (DACA) initiative is an initiative that the Obama Administration implemented in 2012 to provide temporary relief from removal and work authorization to certain unlawfully present individuals who arrived in the United States as children. See CRS Report R45995, *Unauthorized Childhood Arrivals, DACA, and Related Legislation*, by Andorra Bruno.



In recent years, Mexico’s consular network in the United States has bolstered the services offered to Mexicans in the United States, including access to identity documents and legal counsel.

President Trump’s rhetoric and shifts in U.S. immigration policies tested U.S.-Mexican relations. His repeated assertions that Mexico would pay for a border wall resulted in President Peña Nieto canceling a White House meeting in January 2017 and strained relations for the remainder of his term. In E.O. 13678 (2017), the Trump Administration broadened the categories of unauthorized immigrants prioritized for removal. In September 2017, the Administration rescinded DACA through a process the U.S. Supreme Court subsequently ruled in June 2020 did not follow proper procedures and had to be vacated.<sup>104</sup> In June 2018, the Mexican government condemned U.S. “zero tolerance” immigration policies.<sup>105</sup>

Under President López Obrador, Mexico has accommodated more U.S. policy changes that have shifted the burden of sheltering and offering asylum to non-Mexican migrants from the United States to Mexico and limited access to U.S. asylum processing for all migrants.<sup>106</sup> Amid surging arrivals, U.S. Customs and Border Protection (CBP) officials increasingly limited the number of migrants accepted daily for screening at ports of entry through a process called *metering*.<sup>107</sup> In January 2019, the Trump Administration launched the Migrant Protection Protocols (MPP), a program requiring many non-Mexican migrants processed at the southwestern border to be returned to Mexico to await their immigration proceedings.<sup>108</sup> To avoid U.S. tariffs, in June 2019, President López Obrador allowed the MPP to be expanded across the U.S.-Mexico border and to increase Mexico’s immigration enforcement efforts by deploying its National Guard.<sup>109</sup> Mexico’s apprehensions of migrants from Northern Triangle countries (El Salvador, Guatemala, and Honduras) totaled roughly 154,400 in 2019, up from 138,600 in 2018 but below the 177,950 apprehended in 2015. Asylum requests have doubled in Mexico each year since 2015, reaching 70,300 in 2019 (**Figure 5**, below).

In FY2020, the number of apprehensions at the U.S. southwestern border dropped by more than half and the composition of those arriving without documents changed, partially as a result of the COVID-19 pandemic. In FY2019, unprecedented numbers of migrants arrived in family groups, primarily from the Northern Triangle countries, many requesting asylum. In FY2020, by contrast, Mexican adults comprised 79% of apprehensions.<sup>110</sup> In late 2019, DHS relaunched interior repatriation flights for Mexicans to combat that trend.

<sup>104</sup> Prior to the Supreme Court decision, many DACA beneficiaries feared removal and the Mexican government expressed concern about their predicament. CRS Legal Sidebar LSB10497, *Supreme Court: DACA Rescission Violated the APA*, by Ben Harrington.

<sup>105</sup> CRS Report R45266, *The Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy*, by William A. Kandel; Mexican Ministry of Foreign Affairs, “Press Release 180: The Mexican Government Condemns U.S. Policy of Separating Migrant Families,” June 19, 2018.

<sup>106</sup> CRS Legal Sidebar LSB10559, *U.S. Customs and Border Protection’s Powers and Limitations: A Brief Primer*, by Hillel R. Smith; CRS In Focus IF11363, *Processing Aliens at the U.S.-Mexico Border: Recent Policy Changes*, by Hillel R. Smith, Ben Harrington, and Audrey Singer,

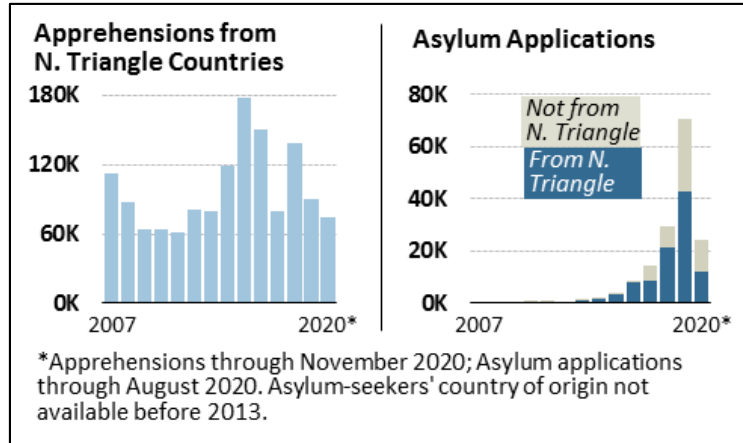
<sup>107</sup> The number of migrants waiting to be processed by U.S. Customs and Border Protection (CBP) on informal “wait lists” in Mexico peaked at some 26,000 in mid-2019. Stephanie Leutert et al., *Metering Update*, Strauss Center at the University of Texas at Austin, August 2019. The most recent update, published in November 2020, estimated that 15,690 migrants remained on wait lists.

<sup>108</sup> DHS, “Migrant Protection Protocols,” at <https://www.dhs.gov/migrant-protection-protocols>.

<sup>109</sup> U.S. Department of State, “Joint Declaration and Supplementary Agreement Between the United States of America and Mexico,” June 7, 2019, at <https://www.state.gov/wp-content/uploads/2019/09/19-607-Mexico-Migration-and-Refugees.pdf>.

