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## **Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation**

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# Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation

## Summary

The current debate about consular identification cards in the United States has centered around the *matrícula consular*, the consular card issued by the Mexican government to its citizens in the United States when they register with a consulate. For this reason, this report focuses mainly on the Mexican *matrícula consular*. Following the September 11, 2001 attacks, Mexico redesigned and added new features to the *matrícula consular* to make it a more useful and secure document.

In recent years, and especially since September 2001, Mexican consulates in the United States and other interested parties have worked to gain acceptance of the *matrícula consular* as identification for a variety of purposes, with considerable success. A U.S. federal government interagency working group is in the process of developing recommendations for a federal policy on acceptance of consular identification cards and guidance to state and local government agencies and other entities on acceptance.

The *matrícula consular* raises a number of controversial questions for U.S. domestic and foreign policy. With respect to domestic policy, supporters argue that acceptance of the card is necessary in a post-September 11, 2001 America, where photo identification is required to conduct daily business. They maintain that the card is a secure, reliable, fraud-resistant document that improves public safety and homeland security. Opponents argue that the *matrícula consular* is needed only by aliens who are illegally present in the United States and serves to undermine U.S. immigration law. They assert that the card is not secure and that its acceptance threatens public safety and homeland security.

In the area of foreign policy, supporters maintain that U.S. acceptance of the *matrícula consular* for various purposes has improved the bilateral relationship with Mexico. They also argue that U.S. entities should accept the card to ensure that U.S. documents are accepted abroad. In their view, consular cards help U.S. officials to notify consulates of the detention of foreign nationals, and thereby improve the likelihood that U.S. citizens under arrest abroad will have the benefit of consular notification and protection. Opponents contend that regulation of the *matrícula consular* is required to achieve the important U.S. goals of immigration control and defense against terrorism. They do not agree that placing restrictions on foreign-issued cards in the United States would necessarily lead foreign states to restrict U.S.-issued documents, because these documents facilitate tourism and other business.

Legislation related to consular identification cards is before the 108<sup>th</sup> Congress. The House-passed Foreign Relations Authorization Act for FY2004-FY2005 (**H.R. 1950**) contains provisions to restrict the issuance of such cards by foreign missions. Other pending measures concern acceptance of consular identification cards by U.S. federal entities (**H.R. 502**, **H.R. 687**), and acceptance of the cards for banking purposes (**H.R. 773**, **H.J.Res. 58**). This report will be updated as legislative developments occur.

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# Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation

## Introduction

It is fairly common practice for the embassies and consulates of foreign states, including the United States, to encourage their citizens abroad to register with the consulates. By so registering, these citizens can receive standard consular services, be notified if necessary, and be located upon inquiry by relatives and authorities. Consular registration is recognized and has been protected under international law for many years, most recently by the Vienna Convention on Consular Relations of 1963.

The current debate about consular identification cards in the United States has centered around the *matrícula consular*, the consular card issued by the Mexican government to its citizens in the United States when they register with a consulate. For this reason, this report focuses mainly on the Mexican *matrícula consular*. Guatemala, however, also issues such cards, and other nations, including El Salvador, Honduras, Peru, and Poland, are reportedly considering issuing consular identification cards as well. Furthermore, some related legislation before the 108<sup>th</sup> Congress, discussed below, would apply to consular identification cards generally.

## Evolution of the *Matrícula Consular*

According to the Mexican Embassy, Mexico has been issuing consular identification cards since 1871. In recent years, however, demand for the cards has grown. The number of cards issued has increased significantly under the administration of Mexican President Vicente Fox, which has emphasized service to citizens abroad, and since the terrorist attacks of September 2001, when identity documents became increasingly necessary in the United States.

Following the September 2001 attacks in the United States, Mexico redesigned and added new features to the *matrícula consular* to make it a more useful and secure document. Among the new additions are the bearer's U.S. address, the telephone number of the local Mexican consulate, and several security features designed to make the cards tamper-proof and non-duplicable.<sup>1</sup> The new version of the card,

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<sup>1</sup> The security features include numbered tselin paper, laminated plastic pouches, ultraviolet (continued...)

which the Mexican government calls the “high security consular card,” first became available in the United States in March 2002. To obtain a *matrícula consular*, according to Mexican officials, an applicant must present a birth certificate or other document demonstrating Mexican citizenship, an identification document with a picture, and proof of a local address by some means, such as a utility bill.<sup>2</sup> According to the Mexican Embassy, about 1,440,000 high security cards had been issued by May 30, 2003, although some of the recipients were exchanging old cards for the new ones.

