

NAFTA and Mexico-US Migration
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Summary

Migration was the central feature of Mexico-US relations for most of the 20th century, but the volume of cross border flows rose remarkably in the 1990s—a third of all legal Mexican immigrants admitted in the 20th century and a third of 20th century apprehensions were in the 1990s. High levels of legal and unauthorized migration have continued in the 21st century, despite rising levels of Mexico-US trade.

The roots of Mexico-US labor migration lie in the US-government approved recruitment of about five million Mexican workers between 1917 and 1921 and again between 1942 and 1964, as well as fast labor force and slow and uneven job growth in Mexico, especially since the 1980s. The result of these guest worker programs and emigration pressure was distortion and dependence: some US farmers made investment decisions that assumed there would be a continued influx of Mexican workers, and some Mexicans became dependent on US jobs and earnings.

A combination of increased demand-pull pressures in the US, especially during the job booms of the late 1980s and late 1990s, and increased supply-push pressure in Mexico, especially after economic crises in the mid-1980s and mid-1990s, helped to diffuse the origins and destinations of Mexican migrants—more are coming from southern and urban Mexico, and more are going into farm and nonfarm jobs outside the western states. The 2004 US labor force of 148 million included 19 million Hispanics (13 percent), with perhaps 40 percent born in Mexico. The Hispanic share of net US labor force growth over the past decade,

44 percent, is three times the Hispanic share of the labor force.¹ Mexico-US trade has increased as a result of NAFTA, but the rate of increase in Mexico-US migration has been even faster.

The extremes along the policy options to deal with the Mexico-US migration hump are to legalize current or higher levels of Mexico-US migration versus try to stem the influx with more border and interior enforcement. There is no credible legalization proposal, as in 1987-88, but the US House approved an enforcement approach in December 2005. The US Senate is expected to consider bills that include provisions to allow currently unauthorized workers to become legal guest workers and perhaps eventually immigrants in February 2006.

Evolution of Mexico-US Migration

A third of legal and unauthorized 20th century Mexico-US migration occurred in the 1990s (Table 1). During most of the 20th century, Mexican migrants were negatively selected, meaning that they had less education and fewer skills than the average Mexican because US farmers recruited rural Mexicans willing to accept seasonal farm jobs (Martin 1993). There were bilateral agreements to regulate Mexico-US labor migration between 1917-1921 and 1942-1964, but most Mexican-born workers employed in the US labor market arrived and were employed outside these guest worker or Bracero programs.

Table 1. Mexican Immigration and Apprehensions: 1890-2003

Table 1. Mexican Immigration and Apprehensions: 1890-2003

Decade	Immigrants		Decade as percent of total 1890-2003	Apprehensions a		Decade as percent of total 1890-2003
	Annual Average	Decade Total		Annual Average	Decade Total	
1890-1900	97	971	0%	na	na	na
1901-1910	4,964	49,642	1%	na	na	na
1911-1920	219,000	219,004	3%	na	na	na
1921-1930	45,929	459,287	7%	25,697	256,968	1%
1931-1940	2,232	22,319	0%	14,746	147,457	0%
1941-1950	6,059	60,589	1%	137,721	1,377,210	3%
1951-1960	22,981	229,811	3%	359,895	3,598,949	8%
1961-1970	45,394	453,937	7%	160,836	1,608,356	4%
1971-1980	64,029	640,294	10%	832,150	8,321,498	19%
1981-1990	165,584	1,655,843	25%	1,188,333	11,883,328	26%
1991-2000	224,942	2,249,421	34%	1,466,760	14,667,599	33%
2001-2003	180,557	541,670	8%	1,008,017	3,024,052	7%
Total		6,582,788	100%		44,885,417	100%

Source: INS Statistical Yearbook and Yearbook of Immigration Statistics

Notes:

a. Apprehensions record events, so one person caught three times is three apprehensions.

Mexicans are 95-98 percent of those apprehended.

* Apprehension data for 1921-30 is calculated as twice the reported 1925-30 figure (128,484).

¹ The US labor force rose by an average 1.7 million a year in the past decade, from 131 million to 148 million, and employment by an average 1.6 million a year, from 123 million to 139 million. Hispanic employment rose by 700,000 a year, from 11 million in 1994 to 18 million in 2004.

