

# CRS Report for Congress



## Mexico-U.S. Relations: Issues for Congress

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## Summary

The United States and Mexico have a special relationship as neighbors and partners under the North American Free Trade Agreement (NAFTA). Although relations with Mexico are generally friendly, the enactment of border fence legislation in October 2006 has caused some tension in the bilateral relationship.

Felipe Calderón of the conservative National Action Party (PAN) narrowly defeated leftist Andrés Manuel López Obrador of the Party of the Democratic Revolution (PRD) in the disputed July 2, 2006, presidential election. Legal challenges were resolved in September 2006, though López Obrador has not conceded defeat. President Calderón was sworn into office on December 1, 2006. During his first weeks in office he has focused on law and order matters, beginning operations against drug cartels and extraditing 15 criminals to the United States on January 19, 2007. U.S. Attorney General Alberto Gonzales praised the extraditions and has praised Calderón's efforts to combat the drug cartels. Drug violence and press freedom remain a concern.

Migration and border security concerns have dominated the bilateral relationship in recent years. In September, Congress approved the Secure Fence Act of 2006 (P.L. 109-367) to authorize the construction of a border fence and other barriers along 700 miles of the U.S.-Mexico border. In September 2006, Congress also approved initial funding for fence construction, \$1.2 billion, through the FY2007 Department of Homeland Security Appropriations Act. Both the House and Senate approved immigration reform measures (H.R. 4437 and S. 2611, respectively) but did not meet in conference to resolve differences. Principal sticking points include the House provision that criminalizes unlawful presence and Senate provisions to adjust the status of certain illegal immigrants.

Bush Administration officials regularly praised Mexico's counternarcotics efforts under former President Vicente Fox and anticipate continued strong relations under President-elect Felipe Calderón. Mexico is the leading transit country for cocaine, a leading supplier of methamphetamine, and the leading foreign supplier of marijuana to the United States. The USA Patriot Act Improvement and Reauthorization Act of 2005 (P.L. 109-177), enacted in March 2006, includes provisions to combat methamphetamine smuggling from Mexico.

Since 1994, NAFTA institutions have been functioning, trade between the countries has tripled, and allegations of violations of labor and environmental laws have been considered by the trilateral institutions. The Bush Administration argues that NAFTA has had modest positive impacts on all three member countries, but Mexican farmers have strongly criticized the effects of NAFTA. Notable bilateral trade disputes relate to trucking, telecommunications, tuna, sweeteners and anti-dumping measures. For further information on Mexico, refer to the list of related CRS products in the appendix. This report will be updated on a regular basis.

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# Mexico-U.S. Relations: Issues for Congress

## Most Recent Developments

On January 19, 2007, Mexico extradited an unprecedented 15 prisoners to the United States, including those who had not yet been tried in Mexico. Perhaps most significantly, Mexico extradited Osiel Cárdenas Guillén, the alleged head of the powerful Gulf cartel, who is believed to have maintained control of the cartel since his 2003 imprisonment. Other senior drug traffickers extradited to the United States on January 19, 2007, include Ismael Higuera Guerrero and Gilberto Higuera Guerrero of the Tijuana cartel led by the Arellano Felix family; and, Hector Palma Salazar of the Sinaloa cartel.

On January 18, 2007, Mexico's pro-market president, Felipe Calderón, announced a pact with producers of Mexico's main staple, the corn tortilla, to cap the price for 2007. Earlier in January, he authorized the import of 650,000 tons of corn in an attempt to ease pressure on tortilla prices. The price pact is viewed as a response to increasing discontent over the prices and to reduce inflationary pressures. Tortilla prices increased 14% in the last year. Some analysts have blamed the price increase on U.S. demand for ethanol and a poor U.S. corn harvest in 2006. Others question this, noting that ethanol is made from yellow corn, not the white corn used for tortillas. President Calderón has ordered an investigation into the price increase to determine if it is the result of monopolistic practices of Mexico's tortilla producers. He also authorized the duty-free import of 650,000 tons of corn.

On January 16, 2007, Mexico's Foreign Ministry submitted a diplomatic note to the United States in protest of the fatal shooting of a Mexican migrant by a Border Patrol agent in Arizona on January 12. The FBI is investigating the incident.

In December 2006 and January 2007, President Calderón launched efforts to combat drug violence in the border city of Tijuana, the western state of Michoacán, and the southern state of Guerrero. These efforts have been praised by U.S. Attorney General Alberto Gonzales.

From May to December 2006, there was significant public unrest in the southern city of Oaxaca. The unrest was sparked by the violent repression of a peaceful teachers strike. The situation had calmed down by the end of 2006. The violence led to the deaths of nine people, including American journalist Bradley Will, and led to the loss of significant tourism revenue.

Mexico extradited a record 63 prisoners to the United States during 2006, including accused drug kingpin Francisco Rafael Arellano Felix. This is a significant

increase from the previous record of 41 set in 2005 and may be due to recent decisions of the Mexican Supreme Court. In November 2005, the court determined that life sentences without the possibility of parole were constitutional, thus permitting extraditions to the United States. In a January 2006 ruling, the Court determined that extraditions to the United States need only fulfill the requirements of the 1978 extradition treaty between the two countries, not the general law on international extradition.

In September 2006, after unsuccessfully attempting to achieve comprehensive immigration reform, the 109<sup>th</sup> Congress approved the Secure Fence Act of 2006 (P.L. 109-367), to authorize the construction of barriers along 700 miles of the U.S.-Mexico border. After President Bush approved the Secure Fence Act of 2006 (P.L. 109-367), Mexico and 27 other Latin American nations filed a protest against the 700-mile fence at the Organization of American States. Comprehensive immigration reform measures approved by each house (H.R. 4437 and S. 2611) were not enacted due to key differences such as the House provision that would criminalize unlawful presence in the United States and Senate provisions to adjust the status of certain illegal immigrants.

Felipe Calderón of the conservative National Action Party (PAN) narrowly defeated leftist Andrés Manuel López Obrador of the Party of the Democratic Revolution (PRD) in Mexico's July 2, 2006, presidential election.<sup>1</sup> The election was highly contested and it took until September 5, 2006, for Mexico's Federal Electoral Tribunal to resolve challenges to the election and name Felipe Calderón president-elect. Following the vote, López Obrador supporters carried out a campaign of civil disobedience until mid-September. Their campaign included the blockade of Mexico City's principal boulevard, Paseo de la Reforma, and is reported to have cost Mexico City businesses over \$500 million. López Obrador rejected the Tribunal's decision and his supporters named him the "legitimate president" at a National Democratic Convention on September 16 and he inaugurated himself as President on November 20, 2006, the anniversary of the Mexican Revolution. Like his predecessor, Vicente Fox, Calderón does not have a majority in congress and will need to reach out to other parties to achieve some of his objectives, such private sector involvement in the state oil company, PEMEX.

## U.S.-Mexico Relationship<sup>2</sup>

### Political Developments

**Calderón Administration.** Felipe Calderón of the conservative National Action Party (PAN) was sworn in as President on December 1, 2006 in an unusually

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<sup>1</sup> For more information on the elections, see CRS Report RS22462, *Mexico's 2006 Elections*, by Colleen W. Cook.

<sup>2</sup> This report draws heavily from CRS Report RL32724, *Mexico-U.S. Relations: Issues for the 109<sup>th</sup> Congress*, by Colleen W. Cook and CRS Report RL31876, *Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress*, by K. Larry Storrs.

brief inauguration ceremony due to fears that members of the PRD congressional delegation would interrupt the ceremony. It is anticipated that Calderón will continue the progress made in bilateral relations under President Fox, particularly in the area of law enforcement cooperation. Felipe Calderón made his first official visit to the United States as President-elect in early November 2006, after first visiting Canada and several Latin American countries. During his visit, Calderón criticized the recent authorization of 700 miles of fencing along the U.S.-Mexico border and noted that it complicated U.S.-Mexico relations. He asserted that job-creation and increased investment in Mexico would be more effective in reducing illegal migration from Mexico than a border fence. Calderón signaled a shift in Mexican foreign policy when he noted that while immigration is an important issue in the bilateral relationship, it is not the only issue, as trade and economic development are also important. President Calderón has called increasing drug violence in Mexico a threat to the Mexican state, and has suggested reorganizing federal law enforcement to address the issue.<sup>3</sup> In his first weeks in office, President Calderón has emphasized law and order through initiatives to combat drug cartels and has launched a job creation initiative to both further Mexican development and reduce emigration to the United States. While the PAN, along with the leftist PRD, made significant gains in congressional elections, the PAN failed to win a majority in either house, meaning that President Calderón will have to forge alliances with other parties in order to achieve some of his campaign platforms, particularly his plan to allow private investment in the oil sector.

