Order Code IB10070

CRS Issue Brief for Congress

Received through the CRS Web

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

Updated March 20, 2002

K. Larry Storrs

Foreign Affairs, Defense, and Trade Division

Contents

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

SUMMARY

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

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

Immigration. Following major immigration reforms in 1996, Congress acted to enlarge the Border Patrol and to strengthen controls along the border. Despite Mexican complaints about these efforts, the two countries issued a Binational Study on Migration in November 1997, and since the mid-1990s, have been consulting regularly on border safety and consular issues. In early September 2001 meetings, Presidents Fox and Bush praised the work of the high-level working group on migration begun in February 2001, and instructed it to reach agreements as soon as possible on border safety, a temporary worker program, and the status of undocumented Mexicans in the United States. Despite recent security concerns, migration and border control will be topics in the Bush-Fox meetings in Monterrey, Mexico on March 22, 2002.

Drug Trafficking. After the January 2001 escape from prison of a major drug lord, President Fox announced a national crusade against drug trafficking and corruption. During the February and September 2001 Bush-Fox meetings, the leaders agreed to strengthen law enforcement cooperation. In late 2001, Congress passed the FY2002 Foreign Operations Appropriations bill (H.R. 2506/P.L. 107-115), which suspended the drug certification requirements for one year. U.S. officials praised Mexico's counter-narcotics efforts when the State Department issued the International Narcotics Control Strategy Report in early March 2002. Mexican authorities captured Mexican drug lord Benjamin Arellano-Felix on March 9, 2002, and confirmed the previous killing of his brother Ramon in a police shoot-out.

Political and Human Rights. Recent human rights concerns in Mexico have focused on the killing of human rights lawyer Digna Ochoa on October 19, 2001, prompting criticisms and calls for action. Subsequently, President Fox freed two anti-logging activists in November 2001, and a military critic in February 2002, who had been characterized as political prisoners by human rights groups. President Fox also welcomed a report by the National Human Rights Commission on human rights violations in the 1970s and early 1980s, and designated a special prosecutor in early 2002 to prosecute those responsible for the past abuses. The State Department's March 2002 human rights report on Mexico, hile noting progress, found many continuing violations of human rights.

Most Recent Developments

On March 4-5, 2002, Homeland Security Director Tom Ridge and other U.S. officials visited Mexico to explore opportunities to improve border security. On March 9, 2002, Mexican authorities announced the arrest of drug lord Benjamin Arellano-Felix and the probable death of his brother Ramon Arellano Felix in a police shoot-out a month earlier. On March 14, 2002, the authorities announced the arrest of Manuel Herrera Barraza, another key figure in the Arellano Felix organization. On the days prior to President Bush's upcoming visit to Monterrey, Mexico, on March 22, 2002, to attend the International Conference on Financing for Development and to discuss bilateral issues with President Fox, press accounts suggest that he was considering proposals to create a new border control agency and that he would offer to provide $30 million in U.S. assistance for poor areas in Mexico under the U.S.-Mexico Partnership for Progress.

Background and Analysis[1]

U.S.-Mexico Relationship

Major Bilateral Linkages

Mexico surpassed Japan in 1999 to became the United States' second most important trading partner following Canada. It is also one of the leading countries in Latin America in terms of U.S. investment, with total stock of investment of about $34 billion in 1999. In addition, cooperation with Mexico is vital in dealing with illegal immigration, the flow of illicit drugs to the United States, and a host of border issues.

The United States is Mexico's most important customer by far, receiving about 87% of Mexico's exports, including petroleum, automobiles, auto parts, and winter vegetables, and providing about 77% of Mexico's imports. The United States is the source of over 60% of foreign investment in Mexico, and the primary source of important tourism earnings.

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

---

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

Fox Administration

Vicente Fox of the conservative Alliance for Change was inaugurated as President on December 1, 2000, for a 6-year term, promising to promote free market policies, to strengthen democracy and the rule of law, to fight corruption and crime, and to end the conflictive situation in the state of Chiapas. Fox's inauguration ended 71 years of presidential control by the long dominant party.