## Acceptance of the *Matrícula Consular*

In recent years, and especially since September 2001, Mexican consulates in the United States and other interested parties have worked to gain acceptance of the *matrícula consular* as identification for a variety of purposes. These efforts have met with considerable success. According to testimony presented at a June 2003 House hearing, the *matrícula consular* is now accepted as valid identification by 402 localities, 32 counties, 122 financial institutions, and 908 law enforcement offices.<sup>3</sup> It is also accepted by numerous telephone and utility companies, hospitals, and video stores, among other establishments. In addition, the *matrícula consular* reportedly can be used to help obtain a driver’s license in about a dozen states.

Some entities, however, have decided against accepting the cards. Citing security concerns, the New York City Police Department has declined to recognize the *matrícula consular*. The New York State Department of Motor Vehicles has also refused requests to add the *matrícula consular* to its list of acceptable identity documents for obtaining a driver’s license. In Colorado, a recently enacted law states that public entities can accept only identification documents that are issued by a state or federal jurisdiction or that are recognized by the U.S. government.

At the federal level, the Treasury Department, along with other agencies, issued final regulations on May 9, 2003, setting forth the identifying information that banks had to obtain, at a minimum, from a customer prior to opening an account.<sup>4</sup> Section

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<sup>1</sup> (...continued)

Foreign Ministry logo on the pouch, infrared band over a bi-dimensional bar code, one-of-kind Advantage Seal, and micro-text visible only with special lenses.

<sup>2</sup> Critics charge that consular officials have wide discretion in deciding which documents to accept and can issue cards to applicants without any documents.

<sup>3</sup> See testimony of Marti Dinerstein, citing the Mexican government as the source of information. U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security and Claims, oversight hearing on *The Issuance, Acceptance, and Reliability of Consular Identification Cards*, June 19, 2003.

<sup>4</sup> U.S. Department of the Treasury, Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration. Customer Identification Programs for Banks, Savings Associations, Credit Unions and Certain Non-Federally Regulated Banks. *Federal Register*, vol. 68, no. 90, May 9, 2003, pp. 25089-25113. For additional (continued...)

326 of the USA PATRIOT ACT (P.L. 107-56) directed the Treasury Department to prescribe such regulations. Under the May 2003 regulations, the required customer information includes an identification number. For non-U.S. persons, this identification number can be one or more of four specified numbers, one being the “number and country of issuance of [a] government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.”<sup>5</sup> The rule became effective on June 9, 2003, and banks must be in compliance by October 1, 2003. In an October 2002 report to Congress also mandated by Section 326 of the Patriot Act, which referenced the regulations in proposed form, the Treasury Department specifically addressed the *matricula consular*. A footnote in the report stated: “Thus, the proposed regulations do not discourage bank acceptance of the ‘*matricula consular*’ identity card that is being issued by the Mexican government to immigrants.”<sup>6</sup>

Following publication of the final rule in May 2003, the Treasury Department re-opened the question of accepting certain forms of foreign government-issued identification to verify customer identity. On July 1, 2003, it published a notice of inquiry in the *Federal Register* requesting additional input on this issue, as well as on recordkeeping provisions.<sup>7</sup> In the notice, it posed a series of questions about whether the regulations should preclude financial institutions from accepting certain forms of foreign government-issued identification. The notice further indicated that after the comments had been considered a determination would be made about whether to propose amendments to the May 2003 regulations. On September 18, 2003, the Treasury Department announced that after reviewing over 34,000 comments, it had decided not to recommend any changes to the rules.<sup>8</sup>

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<sup>4</sup> (...continued)

information on this subject, see CRS Report RS21547, *Financial Institution Customer Identification Programs Mandated by the USA PATRIOT Act*, by M. Maureen Murphy.