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

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

Results from the July 2000 legislative elections produced a pluralistic legislature where none of the major parties had a majority in either chamber. In the 128-member

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<sup>3</sup> "The Spectre of Rebellion Recedes in Mexico but Calderón Will Still Face Unrest and Violence," *Latin American Security & Strategic Review*, September 2006; Kevin G. Hall and Pablo Bachelet, "Mexico's Calderón Gives Bush an Earful on Immigration," *Miami Herald*, November 10, 2006; Patty Reinert, "Calderón Vows to Help Curb Illegal Immigration," *Houston Chronicle*, November 10, 2006; and, Jerry Kammer, "Calderón will Pursue Other Topics with U.S.," *San Diego Union Tribune*, November 10, 2006.

Senate, the PRI has 60 senators, the PAN has 46, and the PRD has 15.<sup>4</sup> Following the July 2003 elections to renew the Chamber of Deputies, the PAN dropped from 206 deputies to 153 deputies (31% of the total), putting it in a weaker position to support Fox's program, while the PRI's delegation increased from 211 to 224 (45% of the total) and the PRD's delegation increased from 50 to 95 (19% of the total).<sup>5</sup>

## Economic Linkages

Mexico surpassed Japan in 1999 to become the United States' second most important trading partner following Canada. 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. Mexico is also the leading country in Latin America in terms of U.S. investment, with the total stock of U.S. investment being about \$71 billion in 2005.

With nearly 90% of the country's exports going to the United States, Mexico's economy was strongly affected by the slowdown in the United States following the terrorist attacks. Mexico's economy contracted 0.8% in 2001, and grew only 0.9% in 2002 and 1.3% in 2003, but it revived strongly in 2004 with a 4.4% growth rate, the best in Fox's presidency. Economic growth in 2005 was 3% with a record 750,000 jobs created. The earlier meager growth results under Fox contrasted with economic growth averaging over 5% in the previous six years. Under the circumstances, President Fox was forced to operate under austere budgets in 2001, 2002, 2003, and 2004, reducing the funding for promised health and education programs. Lacking majority support in Congress, Fox was unable to obtain approval of major legislation, including a proposed tax reform and a proposed energy reform that would permit greater private participation in the hydrocarbon and electricity sectors, although Congress did pass a social security reform in July 2004. Calderón, like his predecessor, lacks a majority in Congress, meaning that he will need to make alliances with members from other parties to pass reforms such as his campaign pledge to open up the oil sector to private investment.

These economic ties are a marked change from the past. 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 the North American Free Trade Agreement (NAFTA)

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<sup>4</sup> 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.

<sup>5</sup> For more detail on the 2003 elections, see CRS Report RS21561, *Mexico's Congress and July 2003 Elections*, by K. Larry Storrs.

and the annual cabinet-level meetings of the Binational Commission are the clearest indications of the close and increasing relationships between the countries.

## Foreign Policy Challenges

Under President Fox Mexico pursued a more activist and diversified foreign policy, with greater involvement in UN activities, and stronger ties to Latin America and Europe. He promoted the so-called Puebla-Panama Plan, which promotes cooperative development efforts among the Central American countries and the southeastern states of Mexico. He attempted to revive the G-3 group trade preferences (Colombia, Venezuela, and Mexico), however Venezuela formally withdrew from the group in November 2006 after joining the Common Market of the South (Mercosur). Fox also sought better ties with Mercosur countries in South America. He attempted to expand trade with the European Union under the EU-Mexico free trade agreement that went into effect in July 2000, and with Japan under the Mexico-Japan free trade agreement that entered into force in April 2005. Mexico held a temporary seat on the U.N. Security Council in 2002 and 2003 and expressed support for continuing diplomatic efforts under United Nations auspices to achieve the disarmament of Iraq, leading to expressions of disappointment from the Bush Administration.

President Fox encouraged strong relations with the United States, and he called for greater cooperation under NAFTA and for a bilateral migration agreement that would regularize the status of undocumented Mexicans in the United States. Relations became strained during the debate on immigration reform in the United States. After President Bush approved the Secure Fence Act of 2006, Mexico, with the support of 27 other nations, denounced the proposed border fence at the Organization of American States. Mexico also indicated that it will challenge the border fence before the United Nations. (See *Migration/Border Issues* below for more detail.)

## Bilateral Issues for Congress

### Migration/Border Issues

**Nature of the Immigration Problem.** Widely cited demographers at the Pew Hispanic Center estimated in March 2006 that there were 6.2 million undocumented Mexican migrants residing in the United States in 2005, accounting for 56% of the total estimated illegal alien population of 11.5 to 12 million.<sup>6</sup> Mexico takes the view that the migrants are “undocumented workers,” making the point that since the U.S. market attracts and provides employment for the migrants, it bears

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<sup>6</sup> Pew Hispanic Center, *The Size and Characteristics of the Unauthorized Migrant Population in the United States*, by Jeffrey Passel, March 7, 2006, data from the March 2005 Current Population Survey (CPS) and monthly CPS through January 2006 conducted by the U.S. Bureau of the Census and the Bureau of Labor Statistics. For more detail and comparisons with earlier years, see CRS Report RS21938, *Unauthorized Aliens in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.



some responsibility. Mexico regularly voices concern about alleged abuses suffered by Mexican workers in the United States, and for the loss of life and hardships suffered by Mexican migrants as they utilize increasingly dangerous routes and methods to circumvent tighter border controls. Mexico benefits from illegal migration in at least two ways: (1) it is a “safety valve” that dissipates the political discontent that could arise from higher unemployment in Mexico; and (2) it is a source of remittances by workers in the United States to families in Mexico, estimated to be about \$10 billion per year.

In February 2006, the Mexican Congress approved a concurrent resolution on migration and border security in which Mexico acknowledges that Mexican workers will continue to emigrate until there are more opportunities in Mexico. Mexico also accepts the need to revisit its migration policies to consider enforcement of its northern and southern borders, enforcement of Mexican immigration laws that respects the human rights of migrants, and the need to combat human trafficking. Perhaps most significantly, the Mexican resolution states that the Government of Mexico does not promote illegal migration and calls for the development of a guest worker program in the United States under the principle of shared responsibility. The resolution commits Mexico to enforcing legal emigration “if a guest country offers a sufficient number of appropriate visas to cover the biggest possible number of workers and their families, which, until now cross the border without documents because of the impossibility of obtaining them.”<sup>7</sup>

The 109<sup>th</sup> Congress considered competing measures for comprehensive immigration reform and increased border security, including the enactment of the Secure Fence Act of 2006 which authorizes construction of barriers along 700 miles of the U.S. border with Mexico. Mexico has stated that the border fence will cause difficulties in the bilateral relationship and goes against the trend of increased cooperation on border security matters. The 109<sup>th</sup> Congress did not enact comprehensive immigration reform because of disagreement over key provisions of House and Senate proposals (see the section titled Legislation Relating to Mexico in the 109<sup>th</sup> Congress for more detail). Congress last enacted major immigration reform in 1986 and 1996. Main provisions of the Immigration Reform and Control Act of 1986 (P.L. 99-603) included civil and criminal penalties for U.S. employers who knowingly hire undocumented workers; increased border control and enforcement measures; anti-discrimination safeguards; provision for legalization of illegal aliens who resided continuously in the United States before 1982; and a special legalization for farm workers previously employed on American farms. In 1996, two laws relating to immigration were enacted, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, P.L. 104-208) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). The first measure sought to control illegal immigration by adding 1,000 Border Patrol agents per year for five years (FY1997-FY2001), along with additional personnel, equipment, and procedures. The IIRIRA increased penalties for unlawful presence and created the expedited removal program.<sup>8</sup> Individuals who depart the United States after more

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<sup>7</sup> “Mexico-U.S.: Migration and Border Security,” Embassy of Mexico, February 2006.