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

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

Economic and Social Challenges. Mexico has suffered from the effects of the slowdown in the United States, declining oil prices, and the decline in tourism following the September 2001 terrorist attacks. With over 80% of the country's exports going to the United States, Mexico's economy contracted 0.8% in 2001 and is projected to grow modestly (1.4%) in 2002, dependent upon recovery in the United States, despite economic growth averaging over 5% in the previous six years. President Fox was forced to cut the 2001 government budget three times to compensate for a $1.4 billion shortfall in expected government receipts, and he proposed an austere budget for 2002. With no party having a majority in Congress, a patchwork version of the tax and fiscal reform was passed at the end of the year, significantly reducing the anticipated resources to be devoted to health and education. Facing continuing opposition in Congress, many observers wonder if Fox will be able to obtain approval of major legislation, including a proposed energy reform that would permit greater private participation in the hydrocarbon and electricity sectors.

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

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

Foreign Policy Challenges. President Fox and Foreign Minister Castaneda have indicated that Mexico will pursue a more activist and diversified foreign policy, with greater involvement in UN activities, and stronger ties to Latin America and Europe. President Fox has promoted the so-called Puebla-Panama Plan, which would provide for cooperative development efforts among the Central American countries and the southeastern states of Mexico. He is reviving the G-3 group (Colombia, Venezuela, and Mexico), seeking better ties with the Southern Common Market (Mercosur) countries in South America, and he has sought to expand trade with the European Union under the EU-Mexico Free Trade Agreement that went into effect in July 2000. The Fox Administration has indicated that it will be more aggressive in defending the interests of Mexicans living abroad and it established a Special Office for Mexicans Abroad.

On various occasions, President Fox has indicated that he expects to have warm and friendly relations with the United States, and he has called for greater cooperation under NAFTA and for a more open border between the countries over time. In 2001, Presidents Fox and Bush met in mid-February in Mexico, in mid-April in Canada, in early May in the United States, in early September in the United States on an official state visit, and in early October in the United States when President Fox expressed solidarity with the United States following the terrorist attacks. The leaders set in motion procedures to advance progress on trade, migration, drug trafficking, and other issues.

Bilateral Issues for Congress

Trade Issues

Trade between Mexico and the United States has grown dramatically in recent years, encouraged by the adoption of the North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada. Total U.S. trade with Mexico increased from $81.5 billion in 1993 (exports of $41.6 billion; imports of $39.9 billion) to $247.2 billion in 2000 (exports of $111.3 billion; imports of $135.9 billion) and declined slightly to $232.9 billion in 2001 (exports of $101.5 billion; imports of $131.4 billion). However, the U.S. trade balance with Mexico has shifted from a surplus of $1.3 billion in 1994 to a generally growing deficit of $29.9 billion in 2001, in part because of the late 1994 devaluation of the peso which made Mexican products cheaper. This change in the trade balance has caused some Members of Congress to question the benefits of NAFTA. Despite the deficit, Mexico is one of the fastest growing export markets for the United States in recent years, and it became the second most important trading partner after Canada in 1999.

The NAFTA agreement was negotiated in 1991 and 1992; side agreements on labor and environmental matters were completed in 1993; the agreements were approved by the respective legislatures in late 1993 and went into force on Jan. 1, 1994. Under the agreements, trade and investment restrictions are being eliminated over a 15 year period, with most restrictions eliminated in the early years of the agreement. On July 11, 1997, the Clinton Administration released a required report on the first 3 years of operations under NAFTA that argued that NAFTA had had a modest positive impact on U.S. jobs and income, and had facilitated Mexico's economic recovery following the peso crisis of 1994-1995. In subsequent statements, Clinton and Bush Administration spokesmen argued that NAFTA has been successful in increasing U.S. exports to Mexico, particularly heavily protected areas such as agricultural products, and in creating jobs and strengthening the economy.

