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**Working Paper**

## Trade and migration linkages: The case of NAFTA

Diskussionsbeiträge - Serie II, No. 317

**Provided in Cooperation with:**

Department of Economics, University of Konstanz

*Suggested Citation:* Martin, Philip L. (1996) : Trade and migration linkages: The case of NAFTA, Diskussionsbeiträge - Serie II, No. 317, Universität Konstanz, Sonderforschungsbereich 178 - Internationalisierung der Wirtschaft, Konstanz

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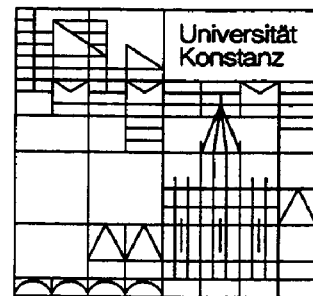
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**Sonderforschungsbereich 178**  
**„Internationalisierung der Wirtschaft“**

Diskussionsbeiträge

Juristische  
Fakultät

Fakultät für Wirtschafts-  
wissenschaften und Statistik

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Philip Martin

**Trade and Migration Linkages:  
The Case of NAFTA**

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The Case of NAFTA**

**Philip Martin**

Serie II - Nr. 317

Oktober 1996

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# **Trade and Migration Linkages: The Case of Nafta<sup>1</sup>**

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May 30, 1996

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<sup>1</sup> Paper prepared for the International Trade and Factor Movements between Distorted Economies conference, Konstanz, Germany, July 4-6, 1996

### Abstract

This paper reviews recent Mexico-US migration patterns and US reactions to Mexican immigration, explores why there may be a migration hump with two very different economies integrate, and discusses the policy options to deal with the extra migration associated with economic integration in North America. The major conclusion for policy makers is that a migration hump should be anticipated and dealt with; the major implication for economists is that the process of adjustment to new comparative statics equilibria can be important enough to affect economic integration itself.

Migration represents one of the many asymmetries in Mexico-US relations--the United States accepts immigrants from many nations, but virtually all Mexican emigrants head for the United States. For most of the 20th century, the US encouraged or tolerated a "go north for opportunity" mentality, especially in rural Mexico, so that, when Mexico experienced devaluations and economic shocks in the 1980s, many Mexicans "naturally" looked to the US as a safety valve.

The economic integration symbolized by NAFTA was supposed to turn the "people relationship" between the US and Mexico into a "trade and investment relationship." US Presidents Bush and Clinton, and Mexican President Salinas, argued that economic integration was the best way to reduce emigration pressures in Mexico. In the words of Mexican President Salinas, "more jobs will mean 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, 17).

The U.S. Commission for the Study of International Migration and Cooperative Economic Development, however, as well as most migration specialists, predicted that economic integration between the very different Mexican and the US economies would produce a migration hump--temporarily more migration, and then less, because "the economic development process itself tends in the short to medium term to stimulate migration." (Final Report, 1990, xvi). Economic integration and other policies that accelerate economic growth thus create "a very real short-term versus long-term dilemma" for the United States when dealing with unauthorized immigration, since the "the development solution to unauthorized migration is measured in decades—even generations" (1990, xxxvi).

NAFTA went into effect on January 1, 1994, a year that proved to be eventful in Mexico, with a Zapatista uprising, several political assassinations, and a peso devaluation. Legal immigration to the US, and apprehensions of unauthorized Mexicans, fell 10 to 20 percent in 1994, not as much as many expected. Some US politicians and immigration control advocates were able to use footage of "kamikaze" sprints by groups of unauthorized Mexicans through the US port of entry, as well as the lingering effects of recession, to re-

elect California Governor Wilson and to approve Proposition 187, a state initiative that, if implemented, would make it more difficult for unauthorized aliens to obtain public services.

The number of Mexican-born US residents appears to have increased sharply in the 1990s, supporting the proposition that migration hump is a feature of economic integration. There were 4.3 million legal and illegal Mexican-born residents enumerated in the 1990 Census, 6.3 million in the March 1994 CPS, and 6.7 million in the March 1995 CPS. Over 70 percent of the 1.1 million immigrants waiting to bring their spouses and children to the US are Mexicans and, by some estimates, most of them are already living in the US.