<sup>8</sup> For more information on expedited removal, see CRS Report RL33109, *Immigration* (continued...)

than 180 days of unlawful presence now face either a three or 10 year bar to admission to the United States, depending on the total period of unlawful presence. Both measures reduced the attractiveness of immigration by restricting the eligibility of aliens for federal programs.<sup>9</sup>

**Executive Initiatives.** Immigration matters were frequently discussed at meetings between President Bush and former President Fox with both presidents supporting comprehensive immigration reform including the creation of a guest worker program. Border security overtook immigration reform following the 2001 terrorist attacks, though, in January 2004, President Bush proposed comprehensive immigration reform including a guest worker program and the 109<sup>th</sup> Congress considered but did not enact such reform.<sup>10</sup>

The Operation Against Smuggling Initiative on Safety and Security (OASISS) is a bilateral effort to combat human smuggling established in August 2005. The program was initially limited to the area between San Diego, California and Yuma, Arizona, but was extended to El Paso, Texas in April 2006. As of October 2006, OASISS led to the prosecution of 300 individuals, who were not eligible for prosecution in the U.S. federal court system, in Mexico on smuggling or trafficking charges.<sup>11</sup>

U.S. and Mexican authorities are also increasing joint efforts to combat crime and increase border security. U.S. and Mexican border governors announced plans to share crime data in August 2006. In April 2006, the U.S. Consul to Nuevo Laredo, Tamaulipas and the Mexican Consul to Laredo, Texas announced a joint-effort to increase cooperation among the police forces to more effectively combat crime in the Laredos. On February 19-20, 2004, Department of Homeland Security Secretary Tom Ridge met with Mexican Government Secretary Santiago Creel in Mexico City to review progress under the U.S.-Mexico Border Partnership. The two leaders signed the U.S.-Mexico Action Plan for Cooperation and Border Safety for 2004, as well as a Memorandum of Understanding on the Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals. They also committed to develop six new Secure Electronic Network for Traveler's Rapid Inspection (SENTRI) lanes for pre-screened, low-risk individuals, and to develop five new Free and Secure Trade (FAST) lanes for pre-cleared cargo.

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<sup>8</sup> (...continued)

*Policy on Expedited Removal of Aliens*, by Alison Siskin and Ruth Ellen Wasem.

<sup>9</sup> See CRS Report 95-881, *Immigration Legislation in the 104<sup>th</sup> Congress*, by Joyce Vialet.

<sup>10</sup> For information on the President's proposal and the congressional initiatives, see CRS Report RL32044, *Immigration: Policy Considerations Related To Guest Worker Programs*, by Andorra Bruno.

<sup>11</sup> U.S. Department of Homeland Security, "Remarks by Homeland Security Secretary Michael Chertoff on ICE and CBP 2006 Fiscal Year Enforcement Numbers," October 31, 2006, accessed at [[http://www.dhs.gov/xnews/releases/pr\\_1162293386835.shtm](http://www.dhs.gov/xnews/releases/pr_1162293386835.shtm)] on December 8, 2006.

On November 2, 2005, Homeland Security Secretary Chertoff launched the Secure Border Initiative (SBI), a comprehensive, multi-year plan to secure U.S. borders, and to reduce illegal immigration. The Department of Homeland Security planned to achieve these objectives through increased detention and removal, including an end to the “catch and release” of illegal immigrants; increased personnel at borders and ports of entry; increased enforcement of immigration laws in the U.S. interior, including worksite inspections; technological upgrades to assist in border enforcement; and improved infrastructure. Increased funding was approved by Congress in early October 2005 in the Department of Homeland Security Appropriations Act (H.R. 2360/P.L. 109-90). DHS submitted its SBI strategic plan to Congress in November 2006, including estimates of the cost of the technology and infrastructure component referred to as SBInet. DHS indicated that SBInet will allow the Department to gain operational control of the U.S. southern border by 2011 and will cost an estimated \$7.6 billion. According to the plan DHS would have control of some 345 miles of the 2,000 mile U.S.-Mexico border by the end of FY2007. Some criticized the plan for shifting the date of operational control of the southern border to 2011 from 2008. The DHS Inspector General cautioned in November 2006 testimony before House Homeland Security Subcommittee on Management, Integration, and Oversight that DHS lacked sufficient staff to manage the contract awarded to Boeing to implement SBInet and stated that costs could rise to as much as \$30 billion.

On March 23, 2005, President Bush, President Fox, and Prime Minister Martin established the trilateral Security and Prosperity Partnership (SPP) of North America. Through the SPP the three nations will seek to advance the common security and the common prosperity of the countries through expanded cooperation and harmonization of policies. The SPP not a treaty or agreement and is limited to the existing legal framework relating to the trilateral relationship. The SPP seeks to address security and commercial cooperation at the regulatory level. To operationalize this partnership, the leaders established Ministerial-led working groups that are to develop measurable and achievable goals in the specified areas. In August 2006, the SPP working groups submitted their second report to SPP leaders outlining completed initiatives and proposing new initiatives to ensure common security and prosperity. The working groups have established an Avian and Human Pandemic Influenza Coordinating Body and a North American Competitiveness Council. Increased cooperation between U.S. and Mexican Customs officials on money laundering has resulted in the seizure of millions of dollars. The three countries are working to more efficiently determine the risk of cargo at seaports. Mexico has implemented the Sea Cargo Initiative which allows gathers data electronically before loading at a port of origin. Earlier completed initiatives included measures to facilitate trade, such as the signing of a Framework of Common Principles for Electronic Commerce,<sup>12</sup> and border security through, among other measures, an agreement between the U.S. and Mexico to create an Alien Smuggler Prosecution Program along the common border.

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<sup>12</sup> For more information, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

On March 5-6, 2004, President Fox, during a visit to President Bush's ranch in Crawford, Texas, announced that Mexicans with border crossing cards would be exempted from the end-of-the-year requirement to be photographed and finger-scanned upon entry into the United States under the US-VISIT program. On a related matter, on June 29, 2004, Mexico and the United States signed a social security totalization agreement, subject to congressional approval, that would eliminate dual social security taxation and fill gaps in benefit protection for affected employees who work in both countries.

## Drug Trafficking Issues

Mexico remains a major supplier of heroin, methamphetamine, and marijuana, as well as the major transit point for cocaine sold in the United States. Although U.S.-Mexico counternarcotics efforts have been marked by distrust at times in the past, with criticisms mounting in March of each year when the President was required to certify that drug producing and drug transit countries were cooperating fully with the United States, relations improved during the Fox administration (2000-2006) and cooperation is expected to continue under President Calderón. Reforms to the drug certification process enacted in September 2002, have helped improve bilateral relations on drug cooperation. The revised procedures require the President to make a report, not later than September 15 of each year, identifying the major drug transit or major illicit drug producing countries. At the same time, he is required to designate any of the named countries that has "failed demonstrably," during the previous 12 months, to make substantial efforts to adhere to international counternarcotics agreements (defined in the legislation) and to take other counter-narcotics measures.<sup>13</sup> In the late 1990s, Congress acted to strengthen Border Patrol and international interdiction efforts along the Southwest Border, and it passed the Foreign Narcotics Kingpin Designation Act (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.<sup>14</sup>

According to the State Department's March 2006 International Narcotics Control Strategy Report (INCSR), Mexico is the main foreign supplier of marijuana and methamphetamine to the United States, and although it accounts for only a small share of worldwide heroin production, it supplies about 30% of the heroin consumed in the United States. The State Department estimates that between 70% and 90% of

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<sup>13</sup> U.S. assistance would be withheld from any designated countries unless the President determines that the provision of assistance to that country is vital to the national interest of the United States or that the designated country subsequently made substantial counternarcotics efforts. Notwithstanding the general suspension of the previous drug certification and sanctions procedures, subsection 706(5)(B) provides that the President may apply those procedures at his discretion. A transition rule provides that for FY2003, the required report was to be submitted at least 15 days before foreign assistance funds are obligated or expended.

<sup>14</sup> See CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*, by K. Larry Storrs.

cocaine entering the United States does so via Mexico or its periphery.<sup>15</sup> Despite Mexico's major role as a producing and transit country in 2005, the Fox Administration was credited with carrying out major efforts to eradicate and seize illicit drugs, and praised Mexican efforts to combat methamphetamine production. The State Department cited a regulatory change on imports of pseudoephedrine, a precursor chemical used to make methamphetamine, which resulted in a 40% decrease in pseudoephedrine imports. The State Department noted, however, that interdiction of drugs was problematic and drug trafficking organizations were able to corrupt officials and easily replace arrested members. The State Department reported an unprecedented number of extraditions of criminals to the United States; 41 fugitives were extradited to the United States in 2005. Extraditions continued to increase in 2006 with 63 extraditions, including accused drug kingpin Francisco Rafael Arellano Felix of the Tijuana cartel.

Although in the past Mexico refused to extradite criminals facing the possibility of life without parole to the United States, two recent decisions by the Mexican Supreme Court are expected to facilitate extraditions to the United States. In November 2005, in a partial reversal of its October 2001 ruling, the Court found that life imprisonment without possibility of parole does not amount to cruel and unusual punishment. As a result of this decision, criminals facing life imprisonment may be extradited to the United States. The Mexican Supreme Court ruled in January 2006 that U.S. extradition requests only need to meet the requirements of the 1978 bilateral treaty, not the general law on international extradition.<sup>16</sup> New President Felipe Calderón has indicated that he will use extradition as a major tool to combat drug traffickers.