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

Functioning of NAFTA Institutions. Since 1994, the NAFTA institutions mandated by the agreements have been functioning. The tripartite Commission on Environmental Cooperation (CEC) was established in Montreal, Canada; and the Commission for Labor Cooperation (CLC) was established in Dallas, Texas. In addition, the bilateral Border Environment Cooperation Commission (BECC), located in Ciudad Juarez, Mexico; and the North American Development Bank (NADBank), headquartered in San Antonio, Texas, were created to promote and finance border environment projects along the U.S.-Mexico border. During the Bush-Fox talks in Washington, D.C. in early September 2001, the two presidents pledged to take steps to strengthen the North American Development Bank and the Border Environmental Cooperation Commission.

These NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider non- governmental petitions under the labor and environmental side agreements. Under the **labor** side agreement, 23 petitions have been submitted alleging non-compliance by one of the NAFTA countries with existing labor legislation, and 14 of these have been against Mexico: five submissions were advanced to the next stage of ministerial consultations, although negotiations are ongoing in two cases; two submissions were essentially dropped on grounds that the workers who were fired in Mexico accepted severance pay; two submissions were withdrawn, in one case when Mexico recognized a union just before a scheduled hearing; one submission was rejected on procedural grounds, although a study on reconciliation of the right to strike and national interests was initiated; and one submission is pending.

In one case advanced to ministerial consultation, involving the dismissal of workers for union organizing activities at a SONY electronics plant in Nuevo Laredo, Mexico, the labor ministers agreed to a plan of action including meetings with the affected workers, public seminars, and studies of union registration procedures. In the case of alleged discrimination against pregnant Mexican workers in border assembly (maquiladora) plants, ministerial consultations led to an implementation agreement and a conference on the rights of working women. With regard to the union association and health and safety issues in the Han Young maquiladora plant in Tijuana and the Itapsa maquiladora plant in the state of Mexico, ministerial consultations were held and negotiations are continuing.

Under the trilateral CLC, the countries are cooperating in many areas, especially occupational safety and rights of working women and children. Some argue that the provisions have encouraged Mexico to enforce its own labor legislation. Others argue that the provisions have been extremely weak and that numerous abuses persist. (For more information on the functioning of this institution, see CRS Report 97-861, *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate*, by Mary Jane Bolle.)

Under the **environmental** side agreement, 26 petitions have been submitted alleging non-compliance with environmental legislation, but only 9 of these have involved Mexico: in the major case involving the environmental impact of the construction of a cruise boat port in Cozumel, Mexico, the Council requested a response from the Mexican government and after evaluation directed the CEC Secretariat to prepare a full factual record on the case to highlight deficiencies; in two cases involving pollution of the Magdalena River and Lake Chapala the Council is reviewing the response from the Mexican government; in three recent cases the Council has requested responses from the Mexican government; in another case the complaint is still being reviewed; and another case was rejected on grounds that it did not allege a violation of environmental law. The CEC is cooperating on many environmental projects, including the North American Bird Conservation Initiative to protect birds and conserve bird habitats; the Upper San Pedro River Initiative to protect this Sonora-Arizona eco-system that is an important corridor for millions of migratory birds; and the Sound Management of Chemicals Project to dramatically reduce the use of PCBs, DDT, chlordane, mercury, and other pollutants. (For more information, see CRS Report 97-291, *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.)

Recent Trade Disputes. The major trade disputes between the countries involve the access of Mexican trucks to the United States, opening the Mexican telecommunications sector to international long distance competition, the access of Mexican sugar and tuna to the U.S. market, and the access of U.S. sweeteners to the Mexican market.

With respect to trucking issues, the Mexican government objects to the United States failure to allow Mexican trucks to have access to U.S. highways under the terms of the NAFTA pact, and a NAFTA dispute resolution panel supported Mexico's position in February 2001. President Bush indicated a willingness to implement the provision, but the U.S. Congress required additional safety provisions in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87). According to press accounts, the additional inspection requirements and facility enhancements may be in place by June 2002.