Even more Mexicans are expected in the next five years. The number of people living in rural Mexico is likely to be halved from the current 24 to 27 million over the next 10 to 20 years, which means that 3 to 4 million rural households—which average 5 to 6 persons each—that now depend on farming must find nonfarm jobs within commuting distance of their current residences, migrate to Mexican cities for nonfarm jobs, or migrate to the US.

Most migration specialists predict that, if Mexico grows at an average rate that is 2 to 3 percent faster than the US growth rate—something that Mexico has been unable to do in the 1990s—the economic gaps that motivate most legal and illegal Mexico to US migration will narrow, and Mexico-US migration will fall to "manageable" levels at about the time that new US immigration control efforts are put fully in place, or in 10 to 20 years. In other words, Mexico-US migration in the mid-1990s is believed to be near the peak of the "migration hump;" migration is expected to diminish after 2005.

### **Mexico-US Migration**

The United States is the world's major country of immigration, and Mexico is the world's major country of emigration. As with US-Mexican trade in goods, there is an asymmetry in the two countries' migration patterns. The United States accepts immigrants from many nations, but virtually all Mexican emigrants head for the United States.

For most of the 20th century, the major linkage between the two most populous countries in North America has been the migration of people from Mexico to the United States— "go north for opportunity" is deeply embedded in especially rural Mexican youth. Today, 2 to 4 million of Mexico's 30 million workers rely on the US labor market for most of their annual earnings, and the US labor force of 130 million includes 3 to 5 million Mexican-born workers who arrived since 1980.

The US received 6 million Mexican immigrants between 1820 and 1995, compared to 7.1 million German immigrants.<sup>2</sup> About two percent of the German immigrants arrived since 1980, versus 62 percent of the Mexican immigrants. The 3.7 million legal immigrants from Mexico since 1980 are equivalent to about 15 percent of Mexico's population growth,<sup>3</sup> and 25 percent of total US immigration. Most projections assume a similar level of Mexico-to-US immigration between 1996 and 2010 despite US immigration reforms.

Mexico is the single largest source of immigrants bound for the US. However, most Mexican immigrants are "illegal aliens" for at least several years before they become legal US immigrants. For this reason, one must examine both apprehension and immigration data to determine levels of Mexico to US migration. As seen in Figure 1, there is an uneven lag of 3 to 5 years between a peak in apprehensions and a peak in legal Mexican immigration--the 1991 legal immigration peak reflects the amnesty granted to primarily illegal Mexicans in 1987-88.

Under US immigration law, legal immigrants do not have to remain continuously living or employed in the United States. Many US immigrants who are Mexican nationals live at least part of the year in Mexico, and many Mexicans who are not legal US immigrants or visitors live and often work at least part of each year in the United States.

Migration permits more Mexican nationals to find jobs in the US than NAFTA was expected to create in Mexico, even under the best of circumstances. The best estimates of the number of additional Mexicans--legal and illegal--who find US jobs and settle each year--150,000 to 200,000--and the number who work at least seasonally in the United States--1 to 3 million-- dwarf even the most optimistic estimates of job gains in Mexico due to freer trade (Martin, 1993).

For example, Hufbauer and Schott of the Institute for International Economics projected that up to 600,000 additional Mexican jobs might be created by NAFTA during the agreement's first 10 years. By contrast, the US labor market currently absorbs the equivalent of perhaps four million full-time equivalent Mexican workers in a decade.<sup>4</sup>

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<sup>2</sup> The US received 61.5 million immigrants since admissions were recorded in 1820. The top nine countries of origin of US immigrants, each sending over two million immigrants to the US over the past 175 years, are Germany (7.1 million), Mexico (6 million), Italy (5.4 million), UK (5.2 million), Ireland (4.8 million), Canada (4.4 million), Austria-Hungary (4.4 million), ex-USSR (3.6 million), and Norway-Sweden (2.2 million). INS Statistical Yearbook, 1994, 28.

<sup>3</sup> Mexico's population was estimated by the government to be 91 million in 1995, up from 81 million in 1990, and 67 million in 1980. Other estimates put the Mexican population at 94-95 million in 1995.