<sup>110</sup> DHS, CBP, Customs and Border Protection, at <https://www.cbp.gov/newsroom/stats/sw-border-migration> and <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

**Figure 5. Mexico: Reported Apprehensions from Northern Triangle Countries and Asylum Applications**



**Source:** Created by CRS with information from Mexico's Secretary of the Interior.

In response to the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued an order on March 20, 2020, to restrict the entry of certain foreign nationals at U.S. land borders.<sup>111</sup> CBP is implementing the order—referred to as *Title 42* for the public health law it falls under—through at least January 21, 2020.<sup>112</sup> Although Title 42 does not direct CBP to suspend asylum processing, CBP reportedly is not formally screening most arrivals without valid documents for their eligibility for asylum or other protections under U.S. and international law.<sup>113</sup> Under Title 42, more than 316,500 migrants from Mexico and the Northern Triangle were expelled to Mexico through November 2020.<sup>114</sup>

Mexican border cities, some of which have high rates of violent crime, have been sheltering tens of thousands of migrants since 2019 due to metering, MPP, and Title 42. Among the concerns raised by human rights organizations is that the rapid expulsions reportedly have led to cursory medical screenings and few qualifying for existing humanitarian exceptions from expulsion.<sup>115</sup> CBP reportedly is not always following local repatriation agreements with Mexico that govern U.S. removals, nor is it limiting expulsions to larger U.S. ports of entry. As a result, expelled migrants sometimes have arrived at night in remote border towns with no officials to receive

<sup>111</sup> See CRS Insight IN11308, *COVID-19: Restrictions on Travelers at U.S. Land Borders*, by Audrey Singer.

<sup>112</sup> The order states that individuals without valid entry documents, those who attempt to enter unlawfully, or those apprehended between ports of entry must be returned “to the country from which they entered the United States, their country of origin, or another location as practicable, as rapidly as possible with as little time spent in congregate settings as practicable under the circumstances.”

<sup>113</sup> Dara Lind, “Leaked Border Patrol Memo Tells Agents to Send Migrants Back Immediately—Ignoring Asylum Law,” *ProPublica*, April 1, 2020.

<sup>114</sup> CBP, “Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions,” at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

<sup>115</sup> WOLA, “U.S. and Mexico Must Urgently Address Impact of Ongoing Deportations and Expulsions During COVID-19,” May 29, 2020.

them and few services.<sup>116</sup> With many shelters closed to new arrivals due to COVID-19, migrants have experienced precarious living situations and some have been attacked by criminal groups.<sup>117</sup>

Congress may continue to provide funding and oversight to address migration, border security, and related humanitarian and health issues on the U.S.-Mexican border and within Mexico. U.S. funds appropriated for the Mérida Initiative have supported Mexico's immigration control efforts and global funds provided through the Migration and Refugee Assistance to improve asylum processing, shelters, and assistance to migrants in Mexico.

## **Economic and Trade Relations and the U.S.-Mexico-Canada Agreement<sup>118</sup>**

The United States and Mexico have a strong economic and trade relationship that was bolstered through NAFTA. From 1994 through the USMCA's entry into force on July 1, 2020, NAFTA had removed virtually all tariff and nontariff trade and investment barriers among partner countries and provided a rules-based mechanism to govern North American trade. Most economic studies concluded the net economic effect of NAFTA on the United States and Mexico was small but positive, though there were adjustment costs to some sectors in both countries.

In 2019, Mexico became the United States' top total trade partner. Mexico ranked second as a source of U.S. merchandise imports and second as an export market for U.S. goods. The United States is Mexico's most important export market for goods, with 85% of Mexican exports destined for the United States. Merchandise trade between the two countries in 2019 was more than 7.5 times higher (in nominal terms) than in 1993, the year NAFTA entered into force. The merchandise trade balance went from a U.S. surplus of \$1.7 billion in 1993 (the year before NAFTA entered into force) to a widening deficit that reached \$101.8 billion in 2019.<sup>119</sup> In services, the United States had a trade surplus with Mexico of \$3.1 billion in 2019 (latest available data); it largely consists of travel, trade, business, and financial services.<sup>120</sup>

Total trade (exports plus imports) amounted to \$614.5 billion in 2019. Much of that trade occurs in the context of supply chains, as manufacturers in each country work together to create goods. The expansion of trade has resulted in the creation of vertical supply relationships, especially along the border. The flow of intermediate inputs produced in the United States and exported to Mexico and the return flow of finished products has increased the importance of the U.S.-Mexican border region as a production site.

Recent U.S. Administrations have worked with Mexico to coordinate economic issues. The Obama Administration worked with Mexico to balance border security with facilitating legitimate trade and travel, promote competitiveness, and pursue energy integration through a cabinet-level High-Level Economic Dialogue chaired by Vice President Biden. The High-Level Regulatory Cooperation Council helped align regulatory principles. Trilateral (with Canada) cooperation occurred under the aegis of the North American Leadership Summits.

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<sup>116</sup> Madison Lee Beal, "Rapid Migrant Expulsions Strain Mexican Border Community," *TucsonSentinel.com*, December 15, 2020.

<sup>117</sup> Human Rights First, *Delivered to Danger*, December 15, 2020.

<sup>118</sup> This section is drawn from CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

<sup>119</sup> Merchandise trade data in this report are from Global Trade Atlas.

<sup>120</sup> Services trade data in this report is from the U.S. Bureau of Economic Analysis (BEA) at <https://www.bea.gov/data>.

Not all of those mechanisms continued under the Trump Administration. However, the Executive Steering Committee (ESC)—which guided efforts along the border during the Obama Administration, as discussed below—expanded to focus on boosting competitiveness. The U.S.-Mexican CEO Dialogue also continued to convene biannual meetings and issue recommendations for both governments.