Regarding telecommunications issues, the United States filed a complaint with the WTO in August 2000, following previous warnings, over Mexico's failure to reduce Telmex's continuing dominant position in the telecommunications industry. A late December 2000 agreement between Telmex and rival carriers Alestra and Avantel, under which Telmex agreed to lower interconnection fees, was said to reduce the likelihood that the United States will pursue the complaint with the WTO. However, the USTR's April 2001 report on telecommunication trade barriers cited Mexico for continued failure to open its long-distance market to competition, and in mid-February 2002, it requested a WTO dispute resolution panel to rule on the U.S. complaint.

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

On tuna issues, the United States lifted the embargo on Mexican tuna in April 2000, after procedures were worked out to permit the unharmed release from nets of dolphins. However, a federal judge in San Francisco blocked the Clinton Administration's plan to loosen the standards of a 1990 law for a dolphin-safe label, saying that the standards of the law had not been met. While the Administration appealed the case, the Federal Appeals Court in San Francisco ruled unfavorably on July 23, 2001, prompting criticism from Mexican fishers who had hoped to be rewarded for their efforts.

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

Immigration Issues

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

Mexico benefits from illegal migration in at least two ways: (1) it is a "safety valve" that dissipates the political discontent that could arise from higher unemployment in Mexico; and (2) it is a source of remittances by workers in the United States to families in Mexico, ranging, according to widely varying estimates, from $1 billion to $10 billion.

The main U.S. mechanism for controlling illegal immigration in the past was the Immigration Reform and Control Act of 1986 (P.L. 99-603), which was passed by Congress in late 1986. Main provisions of the Act include civil and criminal penalties for U.S. employers who knowingly hire undocumented workers; increased border control and enforcement measures; anti-discrimination safeguards; provision for amnesty or legalization for illegal aliens who resided continuously in the United States before 1982; and a special legalization for farm workers previously employed on American farms.

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

Clinton Administration and Congressional Initiatives to Curb Immigration. The Clinton Administration sought to control illegal entry into the United States with improved technology and additional Border Patrol agents and INS inspectors, using a strategy known as "prevention through deterrence," modeled upon two border initiatives, Operation Hold the Line in the El Paso area and Operation Gatekeeper in the San Diego area. With regard to bilateral cooperation with Mexico under Clinton, the countries formalized consultations through the Border Liaison Mechanisms, issued a Binational Study on Migration in 1997 that found that unauthorized migration carries costs for both countries, and pursued a Border Safety Campaign in recent years to reduce violence on the border through public information campaigns, search and rescue programs, and cooperation between U.S. and Mexican officials. In mid-May 2000, following expressions of concern over private ranchers detaining Mexican migrants in Arizona, the governments announced at the Binational Commission meetings that they would prosecute any unlawful behavior by private citizens, combat migrant smugglers, and expand regular consultation mechanisms.

Congress passed two major immigration reform measures in 1996 to control illegal immigration and to limit the eligibility of aliens for federal programs. One was the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of the Omnibus Consolidated Appropriations Act for FY1997 (H.R. 3610/P.L. 104-208). The other was the 1996 welfare law entitled the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (H.R. 3734/P.L. 104-193). The first measure sought to control illegal immigration by adding 1,000 Border Patrol agents per year for 5 years (FY1997-FY2001), along with additional personnel, equipment, and procedures. Both measures reduced the attractiveness of immigration by restricting the eligibility of aliens for federal programs. (See CRS Report 95-881, *Immigration Legislation in the 104th Congress*, by Joyce Vialet, et al.)

Congress also increased funding for the Immigration and Naturalization Service, including the Border Patrol, through the regular Commerce, Justice, State, and Judiciary Appropriations Acts, more than tripling INS's budget from $1.5 billion in FY1993 to $6.2 billion in FY2002. (For more details, see CRS Report RS20908, *Immigration and Naturalization Service's FY2002 Budget*.) With various groups, including the AFL-CIO in February 2000, calling for amnesty for illegal immigrants in the United States and a more lenient immigration policy, legislation was enacted in 2000 to increase the number of temporary H-1B professional workers, and Congress considered measures to increase the number of H-2A agricultural workers and to legalize the status of undocumented aliens through registry and various forms of amnesty. (See the following CRS reports by Ruth Ellen Wasem: CRS Report RL30780, *Immigration Legalization and Status Adjustment Legislation*, and CRS Report RL30852, *Immigration of Agricultural Guest Workers: Policy, Trends, and Legislative Issues*.)