<sup>4</sup> If the US absorbs 175,000 new Mexican workers each year, plus 2 million seasonal workers who average six months of US employment, or 1 million full time equivalent workers, then about 1.2



Mexico both exports and imports labor. According to press accounts, Mexico issues about 125,000 work permits to foreign workers each year, and there are thousands more unauthorized Central Americans in Mexico, mostly picking coffee beans, doing unskilled construction work, or working as maids and gardeners. Poor conditions for some of these workers were spotlighted in the US press after Mexico's active participation in the anti-Proposition 187 campaign in California in Fall 1994; President Zedillo promised to improve conditions for migrant workers in Mexico.

There were also reports in 1994 of "thousands" of professional foreign workers in Mexico, including both legal non-immigrants and illegal "dryback" Americans—typically professionals who taught English or otherwise hoped to cash in on Mexico's economic boom. Many returned to the US in 1995. US citizens may enter Mexico on 6-month tourist visas,<sup>5</sup> although they are not supposed to work in Mexico without work permits. Americans who live in Mexico can simply cross into the United States every 6 months and get a new tourist visa on their return to Mexico, thus retaining their legal status in Mexico.

#### **NAFTA, Economic Restructuring, and Crisis**

On January 1, 1994, the North American Free Trade Agreement (NAFTA) went into effect, laying the basis for an eventual free trade area encompassing 380 million people with a combined GDP of \$7 trillion. The purpose of NAFTA is to reduce trade barriers and to promote investment in the region, thereby stimulating economic and job growth throughout North America, and faster growth, in turn, was expected to eventually reduce Mexico-US migration.

NAFTA brought together 3 very different countries. Canada and the United States have similar GDPs per capita, but their per capita GDP and population growth rates diverged since 1985—Canada experienced very slow economic growth and relatively fast population growth compared to the United States. Mexico, in comparison to the United States, had the same average real per capita GNP growth rate of 1.1 percent per year since 1985, but its population grew at twice the US rate, widening the per-capita income gap between the two countries (The World Bank Atlas, 1994)

In mid-1996, the three economies remain very different. The United States economy generated 87 percent of the North American Gross Domestic

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million full-time equivalent Mexican workers are employed in the US. There is some turnover in the seasonal work force—if the average seasonal worker comes to the US for five years, then there are 200,000 full-time equivalents added to Mexicans dependent on the US labor market each year, or 2 million over 10 years, plus 1.75 million from immigration, yields 3.75 million.

<sup>5</sup> In 1994, an estimated 17 million US residents visited Mexico, and they accounted for about three-fourths of Mexico's \$7.5 billion tourism revenues.

Product (GDP) in 1995, while Canada and Mexico accounted for 9 percent and 4 percent of the North American GDP, respectively. The rate of inflation over the 1984-1995 period was moderate in the United States (3.6 percent) and Canada (3.5 percent), and higher in Mexico (47.8 percent), although Mexico had less than 10 percent inflation in 1993 and 1994.

Mexico's President Carlos Salinas de Gortari announced his support for a free trade agreement with the United States in May 1990. On September 21, 1990, Salinas formally requested negotiations, and on September 25, 1990, President Bush notified Congress that the US intended to negotiate a free trade agreement with Mexico. On May 17 and 18, 1991, Congress failed to deny President Bush the authority to negotiate a FTA with Mexico. Negotiations began on June 12, 1991, and the US Congress voted to approve NAFTA in November 1993.

NAFTA is based on four principles:

- \*the elimination of tariff and nontariff barriers to trade between Canada, Mexico, and the US
- \* equal treatment in each country for all goods and services produced in North America
- \* a commitment not to erect new obstacles to trade after NAFTA is signed
- \* a commitment to extend to NAFTA partners any special trade preferences that any of the three countries make available to non-NAFTA countries.

More than 50 models were developed to project the effects of NAFTA on the economies and labor markets of Canada, Mexico, and the United States. Most emphasized that NAFTA would primarily affect the relationship between the United States and Mexico, because the United States and Canada are more similar economies, and they have had a free trade agreement since 1989.