## Modernizing the U.S.-Mexican Border

Delays and unpredictable wait times have been a perennial problem at the U.S.-Mexico border. The majority of U.S.-Mexican trade passes through a port of entry along the southwestern border, often more than once, due to the increasing integration of manufacturing processes in the United States and Mexico. Past bilateral efforts have contributed to reductions in wait times at some points of entry, but infrastructure and staffing issues remain on both the U.S. and Mexican sides of the border. While public-private partnerships have been used to address some border infrastructure issues, the Trump Administration's deployment of customs officials to deal with surging unauthorized migration flows in 2019 arguably hindered trade.<sup>121</sup>

In May 2010, the United States and Mexico declared their intent to collaborate on enhancing the U.S.-Mexican border.<sup>122</sup> A Twenty-First Century Border Bilateral ESC has met since then, most recently in March 2020, to develop binational action plans and oversee implementation of those plans.<sup>123</sup> The ESC sets goals within broad objectives: coordinating infrastructure development, expanding trusted traveler and shipment programs, establishing pilot projects for cargo preclearance, improving cross-border commerce and ties, and bolstering information sharing among law enforcement agencies. Goals in some of these areas have faced challenges due to the Trump Administration's focus on border barrier construction.<sup>124</sup>

Since the COVID-19 outbreak in March 2020, a key challenge for U.S., Mexican, and Canadian officials has been how to maintain supply chains for industries deemed essential during the pandemic while protecting the health of workers employed in those sectors. Officials have communicated on a weekly basis to try to minimize the effects of border travel restrictions and to determine when current trade and travel restrictions can be safely lifted.<sup>125</sup> Congress may monitor how the incoming Biden Administration balances trade and infrastructure issues with other priorities along the southwestern border.

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<sup>121</sup> GAO, *U.S. Ports of Entry: Update on CBP Public-Private Partnership Programs*, GAO-19-263R, March 14, 2019; Daniel Borunda and Rafael Carranza, "'We Could see the Cartels say: This is an Opportunity': Shifting CBP Officers Could Leave Ports Vulnerable," *El Paso Times*, April 1, 2019.

<sup>122</sup> White House, "Declaration by the Government of the United States of America and the Government of the United Mexican States Concerning Twenty-First Century Border Management," press release, May 19, 2010. As mentioned, U.S.-Mexican security cooperation along the border did not begin with the Mérida Initiative.

<sup>123</sup> The Executive Steering Committee (ESC) coordinates efforts with Mexico in three areas: infrastructure, secure flows, and law enforcement/security. See U.S. Department of State, *United States-Mexico Bilateral Executive Steering Committee of the 21<sup>st</sup> Century Border Management Initiative*, March 4, 2020. At a working level, the U.S.-Mexico Bridges and Border Crossings group convenes an annual plenary meeting of federal officials from both countries and representatives from the border states in both countries to discuss infrastructure and other issues.

<sup>124</sup> Vanda Felbab-Brown, *Wall: the Real Costs of a Barrier Between the United States and Mexico*, Brookings, August 2017.

<sup>125</sup> U.S. Department of State, "North American Cooperation on COVID-19," May 12, 2020.

## U.S.-Mexico-Canada Agreement <sup>126</sup>

The USMCA replaced NAFTA upon its entry into force on July 1, 2020. In May 2017, the Trump Administration sent a 90-day notification to Congress of its intent to begin talks with Canada and Mexico to renegotiate and modernize NAFTA, as required by the 2015 Trade Promotion Authority (TPA). Negotiations began on August 16, 2017, and were concluded on September 30, 2018. USMCA was signed on November 30, 2018. The House Democratic leadership recommended modifications to USMCA (on labor, the environment, and dispute settlement, among other topics) that led to changes to the agreement and a subsequent negotiation with Mexico and Canada on a USMCA protocol of amendment on December 10, 2019. The House approved USMCA implementing legislation in December 2019, and the Senate followed suit in January 2020 (P.L. 116-113).

USMCA, composed of 34 chapters and 12 side letters, retains most of NAFTA's market opening measures and other measures, but it makes notable changes to auto rules of origin, dispute settlement provisions, government procurement, investment, and intellectual property right (IPR) protection. It also modernizes provisions in services, labor, and the environment and addresses new trade issues, such as digital trade, state-owned enterprises, anti-corruption, and currency misalignment. Key issues for Congress in the debate surrounding USMCA included worker rights protection in Mexico, IPR provisions and access to medicine, the enforceability of labor and environmental provisions, as well the constitutional authority of Congress over international trade and its role in revising, approving, or withdrawing from the agreement. Congress also was active in considering U.S. negotiating objectives and the extent to which USMCA made progress in meeting them, as required under the TPA.

ILAB is in the process of scaling up its personnel and programming in Mexico to support implementation of USMCA. In December 2020, the Department of Labor announced \$20 million in new grants to support USMCA implementation and will assist Mexico in meeting its labor obligations. These grants bring the total committed for this purpose by ILAB to nearly \$50 million in 2020. The goal of the assistance is to ensure enforcement of Mexican labor laws and legitimate collective bargaining rights; increase measures to mitigate COVID-19 among workers; and address child labor and forced labor in Mexico's supply chains, including the agricultural sector.<sup>127</sup> USMCA implementing legislation, P.L. 116-113, included \$180 million over four years for technical assistance projects related to the agreement and \$30 million to pay for labor attachés and other staff to monitor Mexico's USMCA compliance.<sup>128</sup>

On April 24, 2020, U.S. Trade Representative Robert Lighthizer notified Congress that Canada and Mexico had taken the legal and regulatory steps necessary to implement the USCMA and that the agreement would enter into force on July 1, 2020. On July 8, 2020, President Trump hosted President López Obrador at the White House to commemorate the USMCA's entry into force.<sup>129</sup> Canadian Prime Minister Justin Trudeau did not attend due to the COVID-19 pandemic.

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<sup>126</sup> This section is drawn from the summary of CRS Report R44981, *The United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson.

<sup>127</sup> U.S. Department of Labor, "U.S. Department of Labor Announces \$20 Million in New Grants to Support USMCA Implementation, Bringing the 2020 Total to Nearly \$50 Million," News Release, December 16, 2020.

<sup>128</sup> U.S. Department of Labor, Bureau of International Labor Affairs, "Labor Rights and the United States-Mexico-Canada Agreement (USMCA)," at <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>.

<sup>129</sup> The White House, "Remarks by President Trump and President López Obrador of the United Mexican States in Signing of a Joint Declaration," July 8, 2020.