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

During the opening day of President Fox's official visit to Washington, D.C., in early September 2001, he called for the two governments to reach agreement on migration proposals by the end of the year. The Joint Communique at the end of the meeting called for the countries to reach agreement as soon as possible on a range of issues, including border safety, a temporary worker program, and the status of undocumented Mexicans in the United States. However, following the September 2001 terrorist attacks, some policy makers called for tighter border controls. On October 29, 2001, President Bush issued a presidential directive calling for measures to improve the tracking of terrorists, to review student visa policies, and to better coordinate the sharing of immigration and customs information with Mexico and Canada.

In the period leading to President Bush's trip to Mexico, the House approved H.Res. 365 on March 12, 2002, under suspension of rules, to concur with the Senate version of H.R. 1885, with an amendment changing the title of the measure and combining immigration and border security provisions. The measure would extend the filing deadline for the adjustment to legal status of undocumented persons, including Mexicans, under Section 245(i) of the Immigration and Nationality Act to the earlier of November 30, 2002, or four months after the issuance of regulations; and it would provide for enhanced border security and visa entry reform, including biometric identification of applicants and sharing of information among agencies. The *New York Times* reported on March 20, 2002, that President Bush was poised to approve and propose to Congress a new border control agency in the Justice Department that would merge Customs and INS/Border Patrol.

Drug Trafficking Issues

Nature of the Problem. Mexico remains a major supplier of heroin, methamphetamine, and marijuana, and the transit point for more than one half of the cocaine sold in the United States. Although U.S.-Mexico counter-narcotics efforts have been marked by distrust at times, relations have been improving in recent years. Responding to U.S. criticisms of widespread corruption, Mexican officials point to the policemen and soldiers killed in confrontations with narcotics traffickers as evidence of their commitment to controlling the problem. They also criticize U.S. officials for failing to do more to control U.S. demand for drugs, noting that the problem is one of supply and demand.

Presidential Certifications and Congressional Reactions. In general, the Clinton Administration's drug control policy in the domestic area stressed drug treatment and prevention, and in the international area it devoted more attention to eradication and source country institution building, particularly law enforcement and judicial institutions.

Under recent pressure from Congress, through mechanisms like the Western Hemisphere Drug Elimination Act and the Supplemental FY1998 Appropriations Act, additional funding was provided to strengthen the Border Patrol and international interdiction efforts, including $90 million in Southwest Border enhancements. In other actions, congressional resolutions to disapprove President Clinton's certification of Mexico as fully cooperative in drug control efforts were introduced in 1997, 1998, and 1999, in both houses but never fully enacted. In 1999, Congress passed the Foreign Narcotics Kingpin Designation Act, Title VIII of the Intelligence Authorization Act for FY2000 (H.R. 1555/P.L. 106-120), which strengthened the President's authority under the International Emergency Economic Powers Act (IEEPA) to block the assets in the United States of designated international drug traffickers, and six well known Mexican drug lords were designated in June 2000. In early 2000, while some Members of Congress criticized Mexico's counter-drug efforts, no resolutions of disapproval were introduced in either house to overturn President Clinton's certification of Mexico. Following the July 2000 election of Vicente Fox as President of Mexico, bills were introduced but not enacted to exempt Mexico from the drug certification requirements or to modify the requirements. (For details, see CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2001*.)