Most of the models projected that Mexico would be the agreement's major economic "winner." According to the US International Trade Commission: "Trade between the three economies should rise, and this should increase the GDP of each country as firms are forced to compete harder and because costs of production may fall as firms produce for a larger market." Mexico's real GDP was projected to rise by 0.1 to 11.4 percent because of NAFTA, and US and Canadian GDPs were projected to rise by up to 0.5 percent. The ITC projected a 7 percent employment gain due to NAFTA in Mexico and up to 1 percent employment gains for the United States and Canada. Real wages might rise, according to the ITC, from 0.7 to 16.2 percent in Mexico because of NAFTA, but less than 0.5 percent in the United States and Canada.

The economic effects of NAFTA in the United States were projected to be small because the Mexican economy is small--its annual economic output is smaller than that of Los Angeles county-- and because tariffs were low before

NAFTA--the average US tariff on Mexican imports in 1991 was 4 percent, and the average Mexican tariff on US imports was 10 percent.

Mexico has relatively low savings--savings are only 16 percent of GDP in Mexico--so many of NAFTA's job creation and wage effects were based on the expectation that foreign capital would flow to Mexico, creating jobs and hope for economic betterment. Mexico could, in this development-with-foreign-investment scenario, run a trade deficit for years as foreign investors built up Mexico's productive capacity and infrastructure, much as the United States did in the late 19th century, and South Korea did in the 1960s and 1970s.

Events did not turn out as projected. Mexico permitted the peso to become overvalued in 1994, making imports of both capital and consumer goods cheap. US and other foreign investors lent billions of dollars to Mexico, and Mexicans used these foreign savings to buy US and other foreign goods.

Mexican President Salinas wanted to be one of the few recent Mexican presidents to leave office without devaluing the peso, so he resisted an "orderly" devaluation during the summer of 1994. At the same time, the Mexican government printed money to buoy the economy in advance of August 1994 Presidential elections.

When President Zedillo took office on December 1, 1994, local and foreign investors saw that the \$30 billion trade deficit would not be reduced in 1995. The Mexican Central Bank ran out of reserves to support the peso at 3.45 pesos to the dollar and, when there were problems re-negotiating the new "pacto" that regulates the increase in union wages,<sup>6</sup> speculators bet that Mexico would have to devalue its currency, which it did.

### **The Peso Crisis and Mexico-US Migration**

Mexico in mid-1996 is in the midst of a serious economic crisis. The economy shrank by 6.9 percent in 1995--the worst economic performance since 1932--and only about two percent of this lost production is expected to be recouped with economic growth in 1996. Public and private investment in Mexico declined by 31 percent in 1995, domestic consumption fell 13 percent, and inflation was 52 percent.

The economic outlook in mid-1996 is very different from the outlook in mid-1994. In mid-1994, Mexico was announcing that foreign investment was likely to reach the record level of \$6.1 billion and, in April 1994, foreigners had \$50 billion invested in the Mexican stock market. US newspapers reported in the summer of 1994 that critics of NAFTA were wrong, and that the expected \$2 billion US trade surplus with Mexico in 1994 would mean the

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<sup>6</sup> Pactos--now called alliances-- negotiated between the government, unions, and business have since December 1987 influenced both real and nominal wages.

creation of 40,000 net new US jobs. (Washington Post Weekly, August 29-September 4, 1994, 19). Just before the August, 1994 election, an Associated Press story was headlined "Peso expected to hold value despite tumult," which quoted financial experts as asserting that the peso at 3.4 pesos per dollar was correctly valued.

However, Mexico was headed for a deficit in its current account trade balance of \$30 billion in 1994, equivalent to almost eight percent of its \$395 billion GDP. Its currency reserves fell from \$30 billion early in 1994 to \$6 billion on December 22, 1994, as Mexico attempted to support the peso at a rate of 3.45 pesos to \$1. Nonetheless, the Mexican government confidently predicted in mid-December that the economy would grow by four percent in 1995, that inflation would be only 4 percent, and that the peso-dollar exchange rate would remain stable.