Counternarcotics cooperation improved significantly during the Fox administration. President Calderón has indicated that combating drug cartels will be a priority of his administration and has called drug violence a threat to the Mexican state. In December, he re-organized the two federal police agencies - the Federal Investigations Agency (AFI) and Federal Preventative Police (PFP) - by placing them under a single commander. Shortly after taking office, President Calderón launched offensives against drug cartels and drug violence in the border city of Tijuana, the western state of Michoacán, and the southern state of Guerrero, all areas with high rates of drug violence. Some 6,500 military and police went to Michoacán in December 2006, a key transit point for drugs and drug cartels are fighting for control of the area. Soldiers and law enforcement have been tasked with arresting traffickers, establishing check points, burning marijuana and opium plants, and four Navy ships along the coast will work to interdict drug shipments. The Mexican government reports early success in the effort, including identification of over 2,000 marijuana plantations and interception of nearly 5 tons of marijuana.

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<sup>15</sup> Department of State Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report 2006*, March 2006, hereafter INCSR 2006.

<sup>16</sup> Jesus Aranda, "Allana la Corte el Camino para Extraditar a Connacionales a EU," *La Jornada*, February 1, 2006; "Mexico: Court Clears Way for Faster Extraditions to U.S.," *Latin American Weekly Report*, February 7, 2006; and, U.S. Department of State, *INCSR 2006*.

In January 2007, the Calderón administration sent nearly 3,000 military and federal police to Tijuana. Corruption of local police by drug traffickers is of particular concern, and federal officers have stripped Tijuana police of their weapons, provoking the city's public safety secretary to suspend patrols by city police citing safety concerns. In mid-January 2007, 7,600 military and federal police were sent to Guerrero to destroy marijuana plantations in that state and reduce violence. Critics of the operations note that no major cartel leader has been arrested and that the efforts are more about show than a concerted effort to end cartel violence.

According to Mexican officials, one of the key challenges to effectively combating drugs is that under current legislation drug crime is solely in the jurisdiction of federal law enforcement, and that state and local police cannot be used to investigate drug offenses. The Mexican congress approved legislation in April 2006 that would extend jurisdiction on drug matters to state and local authorities, but controversial language relating to possession of drugs for personal use led President Fox to veto the legislation. Mexican officials hope that a similar reform can be passed this year so that federal law enforcement can concentrate on prosecution of cartel leaders and state and local authorities can investigate lower level drug crimes. Officials also hope that any new legislation clearly indicates that criminal charges are only waived in favor of treatment the first time that an individual is caught with a small amount of drugs for personal use.<sup>17</sup>

There were several significant developments on drug trafficking issues during 2006. The U.S. Coast Guard captured Tijuana cartel leader Francisco Javier Arellano Felix in the Sea of Cortez in August 2006. In December 2006, he pled not guilty in federal court in San Diego to charges including personally ordering abductions and murder; racketeering; and drug trafficking. U.S. Attorney General Alberto Gonzales will determine whether he will seek the death penalty in the case; a decision to seek the death penalty could cause tension with Mexico which prohibits the death penalty. His brother, Francisco Rafael Arellano Felix, was extradited to the United States in September 2006.

A joint operation between the DEA and Mexican Agencia Federal de Investigaciones (Federal Investigations Agency, AFI) resulted in the February 2 arrest of Oscar Arriola Marquez, leader of the Los Arriola Cartel. Oscar Arriola Marquez is wanted in the United States for cocaine trafficking and money laundering. According to the DEA, since 2001 the Los Arriola cartel smuggled an average of 2.4 tons of cocaine per month into the United States. The United States is requesting his extradition.

On January 26, 2006, U.S. Immigration and Customs Enforcement (ICE) announced the discovery of a tunnel from Tijuana to a warehouse in San Diego. Mexican officials seized 2 tons of marijuana and U.S. officials seized 200 pounds of marijuana. The 2,400-foot long tunnel is the longest tunnel ever found at the U.S.-Mexican border.

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<sup>17</sup> CRS interview with Mexican Embassy officials, October 27, 2006.

On January 23, 2006, Texas Department of Public Safety (DPS) troopers and Hudspeth County Sheriff Deputies pursued three SUVs believed to be loaded with marijuana toward the border where a humvee of armed men dressed in military style uniforms was sighted on the U.S. side of the border. Following pursuit by the sheriff deputies and DPS troopers, the SUVs turned back toward Mexico and a humvee of men in what appeared to be Mexican military uniforms arrived to protect the SUVs and the drug shipment. U.S. law enforcement seized one SUV with over 1,400 pounds of marijuana and another SUV returned to Mexico. The third SUV became stuck in the Rio Grande, and the armed men unloaded the marijuana before burning the SUV.

According to the Department of Homeland Security, from FY2001 to FY2005 there were 144 border incursions by the Mexican military. Dialogue with the Mexican military has reduced the frequency of such incursions by half. On January 25, the Mexican government stated that the January 23 incident involved drug traffickers, not the Mexican military. On January 25, 2006, U.S. Ambassador Antonio O. Garza delivered a diplomatic note to Mexico requesting that the Mexican government investigate the border incursion. On February 7, 2006, the Investigations subcommittee of the House Committee on Homeland Security held a hearing on border incursions. The U.S. and Mexican governments concluded that the Mexican army was not involved in the incursion.

## **Trade Issues<sup>18</sup>**

Trade between Mexico and the United States has grown dramatically in recent years under the North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada. Total U.S. trade with Mexico more than tripled in 10 years, from \$81.5 billion in 1993 to a high of \$270.9 billion in 2005, but the balance of U.S. trade with Mexico has shifted from a surplus of \$1.3 billion in 1994 to a generally growing deficit of \$67.5 billion in 2005 (exports of \$101.7 billion; imports of \$169.2 billion). High oil prices and growth in the maquiladora sector explain much of the increase in the trade deficit for 2005. 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, and 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 January 1, 1994. Under the agreements, trade and investment restrictions are being eliminated over a 15-year period, with most restrictions eliminated in the early years of the agreement. Over the years, Clinton Administration and Bush Administration spokesmen have argued that NAFTA has been successful in increasing U.S. exports to Mexico, particularly in heavily protected areas such as agricultural products, and in promoting job creation and investment in both countries.

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<sup>18</sup> For more information, see CRS Report RL32934, *U.S.-Mexico Economic Relations*, by M. Angeles Villarreal.

**Functioning of NAFTA Institutions.** Several NAFTA institutions mandated by the agreements have been functioning since 1994. The tripartite Commission on Environmental Cooperation (CEC) was established in Montreal, Canada; and the Commission for Labor Cooperation (CLC) was established in Dallas, Texas. In addition, the bilateral Border Environment Cooperation Commission (BECC), located in Ciudad Juarez, Mexico; and the North American Development Bank (NADBank), headquartered in San Antonio, Texas, were created to promote and finance border environment projects along the U.S.-Mexico border. Following up on a March 2002 agreement by Presidents Bush and Fox in Monterrey, Mexico, to broaden the mandate of the NADBank, Congress agreed in March 2004 to permit the NADBank to make grants and nonmarket rate loans for environmental infrastructure along the border, and the measure (H.R. 254) was signed into law (P.L. 108-215) on April 5, 2004.

The NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider nongovernmental petitions under the labor and environmental side agreements.

Under the *labor* side agreement, 34 petitions have been submitted alleging noncompliance by one of the NAFTA countries with existing labor legislation, and 22 of these have been against Mexico, although some of the cases against the United States involve working conditions and compensation for migrant workers.

Eleven submissions against Mexico were advanced to the next stage of ministerial consultations. In one case, the U.S. National Administrative Office (NAO) found that ministerial consultations were unnecessary as the record sufficiently established a violation of Mexican labor law, and the others were dropped or rejected on procedural grounds. In October 2003, complaints were jointly filed in Canada and the United States alleging violations of workers' rights in garment factories in Puebla, Mexico. In August 2004, the U.S. NAO recommended ministerial consultations. The Canadian NAO also recommended ministerial consultations in May 2005. In the past year, three new submissions have been filed against Mexico. In February 2005, the Washington Office on Latin America (WOLA) and a coalition of labor unions filed a submission alleging that the labor law reform proposed by the Mexican government violates workers' rights protected under the Mexican Constitution and the North American Agreement on Labor Cooperation. In May 2005, the Airline Pilots Association of Mexico alleged that Mexico had violated its rights to organize and collective bargaining. A submission filed in January 2006 alleges violations of workers' rights, forced labor and child labor at a Rubie's de Mexico plant in Tepeji del Rio, Hidalgo.

Under the trilateral CLC, the countries are cooperating in many areas, especially occupational safety and rights of working women and children. Some argue that the provisions have encouraged Mexico to enforce its own labor legislation. Others argue that the provisions have been extremely weak and that numerous abuses persist.<sup>19</sup>

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<sup>19</sup> For more information on the functioning of this institution, see CRS Report 97-861, (continued...)