Now that USMCA is in the implementation phase, Congress may wish to consider various issues regarding the agreement. These issues include how the new importing requirements under USMCA are being phased in and whether there has been sufficient time for importers to adjust to them; whether a further extension for implementation of the new rules of origin for the motor vehicle industry beyond January 2021 is needed;<sup>130</sup> how well Mexico is implementing labor law reforms to provide more workers' rights protection; whether the Department of Labor is adequately using funding provided by USMCA legislation to support implementation of Mexico's labor reforms; the effectiveness of the new enforcement measures, including the so-called *rapid response* mechanism;<sup>131</sup> and the extent to which USMCA's updated dispute resolution procedures are improving enforcement of the agreement's provisions.

### Selected CRS Products on the U.S.-Mexico-Canada Agreement

CRS Report R44981, *The United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson

CRS In Focus IF10997, *U.S.-Mexico-Canada (USMCA) Trade Agreement*, by M. Angeles Villarreal and Ian F. Fergusson

CRS Legal Sidebar LSBI0399, *USMCA: Implementation and Considerations for Congress*, by Nina M. Hart

CRS In Focus IF11308, *USMCA: Labor Provisions*, by M. Angeles Villarreal and Cathleen D. Cimino-Isaacs

CRS In Focus IF11167, *USMCA: Investment Provisions*, by Christopher A. Casey and M. Angeles Villarreal

CRS In Focus IF11399, *Enforcing International Trade Obligations in USMCA: The State-State Dispute Settlement Mechanism*, by Nina M. Hart

## Energy<sup>132</sup>

The future of energy production in Mexico is important for Mexico's economic growth and for the U.S. energy sector. Mexico has considerable oil and gas resources, but its state oil company (Pemex), has struggled to counter declining production and postponed needed investments due to fiscal challenges. Mexico's 2013 constitutional reforms on energy opened up oil, electricity, gas, transmission, production, and sales to private and foreign investment while keeping ownership of Mexico's hydrocarbons under state control, as established in its 1917 constitution.

The 2013 reforms created opportunities for U.S. businesses in exploration, pipeline construction and ownership, natural gas production, and commercial gasoline sales. Although the reforms did not privatize Pemex, they did expose the company to competition and hastened its entrance into joint ventures. Because of the reforms, Mexico has received more than \$160 billion in promised investment.<sup>133</sup> However, the reforms ended subsidies that kept gasoline prices low for Mexican consumers and failed to reverse production declines and ongoing problems within Pemex. While analysts still predict that the reforms will bring long-term benefits to the country, the Peña Nieto

<sup>130</sup> Anthony Esposito, Sharay Angulo, "Some Automakers Want More Time to Meet New Trade Rules, Mexican Official Says," Reuters, December 22, 2020.

<sup>131</sup> This mechanism provides for an independent panel investigations at covered facilities, with the potential for penalties and blocking of imports from the entities.

<sup>132</sup> For background on Mexico's energy reforms, see CRS Report R43313, *Mexico's Oil and Gas Sector: Background, Reform Efforts, and Implications for the United States*, coordinated by Clare Ribando Seelke, and CRS Report R44747, *Cross-Border Energy Trade in North America: Present and Potential*, by Paul W. Parfomak et al.

<sup>133</sup> Duncan Wood and John Padilla, *Mexico's new Hydrocarbons Model: a Critical Assessment Four Years Later*, Wilson Center & IPD Latin America, 2018 Wood and Padilla, 2018.

administration oversold their short-term impacts, which has emboldened those within the López Obrador government who have opposed private involvement in the sector.<sup>134</sup>

The United States sought to help lock in Mexico's energy reforms through the NAFTA renegotiations. NAFTA included some reservations for investment in Mexico's energy sector. USMCA reinforces Mexico's 2013 constitutional reforms and the current legal framework for private energy projects in Mexico. It includes investor-state dispute settlement mechanisms similar to those that existed in NAFTA for the oil and gas, infrastructure, and other energy sectors, even as those mechanisms were limited for other sectors.<sup>135</sup> In addition, the free trade agreement maintains tariff-free exports of U.S. natural gas to Mexico, which have increased significantly since the 2013 reforms.<sup>136</sup>

Private sector trade, innovation, and investment have created a North American energy market that is interdependent and multidirectional, with cross-border gas pipelines and liquefied natural gas (LNG) shipments from the United States to Mexico surging. In 2019, the value of U.S. petroleum products exports to Mexico totaled nearly \$30 billion, more than double the value of U.S. energy imports from Mexico (\$13 billion).<sup>137</sup> Some experts estimate that the United States, Mexico, and Canada represent 20% of global oil and gas supply, as well as 20%-25% of the expected additions to international supply over the next 25 years. They believe that deepened energy cooperation with Mexico will give North America an industrial advantage.<sup>138</sup>

López Obrador's energy policies have concerned energy investors. He opposed the 2013 reforms, but he and his top officials said his government will honor existing contracts that do not involve any corruption. Despite that commitment, the new government has halted future rounds of auctions and is upgrading existing refineries and constructing a new refinery in Tabasco to decrease reliance on U.S. natural gas. López Obrador's energy plans also focus on revitalizing Pemex, although the company's financial problems already have become a financial burden for the government and its credit rating has been downgraded to "junk" status by ratings agencies.<sup>139</sup> The government's decisions to halt new auctions in wind and solar energy and to freeze permitting for those types of projects, which also had attracted significant investment as a result of the reforms, have stalled at least 200 projects.<sup>140</sup>

Opportunities exist for continued U.S.-Mexican energy cooperation in the hydrocarbons sector, but the future of those efforts may depend on the policies of the López Obrador government. Leases have been awarded in the Gulf of Mexico under the U.S.-Mexico Transboundary Agreement, which was approved by Congress in December 2013 (P.L. 113-67). Bilateral efforts to ensure that hydrocarbon resources are developed without unduly damaging the environment could continue, possibly through collaboration between Mexican and U.S. regulatory entities. Educational exchanges and training opportunities for Mexicans working in the petroleum sector

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<sup>134</sup> Ibid; Duncan Wood et al., *Changing the Guard in Mexico: AMLO's Opportunities and Challenges*, July 2018.