Local and foreign investors saw that the \$30 billion trade deficit would not be reduced in 1995, and that the Mexican Central Bank was running out of reserves to support the peso, and they bet that Mexico would have to de-value its currency. On December 19, 1994, Zapatista rebels reported falsely that they had taken over 38 towns in Chiapas, a poor state in southern Mexico that supplies over half of Mexico's electricity from three hydro projects.<sup>7</sup>

On December 20, 1994, Mexico devalued the peso, and it eventually fell to a low of almost 8 pesos to \$1 in 1995, before recovering in 1996 to about 7.4 pesos per dollar. US-Mexican wage differentials widened from 7 or 8 to 1 in the early 1990s, to 10 to 12 to 1 in 1996. According to one estimate, a 10 percent peso devaluation increases Mexico-to-US migration by 17 percent (Taylor, 1995).

There are two competing hypotheses about the effects of devaluation on emigration patterns. Some Mexican scholars, including Jorge Bustamante, argue that devaluations reduce emigration, at least in the short-run, because the cost of being smuggled into the US is fixed in dollars, raising a financial hurdle for potential migrants. Most US migration scholars, on the other hand, argue that devaluations that raise the wage and job gaps between the US and Mexico also increase migration, as would be predicted by economic theory.

Mexico has had major devaluations at the end of each of the last 4 Presidencies: in 1976, in 1982, again in 1986-87, and in 1994-95. After each devaluation, illegal immigration as measured by apprehensions in the US increased, but there seems to be no immediate and consistent relationship between economic troubles in Mexico and illegal immigration to the United States.

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<sup>7</sup> The debt crisis of 1982 stopped the construction of new hydro projects, drying up a source jobs.

For example, after the 1982-83 peso devaluation, it took about 16 months for the U.S. Border Patrol to notice a significant increase in illegal immigration (Figure 2). In 1987, apprehensions dropped despite a devaluation of the peso, largely because so many Mexicans were becoming legalized U.S. immigrants under the 1986 Immigration Reform and Control Act (IRCA).

The drop in apprehensions in the mid-1980s despite the peso devaluation emphasizes the importance of U.S. policies in determining whether Mexicans respond to economic crisis by emigrating. In 1987-88, the U.S. offered an easy legalization program to illegal alien farm workers, and over 800,000 Mexicans took advantage of it to become legal U.S. immigrants. There was less need to risk apprehension when legalization applications could be filed in Mexico, or Mexicans could come to the border, assert that they qualified for legalization but had no records to prove that they had worked illegally in US agriculture, and then obtain 90-day entry and work permits.

Smuggling fees dropped as Mexicans entered legally, and the fraudulent document industry boomed. Most applicants for legalization under the special agricultural worker (SAW) program submitted only letters from U.S. labor contractors and farmers that asserted, for example, that "Juan Gonzalez picked tomatoes for me for 92 days between May 1985 and May 1986." By some estimates, over half of the 1 million aliens legalized around the U.S. under the SAW legalization program were not eligible.

The economic outlook in Mexico and U.S. responses to the first two peso devaluations provide clues to the response to the 1994-95 devaluation. The 70-percent peso devaluation of 1982-83 lowered real wages in urban areas, and put Mexican farmers in a cost-price squeeze, but the fact that most Mexican workers kept their jobs and saw their standard of living erode only gradually helps to explain the delayed illegal emigration response (Lustig). The 1986-87 peso devaluation, by contrast, occurred when the U.S. was offering amnesty to illegal immigrants, the INS was educating employers rather than enforcing sanctions, and the US and CA enjoyed a period of rapid U.S. job growth, all factors that encouraged a seemingly "legal" migration response.

The 55 percent peso devaluation of 1994-95 occurred in a different climate in Mexico and the United States. In 1995-96, many Mexican firms laid off workers, rather than simply allowing their wages to be reduced by inflation. The number of workers in formal employment--permanent Mexican Social Security Institute or IMSS beneficiaries--fell by about 400,000 between mid-1994 and the end of 1995, from 8.8 to 8.4 million-- estimates of the total number of Mexicans who lost their jobs in 1995 range up to 1.7 million.<sup>8</sup>

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<sup>8</sup> The unemployment rate in Mexico has traditionally been lower than the US rate--3.2 percent in 1994, versus 6.1 percent in the US. Mexico's unemployment rate jumped to

Press accounts of layoffs and wage reductions in Mexico are increasingly suggesting that more Mexicans further up the job ladder, including some teachers and doctors, and from areas that have traditionally not sent large numbers of migrants to the US, attempted to enter the US for employment in 1995-96. Over 1.3 million Mexicans graduated from college in the 1980s, but there were reportedly only 300,000 jobs created for them, persuading some of them to emigrate. One Mexican dentist who graduated in 1986 reported that 25 percent of his classmates were working in the US--usually not as dentists (Migration News, April 1996).