<sup>5</sup> *Ibid.*, p. 25109. According to the section-by-section analysis of the rule: “Treasury and the Agencies emphasize that the final rule neither endorses nor prohibits bank acceptance of information from particular types of identification documents issued by foreign governments. A bank must decide for itself ... whether the information presented by the customer is reliable.” *Ibid.*, p. 25098.

<sup>6</sup> U.S. Department of the Treasury, *A Report to Congress in Accordance with §326(b) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT)*, Oct. 21, 2002. p. 16 (footnote 17).

<sup>7</sup> U.S. Department of the Treasury, “Customer Identification Programs for Financial Institutions,” *Federal Register*, vol. 68, no. 126, July 1, 2003. pp. 39039-39041.

<sup>8</sup> U.S. Department of the Treasury, Office of Public Affairs, *Treasury Announces Results of PATRIOT ACT Section 326 Notice of Inquiry*, Sept. 18, 2003. Available at [<http://www.ustreas.gov/press/releases/js743.htm>], visited Sept. 23, 2003. On the question of accepting foreign government-issued identification documents, the press release stated: “Treasury concluded that the risk-based approach taken by the final rules, combined with the ability to notify financial institutions if concerns arise with specific identification documents, provide an ample mechanism to address any security concerns.”

Further developments on the acceptance of consular identification cards are possible. A federal interagency working group chaired by the White House Homeland Security Council, with representatives from various executive branch agencies, is in the process of developing recommendations for a federal policy on acceptance of these cards and guidance to state and local government agencies and other entities on acceptance.

## Domestic Policy Implications

The acceptance of the matrícula consular for various purposes by the Treasury Department and by local governments and other public and private entities in the United States has raised a number of controversial questions for U.S. domestic policy. The possible domestic policy implications — as well as foreign policy implications — were discussed at two June 2003 oversight hearings on consular identification cards held by the House Judiciary Committee's Subcommittee on Immigration, Border Security, and Claims.<sup>9</sup> Domestic policy questions about acceptance of the matrícula consular fall mainly in the overlapping areas of immigration, public safety and law enforcement, and homeland security.<sup>10</sup>

### Immigration

In important respects, the debate over the matrícula consular is a debate about how to address the issue of unauthorized immigration to the United States. Those who support domestic acceptance of the matrícula consular emphasize that the card is issued solely for identification purposes and does not confer any type of legal immigration status on the bearer. They maintain that acceptance of the card is necessary in a post-September 11, 2001 America in which photo identification is required to conduct daily business. Some supporters address the unauthorized immigration issue more directly, arguing that it is time to acknowledge that there are millions of unauthorized aliens living and working in the United States and to take steps to more fully integrate them into society.

Opponents of domestic acceptance of the matrícula consular argue that the card is needed only by aliens who are illegally present in the United States and do not possess other acceptable identification documents. They maintain that the matrícula consular helps unauthorized Mexicans live and conduct business in the United States by, for example, enabling them to open bank accounts. In so aiding illegal aliens,

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<sup>9</sup> U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, oversight hearing on *The Issuance, Acceptance, and Reliability of Consular Identification Cards*, June 19, 2003 (hereafter cited as House Judiciary, *Issuance, Acceptance, and Reliability of Consular Identification Cards*.); U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, oversight hearing on *The Federal Government's Response to the Issuance and Acceptance in the U.S. of Consular Identification Cards*, June 26, 2003. (Hereafter cited as House Judiciary, *The Federal Government's Response*.)

<sup>10</sup> Policy questions in the area of banking and finance are covered in this report only to the extent that they relate to these three areas.

opponents charge, the card effectively confers quasi-legal status on them in subversion of U.S. immigration law. They view efforts to gain widespread acceptance of the card as part of a larger strategy to legalize the status of unauthorized Mexicans in the United States. More broadly, opponents argue that acceptance of the *matrícula consular* has negative implications for the country's ability to set future immigration policy.

## **Public Safety and Law Enforcement**

Public safety and law enforcement figure prominently in the debate surrounding domestic acceptance of the *matrícula consular*. Supporters argue that the card is a secure, fraud-resistant document that reliably identifies the bearer. Mexican officials maintain that the documents presented to obtain the card are properly authenticated. With respect to verifying birth certificates, the primary document used to obtain a *matrícula consular*, the Mexican Embassy has said that consular staff work closely with document registries in Mexico when they have any doubts about the legitimacy of a birth certificate.