From Braceros to IRCA

The first Mexican Braceros were admitted by making “exceptions” to US immigration laws that otherwise would have blocked their entry, that is, the head tax and the literacy test was waived for Western Hemisphere nationals coming to the US “for the purpose of accepting employment in agricultural pursuits.” As often happens with guest worker programs, the number of Mexican Braceros admitted peaked after the WWI crisis ended—18,000 were admitted in 1917 and 52,000 in 1920. A US recession in 1921 and Mexican government dis-satisfaction with the treatment of Braceros in some states and on some US farms allowed the program to end by mutual consent.

Mexicans who continued to migrate north found few obstacles to entry, in part because the US Border Patrol was not established until 1924. Mexican-born workers became the core of the seasonal farm work force in California’s expanding agriculture during the 1920s; it was estimated that 70 to 80 percent of the 72,000 seasonal farm workers in California were Mexican by 1930 (Martin, 2003, Chapter 2). The Great Depression led to “repatriations” of Mexicans in the US to free up jobs for unemployed Americans, and resulted in fewer Mexican-born US residents in 1940 (378,000) than there had been in 1930 (641,000), according to the US Census.

During the 1930s, large southwestern farms dependent on armies of seasonal workers came under attack from farm labor reformers. John Steinbeck’s 1939 novel, *The Grapes of Wrath*, gave an emotional impetus to the call for farm labor reform. However, there was a dispute between reformers such as Paul Taylor who wanted to break up large farms into family-sized units and those such as Varden Fuller who wanted to allow factories in the fields to persist, but to treat farm workers like factory workers and provide them with minimum wages, unemployment insurance, and the right to form unions. The result was no immediate reform action.

Decades of low farm wages had been capitalized into higher land prices, giving landowners an economic incentive to oppose labor changes that could have led to higher wages and lower land prices. The outbreak of WWII allowed farmers to win a new Bracero program, which expanded well after the war ended. In the 1950s, when federal and state irrigation projects opened new land for farming, the cost of shipping produce by truck from west to east fell with the completion of the interstate highway system, and the baby boom increased the US demand for fruits and vegetables, the Bracero program peaked at almost 500,000 admissions a year. California soon replaced New Jersey as the garden state in the eastern time zone, still home to almost 60 percent of Americans.

An expanded western agriculture dependent on Bracero workers was threatened in the late 1950s by studies documenting the fact that farm wages did not rise as fast as nonfarm wages because the availability Bracero workers retarded wage growth. Unions as well as church and Hispanic groups argued that the availability of Bracero workers retarded the economic progress of rural Hispanics. Hispanic socio-economic progress, they argued, required an end to

Bracero admissions. Farmers countered that without Braceros, labor-intensive agriculture would shrink and make the US dependent on imported commodities during the Cold War.

The Bracero program ended in 1964, and farm wages began to rise faster than nonfarm wages. There was a wave of labor-saving mechanization that, contrary to predictions, led in some commodities to increased production and lower costs. The best example of how the higher farm wages of the mid-1960s transformed the production of a commodity occurred in the tomatoes used to make catsup, known as processing tomatoes. In 1960, over 80 percent of the 45,000 peak harvest workers employed to pick the 2.2 million ton processing tomato crop in California were Braceros (Martin and Olmstead, 1985).

In arguing that the Bracero program should be continued, farmers predicted that they would have to follow their Braceros to Mexico to get their tomatoes picked. The California Farmer's July 6, 1963 predictions were typical: if the Bracero program ends, "the (tomato) industry is in general agreement that the state will see a tremendous drop in tomato acreage for 1964...from 177,200 in 1963. All agree that the state will never again reach the [level of production as] when there was a guaranteed supplemental labor force in the form of the bracero." (p5).² The article continued that: "the industry sees no hope of filling the (labor) gap in tomatoes from the domestic ranks even if competition for workers drives wages up to the average factory wage." (p47).

Contrary to expectations, the harvest was mechanized rapidly and production of processing tomatoes in California expanded. Plant scientists and engineers collaborated to develop tomatoes that ripened simultaneously and a machine to cut and shake ripe tomatoes from the plants in one pass through the field. Four decades after the Bracero program ended, 5,000 workers ride machines in California to sort 12 million tons of tomatoes, that is, a ninth as many workers harvest six times more tomatoes.

Mechanization resulted in fewer and larger tomato farms, and UC was sued by worker groups alleging that taxpayer monies intended to improve rural communities wound up displacing farm workers and small farmers. The suit was eventually settled with an agreement to have worker advocates review UC plans for labor-saving research. However, a combination of less government research money and rising unauthorized Mexico-US migration dulled employer interest in labor-saving agricultural mechanization by the end of the 1970s.