Under the *environmental* side agreement, 36 of the 58 petitions submitted since 1995 alleging non-compliance with environmental legislation involve Mexico. Seven of the 14 active cases before the Commission for Environmental Cooperation Secretariat involve Mexico. In 2006 the Commission has acted on five of the seven active cases and closed two cases that involve Mexico. On January 9, 2006, the Secretariat published the final record finding that Mexican government failed to respond within the time frame required by Mexican law to citizen complaints alleging illegal logging and mineral extraction filed by 28 members of indigenous communities in the Sierra Tarahumara. On January 10, 2006, the Council received a response from the Mexican government to a petition alleging that construction of a liquid natural gas regasification terminal off the coast of Baja, California, is in violation of Mexican law.

The council is now reviewing the petition and response to determine if it is necessary to prepare a full factual record. In June 2006, the petitioner withdrew allegations filed with the Council on January 27, 2006, that the Mexican government's cleanup of heavy metal contamination at the site of former BASF Mexico facilities does not sufficiently protect residents of Cuautla, Morelo, from exposure to heavy metals. New petitioners filed similar complaints in July and September 2006. The Council requested the Mexican government's response to the new petitions in August and September 2006. In November 2006, the Council received a complaint charging that the Mexican government was not safeguarding Los Remedios National Park.<sup>20</sup>

The CEC also developed plans and reports to facilitate North American cooperation on environmental matters. In October 2005, the CEC began a project to analyze blood samples of first-time mothers in Canada, Mexico and the United States to determine maternal exposure to environmental contaminants. In November 2005, the CEC published North American Conservation Action Plans to improve cooperation in the conservation of each of the six species identified to be of particular concern under the Strategic Plan for North American Cooperation for the Conservation of Biodiversity. The six species of concern are the humpback whale, black-tailed prairie dog, ferruginous hawk, Pacific leatherback sea turtle, pink-footed shearwater, and Western burrowing owl. In January 2006, the CEC published a report on children's health and environmental indicators in North America.

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

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<sup>19</sup> (...continued)

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

<sup>20</sup> For more information, see CRS Report 97-291, *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.

With respect to trucking issues, the Mexican government objected to the Clinton Administration's refusal, on safety grounds, to allow Mexican trucks to have access to U.S. highways under the terms of NAFTA. A NAFTA dispute resolution panel supported Mexico's position in February 2001. President Bush indicated a willingness to implement the provision, but the U.S. Congress required additional safety provisions in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87). On November 27, 2002, with safety inspectors and procedures in place, the Administration announced that it would begin the process that will open U.S. highways to Mexican truckers and buses, but environmental and labor groups went to court in early December to block the action. On January 16, 2003, the U.S. Court of Appeals for the Ninth Circuit ruled that full environmental impact statements were required before Mexican trucks would be allowed to operate on U.S. highways, but the U.S. Supreme Court reversed that decision on June 7, 2004.

On September 22, 2004, the House approved 339-70 an amendment to the Transportation-Treasury Appropriations (H.R. 5025) that would prohibit implementation of a rule allowing Mexican and Canadian truck operators an additional two years to bring their trucks into compliance with U.S. safety provisions, and this was eventually incorporated into the Consolidated Appropriations Act for FY2005 (H.R. 4818/P.L. 108-447) that was approved by the Congress and the President in November-December 2004. In October 2006, officials from the Department of Transportation indicated that the Department is prepared to ensure that Mexican trucks meet U.S. and Canadian safety provisions. The head of the Federal Motor Carrier Safety Administration, John Hill, indicated that a pilot project could be implemented to allow a limited number of Mexican companies access to the United States at some point in the future, but noted that there are "no immediate plans" to open the border to Mexican trucks beyond the 20-mile commercial limit.<sup>21</sup>

The United States and Mexico are completing resolution of a long standing trade dispute involving sugar and high fructose corn syrup. Mexico argued the sugar side letter negotiated under NAFTA entitled it to ship net sugar surplus to the United States duty free under NAFTA, while the United States argued that the sugar side letter limited Mexican shipments of sugar. Mexico also complained that imports of high fructose corn syrup (HFCS) sweeteners from the United States constituted dumping, and it imposed anti-dumping duties for some time, until NAFTA and WTO dispute resolution panels upheld U.S. claims that the Mexican government colluded with the Mexican sugar and sweetener industries to restrict HFCS imports from the United States.

In late 2001, the Mexican Congress imposed a 20% tax on soft drinks made with corn syrup sweeteners to aid the ailing domestic cane sugar industry, and subsequently extended the tax annually despite U.S. objections. In 2004, USTR initiated WTO dispute settlement proceedings against Mexico's HFCS tax, and following interim decisions, the WTO panel issued a final decision on October 7, 2005, essentially supporting the U.S. position. Mexico appealed this decision, and in March 2006, the WTO Appellate Body upheld its October 2005 ruling. In July

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<sup>21</sup> Angela Greiling Keane, "Cracking Open the Border," *Journal of Commerce*, October 23, 2006.

2006 the United States and Mexico agreed that Mexico would eliminate its tax on soft drinks made with corn sweeteners no later than January 31, 2007.

The United States and Mexico reached a sweetener agreement in August 2006. Under the agreement, Mexico can export 500,000 metric tons of sugar duty free to the United States from October 1, 2006 to December 31, 2007. The United States can export the same amount of HFCS duty free to Mexico during that time. NAFTA provides for the free trade of sweeteners beginning January 1, 2008. The House and Senate sugar caucuses expressed objections to the agreement, questioning the Bush Administration's determination that Mexico is a net-surplus sugar producer to allow Mexican sugar duty free access to the U.S. market.<sup>22</sup>

On tuna issues, the Clinton Administration lifted the embargo on Mexican tuna in April 2000 under relaxed standards for a dolphin-safe label in accordance with internationally agreed procedures and U.S. legislation passed in 1997 that encouraged the unharmed release of dolphins from nets. However, a federal judge in San Francisco ruled that the standards of the law had not been met, and the Federal Appeals Court in San Francisco sustained the ruling in July 2001. Under the Bush Administration, the Commerce Department ruled on December 31, 2002, that the dolphin-safe label may be applied if qualified observers certify that no dolphins were killed or seriously injured in the netting process, but Earth Island Institute and other environmental groups filed suit to block the modification. On April 10, 2003, the U.S. District Court for the Northern District of California enjoined the Commerce Department from modifying the standards for the dolphin-safe label. On August 9, 2004, the federal district court ruled against the Bush Administration's modification of the dolphin-safe standards, and reinstated the original standards in the 1990 Dolphin Protection Consumer Information Act, but that ruling was appealed to the U.S. Ninth Circuit Court of Appeals which heard the case on November 16, 2006.

On other issues, in early October 2002, the U.S.-Mexico working group on agriculture dealt with major agricultural issues, including Mexico's recent anti-dumping decisions on apples, rice, swine, and beef, and safeguard actions on potatoes. In January 2003, the countries agreed to permit Mexican safeguard measures against U.S. imports of chicken legs and thighs, and in July 2003, these safeguard measures were extended until 2008, with tariffs declining each year. In September 2006, Mexico revoked anti-dumping duties imposed on U.S. rice imports in 2002 following rulings by the WTO and WTO Appellate Body in 2005 which found that the duties were contrary to WTO rules. Mexico banned beef imports from the United States in December 2003 following the discovery of one cow infected with mad cow disease in Washington state. Mexico resumed importation of boneless beef in early March 2004, and bone-in beef in February 2006 in response to improved beef cow screening.

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<sup>22</sup> "Bush Administration Defends Sugar Deal to Congress," *Inside U.S. Trade*, November 3, 2006; "Grassley, U.S. Industry Welcome Agreement with Mexico on Sugar, HFCS," *International Trade Reporter*, August 3, 2006; and, "U.S., Mexico Reach Agreement on WTO Soft Drink Dispute Compliance Deadline," *International Trade Reporter*, July 13, 2006.