Supporters take the position that acceptance of the *matrícula consular* by law enforcement agencies improves public safety by, for example, helping police officers identify witnesses, victims, and suspects. If individuals do not possess acceptable identification, they explain, law enforcement agencies must expend time and resources to try to identify them. Supporters also maintain that aliens with identification are more likely to report crimes and cooperate in police investigations.

Supporters further argue that acceptance of the *matrícula consular* by entities other than law enforcement agencies has public safety benefits. As an example, they cite acceptance of the card by financial institutions to open bank accounts. They maintain that individuals who are able to deposit their money in banks do not have to carry around large amounts of cash or keep large sums in their homes and, thus, are less likely to become crime victims.

Opponents of domestic acceptance of the *matrícula consular* challenge the assertion that the card is a secure document. They argue that despite its fraud-resistant features, the card is not secure because the underlying documentation used to obtain it is not properly authenticated. They express particular concern about the Mexican birth certificate, which, they say, is easily forged. Opponents of domestic acceptance of the *matrícula consular* assert that the authentication process relies on visual inspection of documents by Mexican consular personnel, which, they claim, is inadequate. They also argue that there is no mechanism to prevent the issuance of multiple cards to the same person. They cite cases in which a single individual has been found with multiple cards, each containing the individual's photograph but a different name.

Opponents argue that acceptance of the *matrícula consular* by law enforcement agencies threatens public safety. They maintain that in cases of minor infractions, police departments that recognize the card are not conducting background checks or taking fingerprints of card holders. Given this practice, opponents argue, the card helps conceal past criminal activity. They further speculate that the acceptance of the



matrícula consular by the police will encourage drug traffickers and other criminals to obtain the cards.

The potential use of the matrícula consular to establish false identities is of great concern to opponents. They argue that cards issued to individuals under false names can be, and have been, used to obtain driver's licenses and other documents in those names to create multiple identities. According to opponents, individuals can use these false identities to facilitate criminal acts, such as money laundering and alien smuggling, and to avoid detection by authorities.

## Homeland Security

Supporters of domestic acceptance of the matrícula consular argue that the card improves homeland security by enabling the authorities to easily and accurately identify Mexican nationals in the United States. They maintain that individuals who are isolated and marginalized pose a greater potential security threat than those who are known. They emphasize that Mexico is not a terrorist-supporting country and that Mexicans come to the United States to work, not to commit terrorist acts.

Opponents argue that domestic acceptance of the card threatens homeland security. According to June 2003 congressional testimony by the Federal Bureau of Investigation (FBI), "the ability of foreign nationals to use the Matrícula Consular to create a well-documented, but fictitious, identity in the United States provides an opportunity for terrorists to move freely in the United States without triggering name-based watch lists." The FBI also expressed concern about the possible use of false identities to transfer funds to support terrorist acts.<sup>11</sup> In arguing against acceptance of the matrícula consular on security grounds, opponents state that the lax issuance procedures have enabled non-Mexicans, including at least one known individual of Middle Eastern descent, to obtain valid cards.<sup>12</sup> They further contend that accepting the Mexican consular card sets a dangerous precedent, since other less friendly countries may decide to issue consular identification cards to their nationals in the United States.

## Foreign Policy Implications

The foreign policy implications of the matrícula consular may be viewed under three main headings: the U.S.-Mexico bilateral relationship, reciprocity of treatment of citizens abroad, and consular notification in law enforcement situations.

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<sup>11</sup> See House Judiciary, *The Federal Government's Response*, hearing testimony of Steven McCraw, Assistant Director of the FBI's Office of Intelligence.

<sup>12</sup> In his testimony, Steven McCraw mentioned the arrest of an Iranian man attempting to enter the United States from Mexico who was carrying a matrícula consular card identifying him as a Mexican citizen.

## Bilateral Relations

During the recent Mexican presidential campaign, the major candidates discovered that the status of Mexican migrants in the United States was one of the top concerns among the Mexican people. A large portion of the population has a relative in the United States, and there is widespread concern about the plight of migrants who die enroute, or are exploited in some way in the United States.