Meanwhile, wages for US farm workers rose sharply, as exemplified by Cesar Chavez and the United Farm Workers winning a 40 percent one-year wage increase for grape pickers in 1966. After boycotts of table grapes that won support from up to 15 percent of Americans, most grape growers signed contracts or raised wages to the levels of union contracts, and in 1975 California

² Farm magazines and Congressional testimony was filled with dire predictions. California had about 9,800 acres of strawberries, and a July 20, 1963 California Farmer article was entitled: -- "Bracero Loss will make Strawberries a Luxury."

became the first major agricultural state to explicitly grant collective bargaining rights to farm workers.

The UFW won most of the 800 state-supervised elections held on California farms between 1975 and 1979, when it called strikes in support of another 40 percent wage increase in the vegetable industry. The UFW's goal was to raise the entry-level farm wage from \$3.75 to \$5.25 an hour at a time when the federal minimum wage \$3.35, and a 57 percent union wage premium would have represented an historic milestone. However, many growers resisted the union's demands, and turned to labor contractors to get replacements for the strikers. FLCs hiring unauthorized Mexicans soon replaced the UFW as the major determinant of wages in the state's labor market, and the number of workers under UFW contract fell sharply (Martin, 2003).

Mexicans were encouraged to migrate north by a peso devaluation in 1982, the first time in 40 years that the Mexican economy did not grow.³ The Mexican government declared a moratorium (but did not default) on repaying the \$88 billion foreign debt that had been incurred in the hope that oil prices would continue rising, and had to sharply reduce government spending when oil revenues fell. Real wages in Mexico fell and inflation rose, making work in the United States more attractive, and the movement of more Mexican workers north was soon reflected in sharply higher apprehensions.⁴

From IRCA to Nafta

In 1986, the United States enacted the Immigration Reform and Control Act (IRCA), whose purpose was to reduce illegal immigration by imposing sanctions on US employers who knowingly hired unauthorized foreigners and by legalizing some unauthorized foreigners in the United States. Contrary to expectations, the IRCA increased legal and unauthorized Mexico-US migration.

The IRCA included two legalization or amnesty programs, and over 70 percent of the applicants in each were from Mexico (Table 2). Residence-based legalization allowed those in the US "continuously" since January 1, 1982 to legalize their status during in 1987-88, while the employment-based Special Agricultural Worker (SAW) program permitted unauthorized foreigners who did at least 90 days of farm work in 1985-86 to become immigrants (Martin, 1994).

The SAW program had easier eligibility requirements and was rife with fraud, since it allowed foreigners to present one-sentence affidavits from farm employers to verify the required farm work. Once the foreigner filed an application with the affidavit, the burden of proof shifted to the US government to disprove the applicant's eligibility, which it was not prepared to do. Other IRCA features encouraged the entry and employment of additional

³ The Mexican peso dropped from \$1 to 14 pesos in 1982 to \$1 to 150 pesos in 1984.

⁴ A peak 1.8 million Mexicans were apprehended in 1986, the Border Patrol was apprehending an average 3 Mexicans a minute, 24 hours a day, 7 days a week. Apprehensions record events, so the same person caught three times is three apprehensions.

unauthorized workers, as when Border Patrol raids on fields stopped, employer sanctions enforcement was delayed, and over 100,000 Mexicans came to US ports of entry, asserted they did qualifying farm work and needed to enter the US to obtain proof from their past employers, and were admitted with temporary work permits.

A million Mexican men eventually became US immigrants under the SAW program, equivalent to a sixth of the adult men in rural Mexico in the mid-1980s. Their families were deliberately excluded from legalization, under the theory that rural Mexican men simply wanted to commute to seasonal US farm jobs from homes in Mexico. Many SAWs soon found nonfarm jobs and settled in US cities with their families, so that outlays for education, health, and other public services rose.

Table 2. IRCA Legalization Applicants in 1987-88

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Characteristic	LA (a)	SAW (b)
Median Age at Entry	23	24
1. Age 15 to 44 (%)	80	93
2. Male (%)	57	82
3. Married (%)	41	42
4. From Mexico (%)	70	82
5. Applied in California (%)	54	52
Total Applicants	1,759,705	1,272,143

Source: INS Statistical Yearbook, 1991, pp. 70-74

(a) Persons in the US since January 1, 1982 filing I-687 legalization applications. About 80,000 farm workers filed LAs.

(b) Persons who did at least 90 days of farm work and filing I-700 Special Agricultural Worker applications.