<sup>135</sup> CRS In Focus IF11167, *USMCA: Investment Provisions*, by Christopher A. Casey and M. Angeles Villarreal.

<sup>136</sup> "USMCA Deal to Keep Tariffs off North American oil, gas Trade," *S & P Global Market Intelligence*, December 10, 2019.

<sup>137</sup> U.S. Energy Information Administration, "In 2019, the U.S. Imported \$13 Billion of Energy Goods from Mexico, Exported \$34 Billion," November 4, 2020.

<sup>138</sup> Earl Anthony Wayne and David Shedd, *Assuring Energy Security with a Modern NAFTA*, Wilson Center Mexico Institute, May 9, 2018.

<sup>139</sup> "Mexico and Pemex credit ratings cut by Moody's and Fitch," *LatinFinance*, April 20, 2020.

<sup>140</sup> Max De Haldevang and Amy Stillman, "AMLO's Nationalist Bent Casts 200 Energy Projects Into Limbo," *Bloomberg*, December 22, 2020.

could expand. The United States and Mexico could build upon efforts to provide natural gas resources to help reduce energy costs in Central America and connect Mexico to the Central American electricity grid, as discussed during conferences on Central America cohosted by both governments in 2017 and in 2018. Analysts also have urged the United States to provide more technical assistance to Mexico—particularly in deepwater and shale exploration.

In addition to monitoring energy-related issues as they pertain to USMCA, congressional oversight may involve broader issues related to the fairness of policies adopted by the López Obrador government toward foreign energy companies and investors.<sup>141</sup>

## Border Environmental Issues<sup>142</sup>

The transboundary flow of raw sewage and industrial wastewater has been a focus of bilateral environmental dialogue since at least the U.S.-Mexico Water Treaty of 1944. Effluent, trash, and sediment flowing into the United States from Mexico has caused health and environmental problems in the border region. Wastewater collection and treatment system capacity has not kept pace with rapid population growth in the border region. Also, the aging of existing wastewater infrastructure has led to increased maintenance issues, such as pipeline ruptures. To address border sanitation issues, Congress has appropriated funds for the International Boundary and Water Commission (IBWC), the U.S. Environmental Protection Agency (EPA), and the North American Development Bank (NADB) to construct or finance wastewater infrastructure on both sides of the border. Several sanitation facilities have been constructed, though continued transboundary flows require bilateral cooperation.

## International Boundary and Water Commission

The IBWC, consisting of U.S. and Mexico sections, implements boundary and water treaties between the United States and Mexico.<sup>143</sup> IBWC's activities are conducted through Minutes, which have the force of law when both the U.S. and Mexican governments provide written approval through their respective sections of the IBWC. To address the issue of transboundary effluent flows, the IBWC has taken actions under numerous Minutes.<sup>144</sup> Under this authority, IBWC has constructed and operates three wastewater treatment plants, two of which treat Mexican wastewater on the U.S. side of the border. These two wastewater treatment plants are the South Bay International Wastewater Treatment Plant in San Ysidro, CA, and the Nogales Wastewater Treatment Plant in Nogales, AZ. IBWC also operates the Nuevo Laredo Wastewater Treatment Plant in Nuevo Laredo, Mexico.

IBWC receives funds for construction activities through State Department appropriations. For FY2021, the State Department's budget request specified that \$29.4 million, requested for

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<sup>141</sup> Anthony Esposito, "U.S. Lawmakers Complain to Trump Over Mexican Energy Policy," Reuters, October 23, 2020.

<sup>142</sup> This section was authored by Elena Humphreys, Analyst in Environmental Policy.

<sup>143</sup> In 1882, the United States and Mexico created the International Boundary Commission (IBC) as a temporary boundary-setting body. See 1882 Boundary Convention, Article 3. The United States and Mexico reestablished the IBC in 1889 and made it permanent in 1900. See Convention Between the United States of America and the United States of Mexico, Extending for an Indefinite Period the Treaty of March 1, 1889, Between the Two Governments, Known as the Water Boundary Convention, U.S.-Mex., Nov. 21, 1900, 31 Stat. 1936. Treaty Between the United States of America and Mexico Respecting Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, U.S.-Mex., February 3, 1944, 59 Stat. 1219, at <https://www.ibwc.gov/Files/1944Treaty.pdf>. The 1944 Treaty, Article 3, states that the countries agree to give preferential attention to the solution of all border sanitation problems.

<sup>144</sup> These Minutes can be found at [https://www.ibwc.gov/Treaties\\_Minutes/Minutes\\_ByProject.html](https://www.ibwc.gov/Treaties_Minutes/Minutes_ByProject.html).



construction funds, be used for the Amistad Dam, flood control in the Rio Grande, and rehabilitating IBWC wastewater infrastructure in Nogales, AZ.<sup>145</sup> The FY2021 Consolidated Appropriations Act (P.L. 116-260) includes an appropriation of \$49.0 million for IBWC construction, \$12.1 million above enacted FY2020 IBWC construction appropriations.

Congressional appropriators have shown interest in increasing oversight regarding transboundary sewage flows. P.L. 116-260 includes a requirement for the Secretary of State, in coordination with the heads of other relevant federal agencies, to submit a report to the appropriations committee on the implementation of the interagency plan developed pursuant to the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), within 90 days of enactment. P.L. 116-94 directed the Secretary of State, as well as other relevant federal agencies, to develop a plan to

address the impacts of toxic transboundary flows on U.S. communities, including: (1) an explanation of the sources and impacts of such flows; (2) the delineation of responsibility between each agency and a description of necessary actions and resources for each agency to address such impacts; (3) steps that will be taken to raise the issue of transboundary flows with the Government of Mexico, including by utilizing U.S. assistance for Mexico to obtain improvements to prevent, divert, and/or treat toxic flows on the Mexican side of the border; and (4) steps that will be taken to improve the timeliness of warnings to U.S. communities regarding toxic conditions.