## Political and Human Rights Issues

**Concerns over Elections and Political Rights.** Mexico has become increasingly democratic, effectively ending 71-years of one party rule by the Institutional Revolutionary Party (PRI) in 2000 when Vicente Fox of the conservative National Action Party (PAN) was elected president. Mexico has concentrated on developing its political institutions and its election agency, the Federal Elections Institute (IFE) and Federal Electoral Tribunal (TEPJF) were well-regarded going into the 2006 presidential and congressional elections. The July 2, 2006, presidential race was extremely close and final results were not announced until September 5 when TEPJF completed adjudication of all the challenges. TEPJF rulings may not be appealed. According to the final vote count, Calderón won just under 36% of the vote, defeating PRD candidate Andrés Manuel López Obrador by less than 234,000 votes. Voter turnout was 59%.<sup>23</sup>

After the vote, Andrés Manuel López Obrador led a campaign of civil disobedience, including the blockade of Mexico City's principal avenue, Paseo de la Reforma, until mid-September. The blockade reportedly cost Mexico City businesses over \$500 million in revenue. On September 1, 2006, PRD members of congress prevented President Fox from delivering the state of the union address at the Mexican congress. López Obrador rejected the election tribunal's September 5 ruling and was named the "legitimate president" of Mexico at a democratic convention of his supporters held on September 16 at the Zocalo, Mexico City's main square. He swore himself in as the "legitimate president" on November 20. It is not clear how this parallel government will operate or how much support it has. In mid-September PRD founder Cuauhtémoc Cárdenas criticized López Obrador's tactics as undemocratic and criticized him for surrounding himself with advisors who helped to orchestrate what many believe to be Carlos Salinas de Gortari's fraudulent defeat of Cuauhtémoc Cárdenas in the 1988 elections.<sup>24</sup>

**Allegations of Human Rights Abuses.** According to the State Department's report issued in early March 2006 on human rights conditions in 2005, the Mexican government generally respected human rights during the year, but many serious problems remained. The conduct of state law enforcement officials and the human rights situations in the southern states of Guerrero, Chiapas, and Oaxaca were areas of special concern. The indigenous population remains marginalized. Kidnaping was a major problem, with unofficial estimates of 3,000 kidnapings during the year, some allegedly with police involvement. The actual number of kidnapings may be higher, as many are unreported. There were credible reports that the police sometimes tortured suspects to force confessions and that these confessions were used in prosecution despite a constitutional prohibition. While the government took action against some improper behavior by law enforcement personnel, many officers committed crimes with impunity, and without fear of prosecution. Narcotics-related killings and violence increased, particularly in the

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<sup>23</sup> For more information, see CRS Report RS22462, *Mexico's 2006 Elections*, by Colleen W. Cook.

<sup>24</sup> "Mexico: López Obrador Declared 'Legitimate President,'" *LatinNews Daily*, September 18, 2006; and "Crítica CCS intolerancia perredista," *La Reforma*, September 14, 2006.

northern border states, and there were credible reports that police and military forces were protecting drug traffickers. Despite various judicial reforms, lengthy pretrial detentions, lack of due process, and judicial inefficiency and corruption persisted. Three journalists were killed in northern border areas and others were threatened. Human rights workers were subjected to attacks, although reports of such attacks diminished. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDS persisted. Finally, there were reports of restrictions on freedom of association and inadequate protection of worker rights.

Human rights conditions in Oaxaca were of particular concern in 2006, due to significant political unrest from May to December 2006. The unrest was initially due to the violent repression of a peaceful teachers union strike, but expanded to include other parties and broader political interests. A central goal of the protesters was the removal of Oaxacan governor Ulises Ruiz of the Institutional Revolutionary Party (PRI). The protests, led by the Popular Assembly of the People of Oaxaca (APPO), resulted in what amounted to a blockade of the historic city center, with millions of dollars in lost tourist revenue. At least nine people were killed in the violence, including American independent journalist Bradley Will. The Mexican Congress has the power to remove the governor, but did not. On December 15, 2006, the Minister of Government, Francisco Ramírez Acuña, rejected calls that President Calderón request the governor's resignation.

On December 11, 2006, thousands of protesters demanded Governor Ruiz's resignation and the withdrawal of federal police from the city. Federal troops withdrew from Oaxaca on December 16, and the city has been relatively calm since then. Human rights activists criticized the arrest of over 100 protesters in November and December 2006. Many were released toward the end of the year, but APP leader Flavio Sosa remains in custody in a high security prison outside Mexico City. APPO insists that the conflict is not over and has protests planned for January 2007 and is considering a march on January 27 calling for the Oaxacan governor's resignation. On January 4, Oaxacan officials confirmed that the federal prosecutor is investigating the deaths of APPO supporters.<sup>25</sup>

Former President Fox pledged to investigate and prosecute those responsible for human rights violations, including the "Dirty War" period from the 1960s to 1980s. Human rights activists are critical of what they view as lukewarm efforts by his administration to improve human rights in Mexico and to address past violations. 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. In April 2006, the Fox administration announced that the special prosecutor's

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<sup>25</sup> Gerardo Soriano and Paulina I. Valencia, "Investiga PGR Crímenes Cometidos durante Conflicto en Oaxaca," *Notimex*, January 4, 2007; Gerardo Soriano and Paulina I. Valencia, "Asegura APPO que Conflicto en Oaxaca no Ha Terminado," *Notimex*, January 4, 2007; and "Calderón Opts for Ruiz," *Latin American Regional Report - Mexico and NAFTA*, January 2007.

office would be disbanded. In November 2006, Ignacio Carrillo presented his final report on the repressive era from the late 1960s to 1982. The report found that the repression was a matter of state policy and led to the summary execution of over 700 Mexicans; torture; and the razing of villages.

The report has been praised by some as an acknowledgment of state responsibility for the repression that can be used to prosecute those responsible for human rights violations. Others remain critical, as no one has been convicted of charges relating to these alleged crimes. Only one of the three presidents from this period, Luis Echeverria (1970-1976), is still alive. President Echeverria is currently facing genocide charges for his role in the repression of a 1968 student protest that left dozens dead when he was interior minister. Echeverria tried to evade prosecution by claiming the 30-year statute of limitations had expired. A judge rejected this argument and re-instated the arrest order in November 2006 after he determined that the statute of limitations did not go into effect until Echeverria left public office in December 1976.

The unsolved murders of over 400 women killed and disappeared in Ciudad Juárez and other parts of the northern state of Chihuahua since 1993 remain a concern to human rights activists who maintain that the lack of prosecutions and inadequate investigations demonstrate the level of impunity in Mexico and a lack of official accountability to Mexican citizens. In February 2006, the Fox administration closed the special prosecutors office charged with coordinating federal and state investigations into the murders and folded it into an office responsible for crimes against women throughout Mexico. The Mexican government also announced in February 2006 that it found no evidence of a serial killings in Ciudad Juárez. In July 2006 the federal government closed its investigation into the rape and murder of 14 women after finding no evidence of a federal crime and returned the cases to state authorities. In August 2006, three suspects were arrested in the United States for alleged connection to the murder of eight women found in a cotton field outside Ciudad Juarez.

Violations of press freedom remained a cause for concern in 2006. According to the Committee to Protect Journalists (CPJ), Mexico is the fourth most dangerous country for journalists - tied with Colombia, Pakistan, and Russia. CPJ reports that two journalists were killed as a result of their work, including American Bradley Will, who was killed during civil unrest in Oaxaca. CPJ is investigating the deaths of another five journalists and disappearance of a reporter to determine if they are related to the individuals' work. Journalists were victims of other acts of violence in 2006; particularly in the north where threats have limited local media coverage of the drug cartel violence. On February 6, 2006, gunmen suspected of ties with drug traffickers attacked the offices of El Mañana newspaper in Nuevo Laredo, severely wounding one reporter. On February 7, El Mañana announced it would cease investigative reporting of drug trafficking. Tapes released on February 15 implicate Puebla Governor Mario Marin in a plot to arrest journalist Lydia Cacho in December 2005. Lydia Cacho was arrested in Cancun and driven to Puebla where she was charged with libel for allegations against a prominent businessman in her book about pedophile networks. Mexico announced the creation of a special prosecutor for crimes against journalists on February 15. The Deputy Attorney General for

Organized Crime will continue to be responsible for crimes against journalists committed by drug traffickers, terrorists, and human traffickers.

## **Other Issues**

On February 3, 2006, the U.S. Department of Treasury requested that Starwood Hotels expel a Cuban delegation staying at the Maria Isabel Sheraton Hotel in Mexico City to attend a U.S.-Cuba energy seminar. U.S. sanctions prohibit U.S. corporations from conducting business with Cuba. The Mexican congress called for the Mexican government to send a diplomatic note to the United States alleging that the expulsion of the Cubans violated Mexico's sovereignty. Foreign Minister Luis Ernesto Derbez determined such action was unnecessary as the hotel is facing penalties under Mexican law. The dispute was settled in March 2006 and the hotel was fined \$220,000 for violating Mexico's Law of Commerce and Investment protection.

The President's Budget Request for FY2007 cut International Military Education and Training (IMET) aid to Mexico from \$1.25 million to \$50,000 to comply with the American Servicemembers' Protection Act (ASPA, P.L. 107-206) because Mexico had not signed a bilateral immunity agreement, or Article 98 agreement protecting American military from the jurisdiction of the International Criminal Court. Congress modified this restriction as part of the FY2007 Defense Authorization Act (P.L. 109-364). In November 2006, President Bush, pursuant to section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (P.L. 109-102), also waived restrictions on FY2006 Economic Support Funds (ESF), for 14 countries, including Mexico.