During the early 1990s recession, state and local governments sued the federal government, seeking reimbursement for the costs of educating and caring for unauthorized foreigners. The studies done in the wake of these suits demonstrated that the taxes paid by low-income legal and unauthorized immigrants accrued primarily to the federal government, while the costs were borne primarily by state and local governments. This federal-state difference in taxes collected and services provided set the stage for California's Proposition 187 in 1994, which would have denied state-funded services to unauthorized foreigners, and federal welfare reforms in 1996 that imposed restrictions the access of legal and unauthorized foreigners to tax-supported federal benefits.

As IRCA made it easier for Mexicans settle in the US, the Mexican government changed its economic policies from an inward-oriented import substitution model to an outward-oriented East Asian model that counted on foreign investors to create jobs in factories that took advantage of low Mexican wages to produce goods for export. The Mexican government also changed its foreign

policies, shifting to embracing the US investors who assembled products for the US market. Mexican President Carlos Salinas sought to lock these market-opening and free-trade policies into an international agreement by proposing the North American Free Trade Agreement.

Nafta's Migration Hump

NAFTA, which went into effect on January 1, 1994, lowered barriers to trade and investment between Canada, Mexico, and the United States, and was expected to increase trade, employment, and wages in all three countries. The political leaders promoting NAFTA seemed to assume that, if the trade and migration are substitutes in the long-run, they are also substitutes in the short-run. Then-Mexican President Salinas, for example, asserted that that freer trade means "more jobs...[and] higher wages in Mexico, and this in turn will mean fewer migrants to the United States and Canada. We want to export goods, not people." (quoted in Bush letter to Congress, May 1, 1991, p. 17).

However, Mexico-US migration increased along with Mexico-US trade. The estimated number of unauthorized Mexicans in the United States rose from 2.5 million in 1995 to 4.5 million in 2000, and then to 11 million in 2005, when the 36 million foreign-born US residents included 30 percent who were unauthorized. Almost 60 percent or six million of the unauthorized foreigners were Mexican, and over 80 percent of migrants from Mexico in recent years have been unauthorized. Most of the unauthorized are between 18 and 40, but 1.7 million or about a sixth are children under 18, suggesting that there may be three million US-born siblings of these unauthorized children in families headed by an unauthorized persons (Passel, 2005).

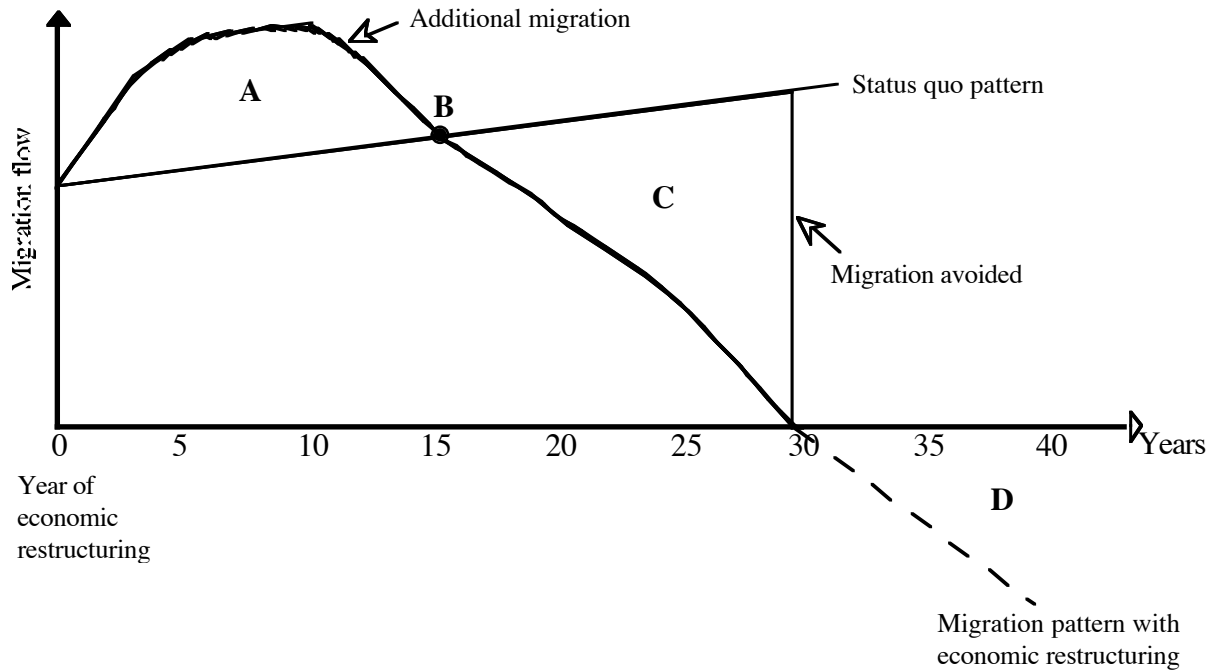
A migration hump in response to economic integration between labor-sending and receiving countries leads to a paradox: the same economic policies that can reduce migration in the long run can increase it in the short run or, in the words of a US Commission examining mutually beneficial policies to substitute trade for migration, there is "a very real short-term versus long-term dilemma" to persuade a skeptical public that freer trade is the best long-run way to reduce unwanted migration (1990, p. xvi). Political leaders can explain that the short-run increase in migration associated with freer trade is a worthwhile price to pay for policies that reduce unwanted immigration in the long-run, but they must first understand why trade and migration can rise together.