As a result, when President Fox of the conservative National Action Party (PAN) was elected in July 2000 and inaugurated in December 2000, he began pressing proposals with the United States for legalizing undocumented Mexican workers in the United States through amnesty or guest worker arrangements, while offering improved relations in other areas, including trade, drug control, and foreign policy cooperation. When President Bush met with President Fox in mid-February 2001, the two Presidents agreed to hold cabinet-level negotiations to address migration and labor issues between the countries. When President Fox visited Washington, in early September 2001, the Presidents pledged to reach agreement as soon as possible on a range of issues, including border safety, a temporary worker program, and the status of undocumented Mexicans in the United States. However, following the September 2001 terrorist attacks, many policymakers called for tighter border controls, and the migration talks stalled, despite assertions in a presidential meeting in Monterrey, Mexico, in March 2002, and in the cabinet-level Binational Commission meetings in November 2002 that the talks would continue.<sup>13</sup>

Given the lack of progress on the bilateral migration talks, some observers have argued that the Mexican government's campaign to issue consular identification cards was a way to provide limited benefits to the migrant population in the United States, giving them access to banking services, permitting them to transfer money to Mexico at cheaper rates through established institutions, and permitting them to have more normal access to regular activities in the United States. Supporters of the *matrícula consular* argue that by improving the lives of Mexican citizens the card has improved the relationship between the United States and Mexico, despite falling short of the desired migration agreement. They cite improved bilateral cooperation in many areas, most notably in enhanced Mexican efforts to control drug trafficking activities, to cooperate on border control plans, and to deploy soldiers to secure access points to the United States during the war in Iraq, although Mexico favored a more multilateral approach to that problem. These supporters argue that restricting the issuance and acceptance of the identity cards might have an adverse effect on the bilateral relationship between the countries. Opponents of the *matrícula consular* may acknowledge that the card has improved bilateral relations to some extent, but they argue that regulations covering issuance and acceptance are required to achieve the more important U.S. goals of control of immigration policy and defense against a possible threat of terrorism. They argue that Mexican officials have been inappropriately involved in the domestic affairs of the United States when they have promoted acceptance of the card.

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<sup>13</sup> For more information on the bilateral relationship, see CRS Report RL31876, *Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress*, by K. Larry Storrs.

## Reciprocal Treatment

As indicated above, it is traditional practice for consulates abroad, including U.S. consulates, to register and maintain some record of their nationals abroad for the purpose of notifying and protecting them. This practice is recognized and protected under international law through the Vienna Convention on Consular Relations of 1963, which provides that states will accord this right to each other on a reciprocal basis.<sup>14</sup> In addition, it is traditional practice for many institutions in one country to accept the official documents of another country for a variety of transactions, such as accepting a U.S. driver's license for driving automobiles in Mexico.

According to Roberta Jacobson, the Acting Deputy Assistant Secretary of State for Western Hemisphere Affairs, in testimony at a June 2003 House Immigration Subcommittee hearing on consular identification cards, the Department of State "issues documentation other than a passport for U.S. citizens abroad and at times occasionally issues similar identity cards or travel documents." "Should a foreign country decide to limit acceptance of such documentation or other traditional documentation such as state-issued identifications or driver's licenses," she counseled, "the actions of American citizens abroad could be seriously restricted."<sup>15</sup>

Proponents of the *matrícula consular* argue that the United States should accept the card, so that the U.S. government will receive reciprocal treatment in the issuance of identification cards abroad, and Mexico and any other foreign state will recognize the documents of U.S. citizens for a variety of activities. Critics of the *matrícula consular* rarely comment on this aspect, but may argue that U.S. documents would continue to be recognized by foreign states, even if U.S. acceptance of the *matrícula consular* were to be restricted, because they facilitate tourism and the transaction of highly-desired business.