## North American Development Bank

In October 1993, the United States and Mexico adopted an agreement to establish the Border Environment Cooperation Commission (BECC) and the NADB to provide financial assistance for environmental infrastructure projects in the border region. The agreement noted the need for environmental infrastructure, especially in the areas of water pollution, wastewater treatment, and municipal solid waste. The BECC is authorized to help border states and communities coordinate, design, and mobilize financing for environmental infrastructure projects, and to certify projects for financing. The NADB evaluates the financial feasibility of BECC-certified projects and provides financing as appropriate. Congress authorized U.S. participation in the BECC and NADB in legislation implementing the North America Free Trade Agreement (P.L. 103-182). Enacted in 2004, P.L. 108-215 authorized several operational reforms to the NADB. In 2017, BECC and NADB were integrated into a single institution.<sup>146</sup>

The USMCA Implementation Act (P.L. 116-113), Title VIII, Subtitle C, called for U.S. NADB board members to urge NADB to prioritize financing environmental infrastructure projects (over road or commercial projects), streamline project certification and financing procedures, and develop project performance measures. The FY2021 Consolidated Appropriations Act (P.L. 116-260), Division O, Title VI, authorized the U.S. Treasury to contribute up to \$1.02 billion for U.S. shares of NADB capital stock.

## U.S. Environmental Protection Agency

Congress annually provides funding to EPA for high priority water and wastewater infrastructure projects in the U.S.-Mexican border region. In 1997, EPA and NADB entered into an agreement, under which EPA contributes much of its annual border infrastructure appropriation to NADB for

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<sup>145</sup> *Congressional Budget Justification Department of State, Foreign Operations, and Related Programs*, Washington, DC, March 11, 2019, p. 45, at <https://www.state.gov/wp-content/uploads/2019/05/FY-2020-CBJ-FINAL.pdf>.

<sup>146</sup> North American Development Bank (NADB), “NADB and BECC merge,” press release, November 7, 2017, <https://www.nadb.org/news/nadb-and-becc-merge>.

grants to construct water infrastructure on both sides of the border. For FY2021, Congress provided \$30 million for the Border Water Infrastructure Program (BWIP) through an EPA account in the Consolidated Appropriations Act, 2021.<sup>147</sup> EPA in turn provides these funds<sup>148</sup> to two programs: (1) the Project Development Assistance Program (PDAP) and (2) the Border Environment Infrastructure Fund (BEIF). The PDAP and BEIF programs are intended to identify and fund drinking water quality, wastewater management infrastructure projects, or both. Project sponsors can apply jointly to the PDAP/BEIF program through NADB, which screens for initial eligibility and prioritizes projects using EPA's ranking methodologies.<sup>149</sup> To be eligible for BEIF grants, projects located in Mexico must have a U.S. benefit and are required to provide a cost-share, as determined by the Mexican national water agency.

The USMCA Implementation Act (P.L. 116-113) includes a supplemental appropriation of \$300 million for EPA to support high-priority wastewater facilities, after consultation with the appropriate border commission.<sup>150</sup> The act directs EPA to carry out design, construction, operation, and maintenance activities of high-priority treatment works in the Tijuana River Valley to treat wastewater flows originating in Mexico.<sup>151</sup> EPA is directed to carry out such activities in coordination with the U.S. Section of the IBWC; federal agencies, including the Department of State and the U.S. Army Corps of Engineers; and state and local partners. In July 2020, EPA convened the USMCA Interagency Consultation Group, composed of the partners identified in the act, and later announced the selection of two projects to be funded with the USMCA supplemental appropriation.<sup>152</sup> Under a new memorandum of understanding with IBWC, EPA will design and construct a structure to divert 10 million gallons per day of flows to the South Bay International Wastewater Treatment Plant. EPA, working with the City of San Diego, also will develop a sediment and trash reduction strategy at the U.S.-Mexican border to mitigate such waste from going into the Pacific Ocean.<sup>153</sup>

## Water Resource Issues<sup>154</sup>

The United States and Mexico share the waters of the Colorado River and the Rio Grande. These shared rivers have long presented complex issues leading to cooperation and conflict in the U.S. - Mexican border region and between the United States and Mexico.

<sup>147</sup> The Joint Explanatory Statement for the Consolidated Appropriations Act, 2021, Division G, states that combined stormwater runoff and raw sewage abatement projects are eligible for BWIP.

<sup>148</sup> Funds are divided between the Environmental Protection Agency (EPA) Region 6 (for projects in New Mexico, Texas, Chihuahua, Nueva Leon, Coahuila, and Tamaulipas) and EPA Region 9 (for projects in Arizona, California, Baja California, and Sonora).

<sup>149</sup> Project application documents can be found at <https://www.nadb.org/infrastructure-financing/grants/border-environment-infrastructure-fund-beif-pdap>.

<sup>150</sup> The supplemental appropriation of \$300 million for high priority wastewater facilities in P.L. 116-113 parallels the FY2020 BWIP appropriation, which is for "the construction of high priority water and wastewater facilities."

<sup>151</sup> P.L. 116-113 §821.

<sup>152</sup> EPA, "EPA Announces Two Near-Term, Clean Water Projects in the Tijuana River," press release, October 2, 2020, <https://www.epa.gov/newsreleases/epa-announces-two-near-term-clean-water-projects-tijuana-river>.

<sup>153</sup> EPA, "EPA Announces Two Near-Term, Clean Water Projects in the Tijuana River," press release, October 2, 2020, <https://www.epa.gov/newsreleases/epa-announces-two-near-term-clean-water-projects-tijuana-river>.

<sup>154</sup> This section is drawn from CRS Report R45430, *Sharing the Colorado River and the Rio Grande: Cooperation and Conflict with Mexico*, by Nicole T. Carter, Stephen P. Mulligan, and Charles V. Stern.