The steadily rising line in the figure below represents the status-quo migration flow, and the hump line depicts the additional migration associated with freer trade and economic integration; the number of migrants is measured on the Y-axis and time on the X-axis. Without economic integration, migration rises in the status-quo scenario because of faster demographic growth and slower economic growth in emigration countries. Economic integration, on the other hand, leads to a temporary increase in migration, represented by **A**, as freer trade displaces Mexicans but foreign investors needed time to create additional factory jobs.

Economic integration should speed up economic and job growth, and the downside of the hump is shown in the movement toward **B**. As economic

integration accelerates convergence in wages, area **C** represents the migration avoided by economic integration. Finally area **D** represents the migration transition, which occurs when a net migrant sending country becomes a net receiving country.

Figure 2. The Migration Hump



The critical policy parameters in the migration hump diagram are A, B, and C-- how much does migration increase as a result of economic integration (A), how soon does this hump disappear (B), and how much migration is "avoided" by economic integration (C)? Generally, three factors must be present to create a migration hump: a continued demand-pull for migrants in the destination country, an increased supply-push in the origin country as a result of labor displacement and slow job growth, and migration networks that can move workers across borders.

The usual comparative static economic analysis of economic policy changes involves comparisons of equilibrium points, not the process of adjustment to a new equilibrium. The migration hump is precisely this adjustment process. It is important to emphasize that, once wage differences narrow to 4 to 1 or less, and job growth offers opportunities at home, the "hope factor" can deter especially

irregular migration, since most people prefer to stay near family and friends rather than cross national borders, especially if their migration is irregular.⁵

NAFTA got off to a promising start in Mexico, where employment rose in 1994. However, just before President Zedillo was inaugurated in December 1994, there was an economic crisis, and the peso fell sharply. The US provided emergency funds to stabilize Mexican government finances, but the number of formal sector jobs shrank by over 10 percent. Job growth resumed in 1996, and formal Mexican employment peaked in 2000, as employment in maquiladoras reached 1.3 million, 10 percent of formal sector jobs.

When the US went into recession in 2000-01, maquiladora employment fell, and many of the border assembly factories, especially those producing textiles and apparel, closed and moved to China and other countries with lower wages. Of the 700,000 new maquiladora jobs generated in NAFTA's first seven years, 300,000 were eliminated between 2000 and 2003 and are not likely to re-appear. The consensus is that Mexico must upgrade worker skills and productivity or risk losing even more assembly-type jobs to lower-wage countries.

NAFTA may have given industrial employment only a short-term boost, but critics charge that NAFTA devastated Mexican agriculture. About 25 percent of Mexicans live in rural areas, and 20 percent depend mainly on agriculture for their income. The alleged NAFTA villain is increased imports of low-cost US farm commodities such as corn. Corn is planted on 50 percent of Mexican crop land, much of which is not irrigated, and some three million Mexicans depend at least partially on corn production. The ready availability of cheaper US corn sends a clear signal that there is no future in small scale and rain-fed corn production in Mexico.⁶

NAFTA speeded up changes in Mexico, raising the demand for and wages of skilled workers. However, as growing competition with China for assembly-line manufacturing jobs attests, Mexico has relatively high labor costs for unskilled workers. Further south inside Mexico, NAFTA's tariff reductions combined with other Mexican policies to speed the displacement of labor from agriculture, but there was little job creation and wage growth for less skilled workers, including those leaving the farm. Mexico's per capita economic growth was one percent a year between 1994 and 2003, compared to seven percent a year in China.

⁵ South Korea made one of the world's fastest migration transition, sending 200,000 workers abroad in the early 1980s and having over 300,000 migrants today. However, some Koreans still want to emigrate, and about 11,000 a year do so. Private firms such as the Emigration Development Corporation advertise emigration opportunities to Koreans, and collect fees for helping Koreans who want to emigrate to navigate e.g. the Canadian point system.