President Bush certified, on March 1, 2001, as previous presidents had done, that Mexico had been a fully cooperative country in efforts to control drug trafficking. He cited the arrest of two key members of the Tijuana-based Arellano Felix Organization, aggressive eradication programs, and growing cooperation with the United States by the new Fox Administration. President Fox came to office pledging to attack corruption and drug trafficking, and he renewed that pledge in January 2001 following the escape from a high security prison in the state of Jalisco of reputed Mexican drug lord Joaquin "El Chapo" Guzman. The Fox administration has fired many customs and anti-drug agents for corruption and has permitted the extradition of Mexican drug lords to the United States for prosecution following a favorable decision by the Mexican Supreme Court in January 2001, although the

Supreme Court ruled in October 2001 that life imprisonment is unconstitutional and a bar to extradition for fugitives facing that penalty in another country.

In presidential meetings, Presidents Bush and Fox have agreed to enhance law enforcement and counter-narcotics cooperation, and President Fox has called for reform of the U.S. drug certification process. The Senate Foreign Relations Committee reported out S. 219 in April 2001 and S. 1401 (Foreign Relations Authorization for FY2002-FY2003) in August 2001, with similar language in Sections 741-745, that would modify the drug certification process for 3 years, require designation of the countries subject to sanctions only, and encourage development of a multilateral strategy. Although congressional action on S. 219 or S. 1401 is still pending, the drug certification requirements were temporarily modified in late 2001 by enactment of the Foreign Operations Appropriations Act for FY2002 (H.R. 2506/P.L. 107-115). This measure waived the drug certification requirements for FY2002 and required the President to designate only countries that had demonstrably failed to meet international counter-narcotics obligations in line with provisions in S. 1401. (For details on the various measures, see CRS Report RL30892, *Drug Certification Requirements and Congressional Modifications in 2001*; and CRS Report RL30950, *Drug Certification Procedures: A Comparison of Current Law to S. 219 and S. 1401 as Reported*, by K. Larry Storrs.)

The Bush Administration's overall drug control policy, as articulated in February 2002, seeks to prevent drug use before it starts through education and community action, to provide adequate treatment resources for drug users, and to disrupt the marketplace for drugs at home and abroad through eradication, interdiction, and anti-money-laundering activities. According to the State Department's March 2002 International Narcotics Control Strategy Report, Mexico remains a major supplier of heroin, methamphetamine, and marijuana, and the transit point for more than one-half of the cocaine sold in the United States. The report stated that Mexico's efforts have resulted in tangible successes against the three major drug cartels in the country – the Arellano Felix Organization (AFO), the Carrillo Fuentes Organization (CFO), and the Gulf Cartel. It also noted that the Fox Administration sustained the aggressive eradication program carried out by past administrations and increased the quantities of drugs seized. On March 9, 2002, Mexican authorities announced the arrest of drug lord Benjamin Arellano-Felix and the probable death of his brother Ramon Arellano Felix in a police shoot-out a month earlier. On March 14, 2002, the authorities announced the arrest of Manuel Herrera Barraza, another key figure in the Arellano Felix organization.

Political and Human Rights Issues

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

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

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

In the period leading to the July 2000 elections, former Government Minister Francisco Labastida was selected as the candidate of the PRI in an open nation-wide primary. Efforts by the PAN and the PRD to agree on a common candidate for the opposition came to an impasse, and former Governor of Guanajuato Vicente Fox was designated as the presidential candidate for the PAN, and former mayor of the Mexico City Federal District Cuauhtemoc Cardenas was designated as the presidential candidate for the PRD. On July 2, 2000, Vicente Fox of the Alliance for Change (PAN/PVEM) was elected President with 42.52% of the vote, marking the first election of a president from an opposition party in 71 years and erasing many doubts about the fairness of elections. (For more detail, see CRS Report RS20611, *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000,* by K. Larry Storrs.)