The U.S.-Mexico Water Treaty of 1944 and other binational agreements guide how the two governments share the flows of these rivers.<sup>155</sup> The binational IBWC administers these agreements and includes a U.S. Section that operates under foreign policy guidance from the U.S. Department of State. Since 1944, the IBWC has been the principal venue for addressing river-related disputes between the United States and Mexico.

Under the U.S.-Mexico Water Treaty of 1944, the United States is required to provide Mexico annually with 1.5 million acre-feet of Colorado River water.<sup>156</sup> U.S. deliveries to Mexico in the Rio Grande basin near El Paso/Ciudad Juárez occur annually under a 1906 binational convention, whereas Mexico's deliveries downstream of Fort Quitman, TX, are established in the U.S.-Mexico Water Treaty of 1944. The 1944 treaty typically requires Mexico to deliver to the United States a minimum amount during a five-year cycle.

**Recent Developments in the Colorado River Basin.** The United States continues to meet its Colorado River annual delivery requirements to Mexico pursuant to the U.S.-Mexico Water Treaty of 1944. Recent IBWC actions on the Colorado River have focused on how to manage the Colorado River's water and infrastructure to improve water availability during drought and to restore and protect riverine ecosystems. The most recent minute governing basin operations, Minute 323 (signed in September 2017), is a set of binational measures that provides for cooperative basin water management, including environmental flows to restore riverine habitat. Minute 323 also provides for Mexico to share in cutbacks during shortage conditions in the U.S. portion of the basin, including delivery reductions under drought contingency plans authorized by Congress in April 2019.<sup>157</sup> In addition, Minute 323 designates a "Mexican Water Reserve" through which Mexico can delay its water deliveries from the United States and store its delayed deliveries upstream at Lake Mead, thereby increasing the lake's elevation.<sup>158</sup> For the Colorado River basin, issues before Congress may be largely related to oversight of Minute 323 implementation and water management associated with potential shortage conditions. Congress also may be interested in the upcoming 2026 expiration of Minute 323 and the negotiation of any extensions or replacement agreements in the interim.

**Recent Development in the Rio Grande Basin.** On multiple occasions since 1994, Mexico has not met its Rio Grande delivery obligations of 1,750,000 acre-feet within the five-year cycle established by the U.S.-Mexico Water Treaty of 1944, most recently during the five-year cycle from 2010 to 2015.<sup>159</sup> Mexico avoided ending the October 2015 to October 2020 cycle with a water delivery deficit as the result of a transfer to the United States of Mexican water stored at binational IBWC dams. The October 2020 Minute 325 provided that a shortfall would be avoided through the transfer of water stored at two IBWC dams from Mexican to U.S. ownership. Minute 325 resulted in the transfer of ownership of 144,728 acre-feet of water.<sup>160</sup> Minute 325 also

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<sup>155</sup> Another example of a water resource related treaty provision is Article IV of the 1970 Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, U.S.-Mex.

<sup>156</sup> Under the treaty, the United States must supply an additional 200,000 acre-feet when surplus is declared. During drought, the United States may reduce deliveries to Mexico in similar proportion to reductions of U.S. uses.

<sup>157</sup> Drought Contingency Plans for the Upper and Lower Colorado River Basin were enacted in April 2019 in P.L. 116-14. For more information, see CRS Report R45546, *Management of the Colorado River: Water Allocations, Drought, and the Federal Role*, by Charles V. Stern and Pervaze A. Sheikh.

<sup>158</sup> Lake Mead elevation is the baseline used by the United States for determining shortage conditions and associated water delivery cutbacks for the Lower Colorado River Basin states of Arizona, California, and Nevada.

<sup>159</sup> Mexico made up for those shortfalls in subsequent five-year cycles, as authorized under the U.S.-Mexico Water Treaty of 1944.

<sup>160</sup> Amount of the transfer is described in Letter from Jayne Harkins, Commissioner, U.S. IBWC, to Greg Abbott,

allowed for negotiation of an agreement for the potential temporary use of U.S. water for minimum municipal needs in Mexico below the Amistad Dam. In addition, Minute 325 indicated that two Rio Grande working groups are to be established as part of the efforts to reach a goal of developing a minute on increased reliability and predictability of Rio Grande deliveries to water users in the United States and Mexico by December 2023. To date, Congress has been primarily involved in conducting oversight through reporting requirements for the U.S. Department of State, such as those included in P.L. 116-6 (S.Rept. 115-282). Pursuant to the various reporting requirements, reports have been delivered to various committees of Congress, most recently in February 2020.

## U.S.-Mexican Health Cooperation

As with neighboring Canada, robust trade and migration and an extensive shared border have made health cooperation an important part of the U.S.-Mexican bilateral relationship.<sup>161</sup> Cooperation on public health efforts developed in response to the outbreaks of SARS (2002-2004) and H1N1 (2009). Trilateral efforts intensified in 2005 and proved important for preventing the spread of H1N1 from Mexico in 2009. The United States and Mexico increased health surveillance measures through robust information-sharing, and in 2012, the countries expanded focus from avian influenza to all influenzas. The current trilateral health architecture is led by the North American Health Security Working Group (NAHSWG) under the health systems strengthening and preparedness activities laid out in the 2012 North American Plan for Animal and Pandemic Influenza.<sup>162</sup> These activities include

- detecting, monitoring and controlling an outbreak;
- facilitating communication among entities in each country that need to respond to the outbreak;
- sustaining infrastructure and mitigating human, economic, and social impacts of an outbreak; and
- preventing the entry and spread of such outbreaks.

The U.S. government is represented on the NAHSWG by permanent attachés from the U.S. Department of Health and Human Services (HHS) and the CDC, among others. Mexico is one of five countries that has a permanent HHS representative tasked with leading health diplomacy, encouraging collaborative research, and serving as a key point of contact for the U.S. government in the event of an infectious disease outbreak.<sup>163</sup> There is also a U.S.-Mexican technical working group led by the CDC that shares information on laboratory capacity, investigative findings, and training, among other issues.<sup>164</sup> On March 20, 2020, the U.S. Department of Homeland Security issued a joint statement with Mexico announcing the suspension of nonessential travel between the two countries; the suspension has been extended through January 20, 2021. Since then, the

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Governor of Texas, November 3, 2020.