## Consular Notification

In her June 2003 testimony, State Department official Jacobson mentioned another benefit of consular identification cards, namely that they facilitate the notification by U.S. law enforcement officers of foreign consulates when foreign nationals are detained for suspected illegal activity. The Vienna Convention on Consular Relations provides that foreign nationals who are arrested or detained have a right to protection and assistance from their own consulates. It establishes that the detaining state is required to inform the detainee of his or her right to request that the relevant consular officials be notified of the detention without delay. Consular notification is relatively easy when the detainee is carrying a card that identifies him as a national of another state, but it is difficult, and not always achieved, when the detainee lacks any documentation, and his identity, relatives, and nationality are

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<sup>14</sup> For further information on this subject, see CRS Report RS21627, *Implications of the Vienna Convention on Consular Relations upon the Regulation of Consular Identification Cards*, by Michael John Garcia.

<sup>15</sup> See House Judiciary, *The Federal Government's Response*, hearing testimony of Roberta S. Jacobson, Acting Deputy Assistant Secretary of State for the Bureau of Western Hemisphere Affairs.

unknown and often withheld out of fear. According to Ms. Jacobson, consular notification is a very serious issue for the Department of State, and it is “working assiduously to ensure U.S. compliance,” in part so that U.S. consulates will be informed when U.S. citizens are detained abroad.

Consular notification is a major issue for the Mexican government. For years, Mexican officials have been complaining about Mexican citizens who they claim were executed or who are awaiting execution in the United States without the benefit of consular assistance and adequate defense because the consulates were never notified. In mid-August 2002, President Fox was reported to have cancelled his August 26-28 trip to Texas and his meeting with President Bush in Crawford to protest the execution by Texas authorities of convicted police killer Javier Suarez Medina despite Mexican claims that he was a Mexican citizen who was never afforded Mexican consular assistance. In January 2003, Mexico brought a case against the United States in the International Court of Justice on behalf of 54 Mexican citizens sentenced to death in the United States, charging that U.S. officials have violated the Vienna Convention on Consular Relations by systematically failing to inform Mexicans of their right to consular assistance under the treaty. U.S. officials argued that the sheer number of Mexican nationals in prison and the multiplicity of local law enforcement agencies make it difficult to comply in all cases. In early February 2003, the International Court ordered the United States to take all measures necessary to prevent the approaching executions of three Mexican citizens pending the final judgment of the Court to be issued at a later date.<sup>16</sup>

Proponents of the matrícula consular argue that consular identification cards make it easier for U.S. law enforcement officials to notify consulates of the detention of foreign nationals, and thereby improve the likelihood that U.S. citizens under arrest abroad will have the benefit of consular notification and protection. In the case of Mexico, achieving a better record on consular notification would remove a major irritant in the bilateral relationship. Opponents of consular identification cards would argue that there should be other means and other indications of identity that would permit law enforcement officials to adhere to the consular notification obligations, without establishing a system, which, in their view, provides non-legislated immigration benefits.

## **Legislation in the 108<sup>th</sup> Congress**

Legislation related to consular identification cards is before the 108<sup>th</sup> Congress. One measure to place restrictions on the issuance of these cards has been passed by the House. The other pending measures concern acceptance of consular identification cards by U.S. federal government entities, and acceptance of the cards for banking purposes.

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<sup>16</sup> International Court of Justice, Press Release 2003/9, Case Concerning Avena and Other Mexican Nationals (*Mexico v. United States of America*), Provisional Measures, Feb. 5, 2003.

## Measure to Restrict Issuance of Consular Cards

On July 15, 2003, the House approved an amendment sponsored by Representatives John Hostettler, Elton Gallegly, and Thomas Tancredo to restrict and set conditions on the issuance of consular identification cards by foreign missions in the United States. In floor action on the "Foreign Relations Authorization Act for FY2004-2005" (**H.R. 1950**), the House voted, 226 to 198, to accept House Amendment No. 246, which was added to the bill as Section 232. The amendment would establish a series of restrictions on the issuance of consular identification cards by foreign missions. It would direct the Secretary of State to issue regulations requiring foreign missions to: (1) notify the Secretary of each consular identification card issued in the United States, including the name and address of each recipient; (2) issue cards only to bona fide nationals of the country; (3) maintain complete and accurate records of all cards issued and do so in an automated system that can be accessed to prevent duplicate or fraudulent issuance; (4) require card recipients to notify the mission of any change of address; and (5) make available the records of all cards issued for audit and review at the request of the Secretary. If the Secretary of State determined that a foreign mission had violated these regulations and that such violation threatened national security or facilitated fraudulent or criminal acts, the Secretary would notify the relevant government that the mission must suspend issuance of consular identification cards until it was in compliance. If the foreign mission failed to suspend issuance of the cards, the State Department would cease issuance of immigrant or non-immigrant visas, or both, to nationals of that country until the mission was in compliance with the regulations.