In rural Mexico, researchers surveying potential migrants in rural Mexico report in 1995 and 1996 that "bags are packed" for the northward trek despite stepped up border control efforts. Surveys of 2,500 Mexicans in four central Mexican villages found that the number of persons headed for the US was up 30 percent in 1995 versus 1994.

Mexican migrants in the mid-1990s confront new US border control operations -- Operation Gatekeeper in California, Operation Hold-the-Line in Texas, and Operation Safeguard in Arizona. As one result, apprehensions increased sharply in 1995-- some 1,381,465 foreigners were apprehended by the US Border Patrol in calendar year 1995, up 43 percent from 965,144 in 1994. As aliens and smugglers reacted to the stepped up border control efforts, apprehensions jumped especially sharply in what were previously quiet areas-- in some areas of Arizona, apprehensions increased 500 percent over 1994 levels, and are higher in 1996 than 1995.

Do increased apprehensions reflects the success of the Border Patrol in apprehending a stable or declining number of aliens attempting entry, or do they reflect more aliens attempting unauthorized entry? Most surveys

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7.6 percent in the summer of 1995, and was 6 percent in March 1996. Inflation is expected to be about 27 percent in 1996.

Mexico measures desempleo abierto monthly, open unemployment or job loss from paid employment in the formal sector in 32 cities covered by IMSS, and no paid work during the week of the survey. Since Mexico has no unemployment insurance, few Mexicans are openly unemployed. Instead, many Mexicans are employed in the informal sector, such as unpaid family work, self-employment and employment in micro-enterprises--at least 38 percent of total employment in Mexico is in the informal sector (Fleck and Sorrentino, 1994).

On July 13, 1993, the Mexican Congress approved a decree that modifies IMSS. The wage base on which IMSS contributions must be paid was raised from 10 to 25 times the minimum wage, and worker and employer contributions top 11 percent of gross earnings.

Mexico publishes nine alternative unemployment indicators each quarter.

suggest that the probability of apprehension on any attempt to enter the US without inspection is about 30 percent (Acevedo and Espenshade, 1992). In the Westat survey of 6,200 newly legalized aliens conducted in 1989, for example, 74 percent of those in the US illegally before January 1, 1982 reported that they had never apprehended.<sup>9</sup>

A simple simulation of attempted entries, apprehensions, and entries demonstrates that the probability of successful entry is very high for persistent aliens. Assuming that each entry attempt is an independent effort--meaning that neither aliens nor the Border Patrol change their odds of entry/apprehension--then, if the probability of apprehension is 30 percent only any attempted illegal entry, then 99 percent of the aliens attempting entry will succeed after four attempted entries.

#### **Apprehensions and Entries for 1000 Persons**

Probability of apprehension is 30 percent on any entry attempt

Attempted Entry #	Attempted Entries	Apprehended and Returned	Entered US	Cumulative Entries
1	1000	300	700	700
2	300	90	210	910
3	90	27	63	973
4	27	8	19	992
Total	1417	425	<b>992</b>	

Probability of apprehension is 70 percent on any entry attempt

Attempted Entry #	Attempted Entries	Apprehended and Returned	Entered US	Cumulative Entries
1	1000	700	300	300
2	700	490	210	510
3	490	343	147	657
4	240	168	72	729
5	168	118	50	779
Total	2598	1819	<b>779</b>	

Suppose that more Border Patrol agents, fences, and lights increase the probability of apprehension to 70 percent on any attempted entry. In this case, about 73 percent of the aliens who attempt to enter will succeed after four attempts, and 78 percent after five attempts. In other words, border control efforts work only if they change the behavior of aliens--if those apprehended "give up" and return home, thereby discouraging others from attempting illegal entry.