⁶ Rural Mexico is dominated by ejidos, the communal farms that include 103 million hectares, or 56 percent of the arable land and 70 percent of the forests. In order to ensure that peasants had land, until the early 1990's, ejido land could not be sold, which limited productivity-increasing investments. The 29,162 ejidos became synonymous with rural poverty, and in 1992 the Mexican constitution was amended to allow the sale or rental of ejido land.

Many of the evaluations of NAFTA's first decade conclude that trade-led growth was not sufficient to bring prosperity to Mexico: real wages in Mexico were lower in 2001 than in 1994 despite higher productivity, income inequality was greater and Mexico-US migration rose. Poverty remains widespread: half of the 104 million Mexicans in 2003 were considered poor, including 42 million who have less than \$2 a day (the daily minimum wage is about \$4 a day).

AgJOBS and the Enforcement-Guest Worker Debate

In 2000, about 10 percent of 110 million persons born in Mexico, 14 percent of the 47 million Mexican-born workers, and 30 percent of the 21 million Mexican-born workers with formal-sector jobs, were in the United States (Table 3). The Mexican government is committed to creating jobs in Mexico so that emigration eventually is unnecessary, but its major priority until there is stay-at-home development is to improve conditions for Mexicans in the US, since job creation in Mexico has lagged.

Table 3. Mexico-US Population and Labor Force (1970-2050)

	Mexico	US
Population in 1970 (millions)	53	203
Labor force in 1970 (millions)	15	83
Percent of population	28%	41%
Population in 2000 (millions)	100	281
Labor force in 2000 (millions)	40	141
Percent of population	40%	50%
Labor force increase 1970 to 2000 (percent)	167%	70%
Population in 2050 (millions)	151	414
Labor force in 2050 (millions)	70	207
Percent of population	46%	50%
Labor force increase 2000 to 2050 (percent)	75%	47%
Employment in 2000		
Formal Sector Jobs (millions)	15	125
Filled by Mexicans (millions)	15	6
Employed in Agriculture (millions)	6	3
Filled by Mexicans (millions)	6	2

Sources:

US Census and Conapo, 2050 projections from PRB

IMSS Instituto Mexicano del Seguro Social. Subdirección

General de Finanzas.

The 2000 elections in Mexico and the US were expected to usher in a new era for Mexico-US migration policy. Newly elected Mexican President Vicente Fox and U.S. President George Bush agreed early in 2001 to devise “an orderly framework for [Mexico-US] migration that ensures humane treatment [and] legal security, and dignifies labor conditions.” Fox subsequently proposed a four-point migration plan that included legalization for unauthorized Mexicans in the United States, a new guest-worker program, cooperative measures to end border violence, and changes in US law that would exempt Mexicans from US immigrant visa ceilings. In presenting Mexico’s proposal, Foreign Minister Jorge Castaneda in June 2001 said: “It’s the whole enchilada or nothing.”⁷

The September 11, 2001 terrorist attacks shifted Mexico-US migration discussions away from legalization and toward security, with an emphasis on ensuring that foreign terrorists do not arrive legally or illegally alongside unauthorized Mexicans. The Immigration and Naturalization Service was incorporated into a new Department of Homeland Security on March 1, 2003, and this restructuring as well as recession in both Mexico and the United States slowed the momentum for changes in Mexico-US migration policy. Unauthorized Mexico-US migration continued at historically high levels, and the Mexican government improved conditions for Mexicans in the US by, inter alia, issuing *matricula consular* documents to Mexicans so that they have the government-issued ID card needed to open bank accounts, rent apartments, and fly or enter government buildings in a security-conscious United States.

There was a debate over proposals to deal with the growing number of unauthorized Mexicans in the US, especially those employed in agriculture. The share of workers employed on US crop farms who were believed to be unauthorized topped 50 percent in the mid-1990s, prompting farmers to call for a new agricultural guest worker program. However, union, ethnic group, and presidential opposition prevented any new guest worker program from being approved in Congress,⁸ but the Senate in July 1998 approved the Agricultural Job Opportunity, Benefits, and Security Act. This AgJOBS law was a wake up call for worker advocates, since it would have made it easier for US farmers to legally employ foreign guest workers.⁹

⁷ Cited in Bush Meets Fox. 2001. Migration News, Vol 8, No 10, October. http://migration.ucdavis.edu/mn/archive_mn/oct_2001-02mn.html.