Supporters of these proposed restrictions argue that foreign governments have been issuing consular identification cards in the United States for purposes other than those intended by the Vienna Convention on Consular Relations, namely to circumvent U.S. immigration law, and that the issuance of the cards should be subject to U.S. regulation. They argue that the cards are not a reliable form of identification because the Mexican government has no automated and secure system to assure that the cards are not forged or shared, or issued to more than one individual or to individuals relying on fraudulent documents. They further argue that the cards are susceptible to being used to establish false identities that may facilitate money-laundering, alien smuggling, and terrorist activity.

Opponents of the proposed restrictions argue that the restrictions are directed against consular identification cards in general, the Mexican *matrícula consular* in particular, and persons of Hispanic heritage. They argue that the requirements, especially the requirements that the records be given to the United States and be subject to audit by the United States, pose unreasonable restrictions on a foreign government's right under the Vienna Convention to register and monitor its nationals abroad. They further argue that the penalties for non-compliance are extremely onerous. To the extent that the issuance of the *matrícula consular* has been viewed as improving Mexico-U.S. bilateral relations, the House-passed restrictions would likely be seen as harming the bilateral relationship. The restrictions would also be viewed by opponents as making consular notification more difficult, and raising the possibility that reciprocal action by other nations might harm the U.S. government's ability to register and monitor U.S. nationals abroad.

## Measures on Acceptance of Consular Cards by U.S. Federal Entities

Two bills would restrict acceptance of consular identification cards by federal entities. **H.R. 502**, introduced by Representative Tancredo, would prohibit entities of the federal government, in providing federal public benefits or services that require the recipient to produce identification, from accepting any identification document, unless the document was issued by a federal or state authority and subject to verification by the federal government. H.R. 502 has been referred to the House Committees on Government Reform, House Administration, and Judiciary, and to the Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security.

**H.R. 687**, introduced by Representative Gallegly, would prohibit federal employees from accepting, for purposes of establishing identity, forms of identification issued by foreign governments. The bill would exempt passports from the prohibition if federal law authorized passports to be used for a specific purpose on the date of enactment. H.R. 687 has been referred to the House Committees on Government Reform, House Administration, and Judiciary, and to the Judiciary Committee's Subcommittee on Immigration, Border Security, and Claims.

## Measures on Acceptance of Consular Cards for Banking Purposes

Two measures concern acceptance of consular identification cards for banking purposes. **H.R. 773**, introduced by Representative Ruben Hinojosa, would direct the Treasury Secretary to prescribe regulations authorizing financial institutions to accept a matrícula consular issued by the Mexican government as a valid form of identification for opening an account. Among the findings in the bill is the following: "Accepting matrícula consular as a form of identification allows Mexican immigrants to enter the financial mainstream and provides banks and other financial institutions with a new, fast-growing market." H.R. 773 has been referred to the House Financial Services Committee and its Subcommittee on Financial Institutions and Consumer Credit.

**H.J.Res. 58**, introduced by Representative Tancredo, would disapprove and rescind the final Treasury Department regulations issued on May 9, 2003 (discussed above).<sup>17</sup> One "whereas" clause states that the Treasury Department rules "permit financial institutions to accept certain unverifiable forms of identification from 'non-United States persons' in direct violation of the clear intent of Congress ... [in] the USA PATRIOT Act," while another states that "there is abundant evidence of the non-verifiable and unreliable nature of identification documents issued by foreign governments to foreign nationals residing within the United States, including the 'Matricula Consular' card." H.J.Res. 58 has also been referred to the House Financial Services Committee and its Subcommittee on Financial Institutions and Consumer Credit

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<sup>17</sup> H.J.Res. 58 references final rules issued by the Treasury Department on Apr. 30, 2003. In a telephone conversation on Aug. 20, 2003, however, Representative Tancredo's office confirmed that the date should read "May 9, 2003."