## **Legislation Relating to Mexico in the 110<sup>th</sup> Congress**

### **Methamphetamine Trafficking Enforcement Act of 2007 (S. 132)**

Section Four of S. 132 expresses the sense of Congress that efforts to reduce the trafficking of methamphetamine and its precursor chemicals should be included in all bilateral and multilateral negotiations of the U.S. Trade Representative, the Secretary of State, the Secretary of Homeland Security, and the Attorney General. Section Four also expresses the sense of Congress that the Drug Enforcement Administration should collaborate with law enforcement officials from countries that are known to traffic in methamphetamine and its precursor chemicals and calls for education, training, and information sharing on the international trafficking and use of methamphetamine. Mexico is a leading foreign source of methamphetamine.

### **Comprehensive Immigration Reform Act of 2007 (S. 9)**

Proposed by Senator Reid, S. 9 expresses the sense of Congress that both the House and Senate should pass immigration reform that acknowledges the United

States' immigrant heritage, creates more effective border enforcement, prevents illegal immigration, and reforms the legal immigration process. The measure has been referred to the Senate Committee on the Judiciary. While this measure does not specifically address Mexico, Mexico is the leading source of both legal and illegal immigrants to the United States, thus any immigration reform in the United States would likely affect Mexico.

### **Implementing the 9/11 Commission Recommendations Act of 2007 (H.R. 1)**

Section 611 of H.R. 1 requires that the Secretaries of State and Homeland Security, with the Director of National Intelligence, and heads of other relevant agencies, submit a report to Congress, no later than 270 days after the bill's enactment, on the status of U.S. efforts to collaborate with allies and international partners to improve border security, global document security, and to exchange terrorist information. Section 621 requires the Secretary of Homeland Security to submit to Congress, no later than seven days after the bill's enactment, his plan to accelerate of an automated biometric entry and exit data system pursuant to Section 7208(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458). Section 711 of the measure calls for the presence of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) at border state intelligence fusion centers in order to improve dissemination of information amongst the myriad of jurisdictions in border areas. This measure was approved by the House on January 9, 2007, and has been referred to the Senate Committee on Homeland Security and Government Affairs. If passed, this measure could affect law enforcement at the U.S.-Mexico border.

### **AgJOBS Act of 2007 (H.R. 371)**

H.R. 371 reforms the H-2A, temporary agricultural worker provisions of the Immigration and Nationality Act and creates a temporary agricultural worker program, called "blue card", that includes derivative status for spouses and children and allows for eligible blue card holders to adjust status to permanent residents within seven years of the legislation's enactment. This measure has been referred to the House Committee on the Judiciary. While not specific to Mexico, Mexican agricultural workers could potentially benefit from the proposed program.

### **Citizenship Reform Act of 2007 (H.R. 133)**

H.R. 133 would deny citizenship to children born in the United States whose parents are not U.S. citizens or permanent residents. The measure has been referred to the House Committee on the Judiciary. This measure would apply to all nationalities, including children born to Mexicans in the United States who are not citizens or permanent residents.



## **Illegal Immigration Enforcement and Social Security Protection Act of 2007 (H.R. 98)**

H.R. 98, introduced by Representative Dreier, seeks to curtail the hiring of unauthorized workers by modifying social security cards to include a machine readable strip and the creation of an employment eligibility database by the Department of Homeland Security. Employers would be required to verify potential employee's eligibility to work in the United States before allowing the individual to commence employment. The bill has been referred to the House Committees on Judiciary, Homeland Security, Education and Labor, and Ways and Means. This measure would affect all immigrants attempting to work illegally, including Mexicans.

### **H.R. 305**

H.R. 305, introduced by Representative Pearce, amends the Immigration and Nationality Act to prohibit the parole into the United States of aliens who become ill at a port of entry or who seek emergency medical assistance from a Department of Homeland Security agent at, or near, the border. This measure has been referred to the House Committee on the Judiciary. It is likely that this measure would most often apply at the U.S.-Mexican and U.S.-Canadian borders.

### **H.Res. 18 and H.Res. 22**

H.Res. 18 and H.Res. 22, introduced by Representative King of Iowa and Representative Goode of Virginia, respectively, express the House of Representatives disapproval of the Social Security Totalization Agreement signed by Mexico and the United States in 2004, which must still be submitted to the U.S. congress and Mexican Senate for review. Both resolutions were referred to the House Committee on Ways and Means.

### **H.Con.Res. 22**

H.Con.Res. 22, introduced by Representative Goode, expresses the sense of Congress that the United States should withdraw from NAFTA due to increased trade deficits, and potential health and security risks of permitting Mexican trucks to transport goods throughout the United States.

## Legislation Relating to Mexico in the 109<sup>th</sup> Congress

### Border Security and Migration Measures

**Secure Fence Act of 2006 (P.L. 109-367).** This law authorizes construction of barriers along 700 miles of the U.S. border with Mexico. This act does not, however, provide funding for the construction of these barriers. Congress appropriated \$1.2 billion in initial funding to build the border fence under the Department of Homeland Security Appropriations Act, 2007 (P.L. 109-295).

**Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437)/Comprehensive Immigration Reform Act of 2006 (S. 2611).** Both houses approved immigration reform legislation during the 109<sup>th</sup> Congress, but were unable to agree on key differences in the legislation, preventing enactment of comprehensive immigration reform. In December 2005, the House approved the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437) by a vote of 239 to 182. As passed by the House, the bill would, among other things, strengthen border security, compel employers to use a pilot system to check for employment eligibility, mandate retention of illegal immigrants, make it a crime to be in the United States illegally or to assist illegal aliens, and require the deployment of a fence and surveillance equipment along the Mexico-U.S. border. The Senate approved the Comprehensive Immigration Reform Act (S. 2611) in May 2006 by a vote of 62-36. The bill contained many similarities with the House measure, but there were key differences in the measures and there was no conference to resolve the differences. Principal differences included the House provision that would criminalize unlawful presence; Senate provisions to adjust the status of certain illegal immigrants; and the Senate provisions to create a new temporary worker visa category, H-2C, with a ceiling of 200,000 admissions annually. The Senate measure would also allow eligible H-2C visa holders to adjust status to permanent residents. Section 142 of S. 2611 establishes penalties for the construction or use of an illegally built tunnel between the United States and another country, as well as for the knowledge that such a tunnel was built on one's property. Similar measures were introduced in the House separate from the immigration reform measure, including H.R. 4830, the Border Tunnel Prevention Act of 2006, approved by the House in September 2006. Mexico is the number one country of origin of legal and illegal immigrants to the United States, thus any immigration reform in the United States would likely affect Mexico.

**Other Immigration Legislation.** A number of other immigration initiatives were introduced in the 109<sup>th</sup> Congress, including some that were considered in the debate on the FY2005 Emergency Supplemental. S. 359 (Craig)/H.R. 884 (Cannon), the "AgJobs" Bill, would streamline the H-2A agricultural worker program, with provision for adjusting to legal permanent resident (LPR) status. S. 1033 (McCain-Kennedy)/H.R. 2330 (Kolbe) would grant temporary legal status to foreign workers and to undocumented workers already employed in the United States, with provision for adjusting to LPR status under various provisions and penalties. S. 1438 (Cornyn and Kyl) would establish a new temporary foreign worker program under agreements with foreign countries, but only after workers have returned to their home country. Hearings on these bills, the Administration's proposal, and related immigration and

border issues have been held in relevant committees, most recently on October 18, 2005, in the Senate Judiciary Committee, with two administration witnesses. Mexico is the number one country of origin of legal and illegal immigrants to the United States, thus any immigration reform in the United States would likely affect Mexico.

**USA Patriot Improvement and Reauthorization Act of 2005 (P.L. 109-177).** Title VII of P.L. 109-177, enacted March 9, 2006, contains provisions relating to the production and trafficking of methamphetamine, as well as the international regulation of precursor chemicals used in the production of methamphetamine. Section 721 requires importers of precursor chemicals to provide information on the foreign chain of distribution of the chemicals. Section 722 requires the Secretary of State to identify the five largest exporting countries and the five largest importing countries of precursor chemicals and to certify annually that these countries are cooperating fully with the United States in drug control efforts. Section 723 requires the Secretary of State to cooperate with the government of Mexico to prevent the smuggling of methamphetamine into the United States from Mexico, and to report annually on the implementation efforts. Similar measures were enacted in March 2006 under Title VII of the USA Patriot Improvement and Reauthorization Act of 2005 (P.L. 109-177). Similar provisions were introduced earlier in the Methamphetamine Epidemic Elimination Act (H.R. 3889).