⁸ The U.S. Commission on Immigration Reform concluded in June 1995 that: “a large-scale agricultural guest worker program...is not in the national interest...such a program would be a grievous mistake.” CIR Recommends Less Immigration. 1995. Rural Migration News. June. <http://migration.ucdavis.edu> President Clinton issued a statement: “I oppose efforts in this Congress to institute a new guestworker or ‘*bracero*’ program that seeks to bring thousands of foreign workers into the United States to provide temporary farm labor.” White House Press Release, June 23, 1995. Clinton’s statement continued: “If our crackdown on illegal immigration contributes to labor shortages.... I will direct the departments of Labor and Agriculture to work cooperatively to improve and enhance existing programs to meet the labor requirements of our vital agricultural industry consistent with our obligations to American workers.”

⁹ The 1998 version of AgJOBS would have required legally authorized farm workers to register with local Employment Service offices. Farmers would request, e.g., 100 workers from the ES

AgJOBS was not considered in the House, but the 2000 elections led to a compromise between worker advocates and farm employers that included a new concept, earned legalization. Experience under IRCA had shown that legal workers were more likely to move from farm to nonfarm jobs, so AgJOBS was amended to include a requirement that currently unauthorized farm workers could become guest workers and, if they did sufficient farm work during the next six years, they and their families could become immigrants.¹⁰

Worker advocates won legalization for unauthorized foreigners employed in agriculture, but AgJOBS also satisfied grower demands for a more "employer-friendly" guest worker program. Instead of having the US Department of Labor certify their need for foreign workers, so that the government in effect controlled the border gate, AgJOBS would allow farmers to "attest" that they needed to hire foreign workers to fill vacant jobs, and DOL would have to approve these employer attestations unless if had workers to send to the farmer, effectively shifting the burden of finding US workers from employers to the government.

AgJOBS would freeze the required level of wages and eliminate the current requirement that housing be provided to out-of-area workers. If the state's governor certified there was "sufficient housing," employers could provide guest workers with an "allowance" equivalent to the "statewide average fair market rental for existing housing for metropolitan or nonmetropolitan counties," assuming two persons per bedroom in a two-bedroom unit. In most of California's major farm counties are metro counties, average fair-market rents for two-bedroom units range from \$600 to \$1,000 a month, suggesting that farm employers under AgJOBS could pay workers \$150 to \$200 a month and not have to deal with housing.¹¹

In April 2005, AgJOBS got 53 votes in the Senate, but not the 60 votes needed to attach it to an emergency military spending bill, and has not been voted on since. However, the immigration issue in Fall 2005 returned to the spotlight when President Bush revived proposals first made in January 2004 to permit unauthorized foreigners in the US with jobs to become temporary legal residents. Under Bush's proposal, which has not been transformed into legislation, currently unauthorized workers would present letters from their US

registry, and if the registry could find only 40 willing to go to report to the farmer, the grower would have received a "shortage report" granting permission to bring 60 foreign farm workers into the US.

¹⁰ AgJOBS temporary resident workers could earn permanent immigration status by performing at least 2,060 hours or 360 days of farm work in a six year period ending in 2009, including at least 1,380 hours or 240 work days during their first 3 years (in at least three of the six years, they must do at least 75 days of farm work a year). The spouses and minor children of TRS workers would not be deportable if they are in the US, but they would not be allowed to work legally until the TRS worker becomes an immigrant, at which time spouses and minor children could also receive immigrant visas regardless of queues and waiting lists in the immigration system.

¹¹ Fair market rents are published annually by the US Dept of Housing and Urban Affairs at <http://www.huduser.org/datasets/fmr/fmrover.doc>

employers certifying that they have jobs, pay a \$1,000 to \$2,000 fee, and receive renewable three-year work permits.

In the event of future job vacancies, US employers would have easy access to guest workers if they advertised the jobs on the internet and qualified applicants did not appear, fulfilling a Bush goal: "If an employer has a job that no American is willing to take, we need to find a way to fill that demand by matching willing employers with willing workers from foreign countries on a temporary and legal basis." However, Bush did not provide a path for currently unauthorized and future guest workers to become immigrants, stressing "Amnesty would be a mistake. Granting amnesty to the people who have come to our country illegally would invite others to come to our country illegally."

Congress appears to be divided between those who believe that the best way to deal with currently unauthorized foreign workers is more enforcement and those who want to turn unauthorized foreigners into guest workers. Many House Republicans, including the chair of House Judiciary Committee, Rep. F. James Sensenbrenner Jr. (R-Wis.), want to put new enforcement measures to curb illegal migration in place before launching a new guest worker program. Sensenbrenner's Border Protection, Antiterrorism, and Illegal Immigration Control Act (H.R. 4437), headed for approval in the House in December 2005, would tighten border security, require all businesses to verify that their employees are in the U.S. legally, and increase penalties on employers hiring illegal workers.