In subsequent elections, a coalition of opposition parties (PAN, PRD, etc.) won the governorship in the state of Chiapas in August 2000, the PRI won a majority in municipal and state legislature elections in the state of Veracruz in September 2000, the PRI won a governorship in disputed elections in the state of Tabasco in October 2000 (subsequently annulled by the Federal Electoral Tribunal), and the PAN won a governorship in a close race in the state of Jalisco in November 2000. After intervention by the Federal Electoral Tribunal to ensure the neutrality of the State Electoral Council in Yucatan, the candidate of the PAN-PRD coalition won the governorship of Yucatan in June 2001. The PRI won the governorship in Tabasco in the re-run election in August 2001, ending a string of PRI defeats in southern states. In other recent elections, on July 1, 2001, the PRI won control of the state legislature and most municipalities in the state of Chihuahua but lost to the PAN in a disputed mayoral election in the major border city of Ciudad Juarez. On July 8, 2001, the PAN demonstrated continuing dominance in Baja California, winning the governorship, 4 of 5 mayoral races, and 14 of 16 seats in the state legislature. On November 11, 2001, PRD candidate Lazaro Cardenas, the scion of a famous family, won the gubernatorial election in Michoacan.

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

President Zedillo took a number of steps to deal with these abuses, including continuing support for the National Human Rights Commission. He named Antonio Lozano of the opposition PAN as Attorney General in 1994 and ordered him to carry out a major reform of the judicial and law enforcement system to eliminate corruption and human rights abuse. Judicial reform was approved in December 1994, increasing the independence and autonomy of the Supreme Court and of the Attorney General's Office. Under Zedillo, major attention focused on the December 1997 killing of 45 indigenous peasants in the village of Acteal in the state of Chiapas by armed men said to be linked to the PRI. President Zedillo urged prompt prosecution, and some 82 remain in detention, 51 serving prison sentences after conviction and others awaiting trial, with six freed on appeal for lack of evidence.

President Fox, even before taking office, appointed well known human rights activist Mariclaire Acosta as a Special Ambassador for Human Rights, and Mexican spokesmen have asserted that Mexico will be open to visits by human rights organizations and foreign visitors and will take strong human rights positions. Immediately after his inauguration, President Fox signed an agreement with the United Nations to provide technical assistance on human rights. The killing of human rights lawyer Digna Ochoa y Placido on October 19, 2001, has raised questions about the government's human rights policies, and prompted calls for prompt action by the government from domestic and foreign human rights organizations. President Fox freed two well known Mexican environmentalists that Digna Ochoa had represented and defended, namely Rodolfo Montiel and Teodoro Cabrera, on November 8, 2001. The National Commission on Human Rights presented a report to President Fox, on November 27, 2001, that documented human rights abuses and disappearances of persons in the 1970s and early 1980s, and President Fox named legal scholar Ignacio Carrillo as a Special Prosecutor to investigate these and other cases on January 4, 2002. President Fox ordered the release from prison of General Jose Francisco Gallardo on February 9, 2002, but did not pardon him, despite the fact that human rights groups argue that his conviction in military courts for theft and corruption was fabricated because of his advocacy of a human rights ombudsman for the Mexican military. The State Department's March 2002 human rights report on Mexico states that Fox Administration efforts to improve the human rights situation continued to meet with limited success.

LEGISLATION

P.L. 107-87, **H.R. 2299**

Department of Transportation Appropriations, FY2002. H.R. 2299 was reported out by the House Appropriations Committee (H.Rept. 107-108) on June 22, 2001. It passed in the House on June 26, 2001, with the Sabo amendment, approved 285-143, to prohibit the use of funds to process applications by Mexico-domiciled motor carriers for authority to operate beyond border commercial zones. The Senate version of the bill (S. 1178) was reported out on July 13, 2001, with provisions proposed by Senators Murray and Shelby requiring various safety inspections of Mexican trucks for access to U.S. highways. The text of S. 1178 was subsequently offered as a substitute amendment (S.Amdt. 1025) to H.R. 2299. The Senate considered H.R. 2299 on July 19-20 and 23-27, but action was not completed because of various parliamentary delays by Senators Gramm and McCain, who argued that the Mexican truck provisions were contrary to NAFTA and that President Bush was prepared to veto the measure for that reason. A motion to invoke cloture on debate was passed 70-30 on July 26, but another vote to invoke cloture failed 57-27 on July 27. On August 1, 2001, the Senate reconsidered and invoked cloture 100-0, after which H.R. 2299 with the Murray-Shelby restrictions was passed by voice vote. On November 29, 2001, House and Senate conferees reached agreement on a compromise in Section 350 that generally retained the Senate-passed safety provisions but gave the Administration more flexibility in implementation. The conference report (H.Rept. 107-308) was passed by the House on November 30, 2001, and by the Senate on December 4, 2001. Signed into law December 18, 2001.