<sup>161</sup> This paragraph draws from Andrew I. Rudman and Duncan Wood, *Pandemics and Beyond: The Potential for U.S.-Mexican Cooperation in Public Health*, Woodrow Wilson Center's Mexico Institute, March 2020.

<sup>162</sup> Embassy of Mexico in the United States, "U.S.-Mexico Cooperation Framework on Health Issues," May 4, 2020.

<sup>163</sup> The other countries with HHS health attachés are Brazil, China, India, and South Africa. HHS, Office of Global Affairs, accessed April 27, 2020.

<sup>164</sup> DHS, "Joint Statement on U.S.-Mexico Joint Initiative to Combat the COVID-19 Pandemic," March 20, 2020.

United States, Canada, and Mexico have had difficulty balancing U.S. supply chain continuity (including for DOD) with differences in essential business determinations between countries.<sup>165</sup>

Another potential bilateral organization that thus far has not publicly played a large role in COVID-19 response is the U.S.-Mexico Border Health Commission. Established in 2000, this binational commission receives funding from HHS to finance state and local projects that focus on one of the five objectives of its *Healthy Border 2020* plan. One of those objectives is to address infectious diseases.<sup>166</sup> Legislation was introduced, H.R. 6070, the Border Health Security Act of 2020, that would have strengthened the border health commission and provided at least \$10.5 million annually for grants for border communities to improve disease surveillance and response efforts, among other actions.

## Outlook

U.S.-Mexican relations are likely to be tested in 2021 by ongoing security challenges and recent tension in security cooperation, as well as by serious economic and health challenges brought on by the COVID-19 pandemic. Most experts maintain the best way for both countries to weather these challenges is to continue working together and with Canada to ensure the best possible outcomes for North America, particularly as related to the USMCA's entry into force. Despite predictions to the contrary, Presidents Trump and López Obrador maintained relatively positive relations, as evidenced during a White House meeting in July 2020. Although many observers criticized President López Obrador for being one of the last world leaders to congratulate President-elect Biden on his victory, the two leaders had a cordial telephone conversation in December 2020. Biden reportedly expressed a desire to focus bilateral efforts to guarantee "safe and orderly migration, contain COVID-19, revitalize the economies of North America, and secure our common border."<sup>167</sup> The two leaders also discussed a shared desire to address the root causes of migration from the Northern Triangle. It is yet unclear how the López Obrador administration will respond if the Biden Administration also focuses on climate and clean energy issues, human rights, and anti-corruption efforts, three topics that figured prominently under President Obama. Congress is likely to maintain significant interest in Mexico, with trade, security, migration, health, and environmental issues as probable areas of funding and oversight efforts.

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<sup>165</sup> Adam Behsudi, "Mexico's Covid-19 Response Threatening North American Supply Chains," *Politico*, April 24, 2020.

<sup>166</sup> HHS, Office of Global Health Affairs, "U.S.-Mexico Border Health Commission Activities."

<sup>167</sup> Biden-Harris Transition, "Readout of President-elect Joe Biden's Call with President Andrés Manuel López Obrador," December 19, 2020.

## Appendix. Mérida Initiative Funding

**Table A-1. Estimated Mérida Initiative Funding: FY2008-FY2021**

\$ in millions

Account	ESF	INCLE	FMF	Total
FY2008	20.0	263.5	116.5	<b>400.0</b>
FY2009	15.0	406.0	39.0	<b>460.0</b>
FY2010	9.0	365.0	265.2	<b>639.2</b>
FY2011	18.0	117.0	8.0	<b>143.0</b>
FY2012	33.3	248.5	Not app.	<b>281.8</b>
FY2013	32.1	190.1	Not app.	<b>222.2</b>
FY2014	35.0	143.1	Not app.	<b>178.1</b>
FY2015	33.6	110.0	Not app.	<b>143.6</b>
FY2016	39.0	100.0	Not app.	<b>139.0</b>
FY2017	40.9 <sup>a</sup>	90.0	Not app.	<b>130.9</b>
FY2018	39.0 <sup>b</sup>	100.0	Not app.	<b>139.0</b>
FY2019	39.0 <sup>c</sup>	110.0	Not app.	<b>149.0</b>
FY2020	33.0 <sup>d</sup>	100.0	Not app.	<b>133.0</b>
<b>Total</b>	<b>386.9</b>	<b>2,343.2</b>	<b>428.7</b>	<b>3,158.8</b>
FY2021	50.0 <sup>e</sup>	100.0	Not app.	TBD

**Sources:** U.S. Agency for International Development (USAID) budget office, November 3, 2016; U.S. Department of State, November 18, 2016; P.L. 115-141; P.L. 116-6; U.S. Department of State, *Congressional Budget Justification for Foreign Operations, FY2020, FY2021*; Explanatory statement accompanying P.L. 116-94; Explanatory statement accompanying P.L. 116-260.

**Notes:** ESF = Economic Support Fund; INCLE = International Narcotics Control and Law Enforcement; FMF = Foreign Military Financing. FY2008-FY2010 included supplemental funding.

- For FY2017, Mérida programs administered by the U.S. Agency for International Development (USAID) were funded through the Development Assistance account rather than ESF.
- Of the \$45 million in funds appropriated for ESF, some \$6 million supported non-Mérida Initiative programs.
- Of the \$45 million in funds appropriated for ESF, some \$6 million supported non-Mérida Initiative programs.
- Of the \$50 million in funds appropriated for ESF, an estimated \$13 million will be used to support non-Mérida Initiative programs focused on clean energy and sustainable landscapes. USAID, CN #71, December 16, 2020.
- Congress appropriated \$50 million in ESF for Mexico in FIND, but USAID has yet to notify Congress on how much of those funds will support Mérida Initiative programs.

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