The centerpiece of H.R. 4437 is an expansion of the Basic Pilot program, under which employers would submit Social Security and immigration numbers within three days of hiring new workers to government agencies by telephone or computer. If the newly hired worker's data does not match that in government records, employers would notify workers to correct the data within 30 days. The bill would provide \$360 million to have all employers verifying new hires within two years.

H.R. 4437 also makes it a felony to be in the US illegally, which could make it hard for currently unauthorized workers to become legal guest workers and immigrants (an amendment later reduced illegal presence to a misdemeanor, which would allow guest worker but perhaps not immigrant status). It also introduces penalties on those who support or shield illegal migrants, which critics said could mean that employees of social service agencies and churches could face up to five years in prison for helping unauthorized foreigners.

The Senate is considering two major proposals. The bill with the most support among unions, churches, and ethnic groups is the Secure America and Orderly Immigration Act (www.cirnnow.org) introduced by Senators John McCain (R-AZ) and Edward Kennedy (D-MA). McCain-Kennedy would make 400,000 new H-5A and H-5B visas available to "essential foreign workers" inside and outside the United States. Unauthorized foreigners inside the US could apply for work visas without leaving, and travel in and out of the US while working up to six years. At the end of six years of US work, these guest workers would have to leave or be in line for an immigrant visa, and pay fee/ fine of at least \$2,000.

The Comprehensive Enforcement and Immigration Reform Act of 2005 of Senators John Cornyn (R-TX) and Jon Kyl (R-AZ) does not offer a path to an immigrant visa. Cornyn-Kyl would provide an additional \$5 billion for border enforcement technology, add 10,000 agents to investigate employers who hire illegal aliens and create secure machine-readable, tamper-resistant Social Security cards. (www.cornyn.senate.gov/immigration/) Cornyn-Kyl would also create a new guest worker program that would allow migrants to work in the US for up to three two-year terms, with a mandatory gap of at least a year in their home country between work terms. Family members would not be allowed to live with immigrant relatives in the US, but could visit for up to 30 days each year.

Cornyn-Kyl would allow unauthorized foreigners in the US to register for "mandatory departure" and return to their countries of origin before re-entering with guest worker visas. Only nationals of countries that sign bilateral agreements promising to cooperate to control illegal migration and reduce gang violence, smuggling and human trafficking could participate. Cornyn-Kyl would eliminate the diversity visa program to make more visas available for other immigrants, and create temporary worker investment funds in sending countries to encourage aliens to return home.

Senators Chuck Hagel (R-NE) and Arlen Specter (R-PA) have introduced their own immigration reform proposals that mirror McCain-Kennedy and Cornyn-Kyl. As in the debate preceding IRCA, most of the Senate proposals outline a three-legged stool, and stress the need for all three elements to be successful, viz, more border enforcement, more interior enforcement, and guest workers replacing legalization. The interests and concerns of the Mexican government have not figured prominently in the 2005 debates.

Conclusions

In an ideal world, the 2000-mile long Mexico-US border would resemble the longer Canada-US border, a relatively open border with large trade flows and little unwanted migration. The question is what the Mexican and US governments can and should do separately and jointly to achieve such a situation.

Unlike the Philippines and some other labor-sending countries that aim to expand labor emigration by "marketing" their workers abroad, the Mexican government's says it wants to achieve the economic development, human security, and confidence in the future that eventually makes emigration unnecessary. The major tool Mexico is using to achieve developed country status is an economic policy that stresses investment, job creation, and trade, although tapping the migrant Diaspora to participate in development at home via remittances appears of increasing importance. Until Mexicans feel that emigration is unnecessary, the Mexican government aims to improve their status in the US.

The US government aims to remain open to immigrants and non-immigrants, but wants to reduce illegal migration. There are several major challenges, including what to do about unauthorized foreigners in the US and how to

change the attitudes of both migrants and employers who have found it easier to work outside rather than inside the legal migration system. Changing the perception that illegal is easier than legal will require some combination of carrot and stick that makes it easier for migrants and employers to participate in legal guest worker programs, but that also increases penalties for operating outside legal channels. The challenge for the US government is to find the correct balance of carrots and sticks to govern behavior inside its borders, and to cooperate with Mexico to encourage legal migration and economic development.

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