P.L. 107-115, H.R. 2506

Foreign Operations Appropriations for FY2002. H.R. 2506 was reported in the House by the House Appropriations Committee on July 17, 2001 (H.Rept. 107-142) and passed by the House on July 24, 2001. It was reported in the Senate by the Senate Appropriations Committee with an amendment in the nature of a substitute on September 4, 2001 (S.Rept. 107-58). It was passed by the Senate on October 24, 2001, with an amendment (S.Amdt. 1959) by Senators Dodd and Hutchison to modify the existing drug certification procedures. The amendment contains provisions similar to the provisions in S. 219 and S. 1401 summarized above, except that the amendment would modify the drug certification procedures for FY2002 only, and for Western Hemisphere countries only. The conference version, approved by the House on December 19 and by the Senate on December 20, waived the drug certification requirements for all relevant countries in FY2002 and required the President to designate for sanctions only those countries that demonstrably failed to meet international counter-narcotics obligations. Signed into law January 10, 2002.

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

The Senate Foreign Relations Committee acted to suspend the existing drug certification procedures for a 3-year trial period in early April 2001 when it approved S. 219, and in early August 2001 when it approved the Foreign Relations Authorization Act for FY2002-FY2003 (S. 1401) which included similar language in Sections 741-745. In place of the existing procedures, the approved measures would require the President to identify by October 1 of each year major drug-transit or major illicit drug producing countries, and to designate each country that has failed demonstrably, during the previous 12 months, to make substantial efforts to adhere to its obligations under international counternarcotics agreements (multilateral and bilateral) and other standards. U.S. assistance would be withheld from any designated countries unless the President determined that the provision of assistance was vital to the national interest of the United States or until the country made substantial counter-narcotics efforts. The measures express the sense of Congress that the United States should at the earliest feasible date in 2001 convene a multilateral conference of relevant countries to develop multilateral drug reduction and prevention strategies, and they urge the President to request legislative changes to implement the strategies no later than one year after enactment. They continue the requirement for the yearly International Narcotics Control Strategy Report (INCSR) detailing the performance of individual countries, and add the requirement to report on major drug trafficking organizations. They also amend the Foreign Narcotics Kingpin Designation Act to allow judicial review of executive branch decisions to freeze the assets of suspected drug kingpins. S. 219 was introduced on January 30, 2001; referred to the Senate Foreign Relations Committee, which considered it on February 7 and March 1, 2001; marked up on April 3, and reported out on April 5, 2001, with an amendment in the nature of a substitute and an amendment to the title. The Foreign Relations Authorization Act for

FY2002-FY2003 (S. 1401) was approved by the Committee on August 1, 2001, and was reported out on September 4, 2001 (S.Rept. 107-60).

For Additional Reading

CRS Products

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

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

CRS Report RL30949. *Drug Certification Procedures: Side-by-side Comparison of Existing Procedures and S. 219 as Reported*, by K. Larry Storrs.

CRS Report RL30892. *Drug Certification Requirements and Congressional Modifications in 2001,* by K. Larry Storrs.

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

CRS Report RS20908. *Immigration and Naturalization Service's FY2002 Budget*, by William J. Krouse.

CRS Report RL30780. *Immigration Legalization and Status Adjustment Legislation,* by Ruth Ellen Wasem.

CRS Report RL30852. *Immigration of Agricultural Guest Workers Policy, Trends, and Legislative Issues,* by Ruth Ellen Wasem and Geoffrey K. Collver.

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

CRS Report RL30886. *Mexico's Counter-Narcotics Efforts Under Zedillo and Fox, December 1994 to March 2001,* by K. Larry Storrs.

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

CRS Report 97-861. *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate,* by Mary Jane Bolle.

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

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