**REAL ID Act of 2005 (H.R. 418)/Emergency Supplemental Appropriations for FY2005 (H.R. 1268/P.L. 109-13).** H.R. 418, the REAL ID Act of 2005, was introduced on January 26, 2005, by Representative Sensenbrenner, as a holdover from consideration of the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458) in December 2004. H.R. 418 was referred to the House Committees on the Judiciary, Homeland Security, and Government Reform, but no formal consideration was undertaken. As introduced, this bill would revise the standards for asylum applicants, expand the grounds for inadmissibility and deportability of aliens for terrorist-related activities, establish identity card standards for the issuance of drivers' licenses that would seem to preclude the use of consular ID cards, and provide waivers of laws to facilitate construction of a fence on the U.S.-Mexico border near San Diego.

The House considered H.R. 418 on February 9-10, 2005, under a structured rule allowing a manager's amendment and five additional amendments. Two amendments were defeated: the Nadler amendment that sought to strike Section 101 with revised asylum standards,<sup>26</sup> and the Farr amendment that sought to strike Section 102 with waivers of laws to facilitate construction of a border fence. Three amendments were approved: the Sessions amendment that facilitated repatriation of aliens ordered deported by clarifying existing delivery bond authority, the Castle amendment that required the entry into aviation security screening databases of information on persons convicted of using a false drivers' license for boarding an airplane, and the Kolbe amendment that required an assessment of security needs along U.S. borders, a plan to facilitate communications among relevant agencies at the border, and a pilot project to test ground surveillance technologies to improve border security. H.R. 418

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<sup>26</sup> For more detail on changes to asylum standards, see CRS Report RL32621, *U.S. Immigration Policy on Asylum Seekers*, by Ruth Ellen Wasem.

as amended was later attached to the FY2005 Emergency Supplemental Appropriations (H.R. 1268) as Division B, and the broader measure was approved by the House on March 16, 2005.

When the Senate considered H.R. 1268 in April 2005, three immigration measures were introduced. The first was the Chambliss amendment that would have allowed guest farm workers to remain in the United States for up to nine years. The second was the Craig-Kennedy amendment that would have allowed guest farm workers who had worked in the United States for 100 days in the last year and who worked 360 days in the next three to six years to become legal permanent residents. The third was the Mikulski amendment to exempt seasonal workers who had worked in the United States in previous years from the cap on H-2B visas for summer tourism activities and the harvesting and picking of seafood like crabs and lobsters. In the end, the Mikulski amendment was the only immigration provision to be approved by the Senate.

In conference, the Mikulski amendment from the Senate version and the provisions in the REAL ID Act in the House version were essentially retained in the conference report (H.Rept. 109-72) on the FY2005 Emergency Supplemental (H.R. 1268). The conference report was approved by the House on May 5, 2005, and it was approved by the Senate on May 10, 2005. It was signed into law (P.L. 109-13) by the President on May 11, 2005.

## **Appropriations Measures**

**Foreign Operations Appropriations for FY2007 (H.R. 5522).** The House approved this bill on June 9, 2006, by a vote of 373-34. Section 587 of the House approved bill limits International Narcotics Control and Law Enforcement (INCLE) assistance to Mexico to \$39 million. Senate action on the measure was not completed during the 109<sup>th</sup> Congress, and foreign operations programs are currently operating under the terms of a continuing appropriations resolution (H.R. 5631/P.L. 109-289, as amended) which provides funding at the FY2006 level or the House-passed FY2007 level, whichever is less. The continuing appropriations resolution expires on February 15, 2007.

**Foreign Relations Authorization for FY2006-FY2007 (H.R. 2601/S. 600).** The Senate Foreign Relations Committee reported out S. 600 (S.Rept. 109-35) on March 10, 2005, with no provisions dealing with Mexico. The full Senate did not consider the legislation.

The House International Relations Committee reported out H.R. 2601 (H.Rept 109-168) on July 13, 2005, with one provision on Mexico, and two additional provisions were added during floor consideration on July 19-20, 2005, when the bill was approved by the House and sent to the Senate for consideration. Section 1048 of the bill, Training and Assistance to Identify Victims in Ciudad Juarez, a floor amendment by Representative Reyes, urges the President and Secretary of State to continue to express concern to Mexican officials over the abductions and murders of young women in the Mexican border city of Ciudad Juarez and authorizes the Secretary of State to provide forensic training and assistance to Mexico to identify unknown murder victims in the city. Section 1124 of H.R. 2601, a modified

amendment by Representative Tancredo approved in the Committee markup, states the sense of Congress that the U.S. government should work with the Mexican government to urge the Mexican Supreme Court to revisit a 2001 decision so that the possibility of life imprisonment without parole will not prevent the extradition of criminal suspects from Mexico to the United States. It also calls for annual reports on the number of requests for extradition by Mexico and the United States and the number of extraditions by Mexico and the United States. As discussed in the “Drug Trafficking Issues” section, the Mexican Supreme Court ruled in November 2005 that life imprisonment without parole does not constitute cruel and unusual punishment, thereby allowing the extradition to the United States of criminals facing such sentences. Section 1414 of H.R. 2601, a floor amendment by Representative Hooley, calls upon the Secretary of State to take actions to prevent the smuggling of methamphetamine into the United States from Mexico, including the provision of equipment and technical assistance, and encouraging the Mexican government to reduce the diversion of pseudoephedrine by drug trafficking organizations. It also calls for an annual report on implementation efforts.

**Foreign Operations Appropriations for FY2006 (H.R. 3057/P.L. 109-102).**

The House passed H.R. 3057 on June 28, 2005, with the Beauprez and the Deal floor amendments relating to extradition and Mexico. The Senate passed H.R. 3057 on July 20, 2005, with the Chambliss floor amendment relating to extradition and Mexico. Section 581 of the enacted legislation (P.L. 109-102) bars assistance to a country that refuses to extradite to the United States any individual indicted in the United States for killing a law enforcement officer, unless the Secretary of State certifies in writing that the application of the restriction is contrary to the national interest of the United States.

## For Additional Reading

### CRS Products on Mexico

CRS Report RS22462, *Mexico’s 2006 Elections*, by Colleen W. Cook.

CRS Report RL33244, *Mexico’s Importance and Multiple Relationships with the United States*, by K. Larry Storrs.

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

### CRS Products on Immigration and Border Security

CRS Report RS22574, *Immigration Reform: Brief Synthesis of the Issue*, by Ruth Ellen Wassem.

CRS Report RL33125, *Immigration Legislation and Issues in the 109<sup>th</sup> Congress*, by Andorra Bruno, Coordinator.

CRS Report RL32169. *Immigration Legislation and Issues in the 108<sup>th</sup> Congress*, by Andorra Bruno, Coordinator.

CRS Report RL32044. *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

CRS Report RL33181. *Immigration Related Border Security Legislation in the 109<sup>th</sup> Congress*, by Blas Nuñez-Neto.

CRS Report RL32735, *Mexico-United States Dialogue on Migration and Border Issues 2001-2006*, by Colleen W. Cook.

CRS Report RL33353, *Civilian Patrols Along the Border: Legal and Policy Issues*, by Stephen R. Viña and Blas Nuñez-Neto.

CRS Report RS22026. *Border Security: Fences Along the U.S. International Border*, by Blas Nuñez-Neto and Stephen R. Viña.

CRS Report RL32004. *Social Security Benefits for Noncitizens: Current Policy and Legislation*, by Dawn Nuschler and Alison Siskin.

CRS Report RL33106. *Border Security and the Southwest Border: Background, Legislation and Issues*, by Lisa Seghetti, Coordinator.

CRS Report RL32616. *9/11 Commission: Legislative Action Concerning U.S. Immigration Law and Policy in the 108<sup>th</sup> Congress*, by Michael John Garcia and Ruth Ellen Wasem.

CRS Report RL32094. *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by Andorra Bruno and K. Larry Storrs.

## **CRS Products on Drug Trafficking and Policy**

CRS Report RL33582, *International Drug Trade and U.S. Foreign Policy*, by Raphael F. Perl.

CRS Report RL32038. *Drug Certification/Designation Procedures for Illicit Narcotics Producing and Transit Countries*, by K. Larry Storrs.

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

CRS Report RL32669. *Mexico's Counter-Narcotics Efforts Under Fox, December 2000 to October 2004*, by K. Larry Storrs.

## **CRS Products on Economic Issues**

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

CRS Report RL33541, *Sugar Policy Issues*, by Remy Jurenas.

CRS Report RL31386. *Industry Trade Effects Related to NAFTA*, by M. Angeles Villarreal.

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

CRS Report RS21737. *NAFTA at Ten: Lessons from Recent Studies*, by J.F. Hornbeck.

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