The Border Patrol's Gatekeeper operation fingerprints and photographs all aliens apprehended, so that apprehension data for the first time can be used to estimate recidivism rates. Unofficial data in the winter of 1995-96 suggest that

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<sup>9</sup> Women and more educated aliens were more likely to report that they had never been apprehended.

about 30 percent of those caught once are caught again--reinforcing the assumption that the probability of successfully entering the US on any attempt is about 70 percent.

If border controls were deterring aliens, then there should be reports of labor shortages and rising wages in the industries that are known to employ recently arrived unauthorized immigrants. But there are few such reports. For example, reports from the single most labor-intensive activity in North American agriculture in Fall 1995--the harvest of about 200,000 acres of raisin grapes around Fresno, California from mid-August to October-- found that newly arrived workers were getting into the US and going to work despite Gatekeeper.

Unauthorized raisin harvesters reported in September 1995 that some are still entering the US illegally on their first attempt. Of those apprehended, most persisted, and succeeded after two or three attempts. Aliens who used smugglers reported that smugglers' fees rose from \$200 to \$300 in 1994 to \$300 to \$400 in 1995. However, the workers major complaint was not the higher smuggling fees--it was the fact that they lost days of work in the US because of delays in crossing the border.

Higher smuggling fees may not be much of a deterrent because, in most cases, the unauthorized border crossing is financed by family members in the United States, rather than by the migrants themselves.

Once inside the US, the ready availability of fraudulent documents makes it relatively for unauthorized aliens to find jobs, and for US employers to satisfy the letter of US immigration law. Interior US enforcement has been limited--the INS has 320 workplace inspectors to check on seven million US employers, and the average INS fine levied on violating employers between 1989 and 1994 was \$1,612, a penalty that some employers characterize as a "the cost of doing business." The number of INS inspectors is scheduled to rise to 700 by 1997.

### **US Responses to Increased Migration**

How has the US responded to the apparent increase in illegal immigration from Mexico in 1995-96? Depending on the exact question asked in polls, 60 to 90 percent of Americans want the federal government to do more to reduce illegal immigration.

There are two broad strategies to combat illegal immigration. The policy of the UK and Australia might be called the "island" model. It entails strict entry controls, but neither residence permits nor employer sanctions.



The so-called "continental" strategy, by contrast, permits relatively free movement over borders for tourism and other purposes, and puts primary emphasis on internal controls, usually residence and work permit systems.

Until 1986, the United States followed an island strategy, relying primarily on the Border Patrol to deter illegal entry, and screening abroad aliens seeking tourist and other visas. However, after it was reported that slightly over half of the estimated 3.2 million illegal aliens in the United States in October 1992 entered legally, and then became illegal aliens by overstaying or violating the terms of their entry visas, there was a renewed push in Congress for internal controls.<sup>10</sup> Mexicans were the largest group of aliens to overstay their visas, and also the largest group that entered the country surreptitiously.

Congress in 1995 and 1996 took up legislation that would step up border and interior controls to deter illegal immigration, and on March 21, 1996 the House approved a bill that seeks to reduce illegal immigration by a vote of 333-87. The Senate approved a similar measure on May 2, 1996 by a vote of 97-3--both measures are HR 2202.

First, both provide for stronger border enforcement, adding 1,000 Border Patrol agents per year for five years, bringing the total from 5,175 in 1996 to almost 10,000 by 2000. Both call for a 14-mile "triple fence" on the US-Mexican border south of San Diego, and would increase the penalties for smuggling aliens into the US and for using false documents to obtain US jobs or welfare assistance--document fraud could bring a \$500,000 fine and 15 years in prison. Both bills also permit the Attorney General to allow local police departments to "seek, apprehend, and detain" illegal aliens who are subject to an order of deportation.

Second, both bills introduce pilot programs to enable employers to verify the status of newly-hired workers. The Senate bill would give the President up to eight years to test three verification programs and report the results back to Congress, while the House measure specifies a three-year voluntary pilot program for employers in five states -- California, New York, New Jersey, Florida and Texas. No national worker eligibility verification system could be established, however, without another congressional vote. Both bills narrow the range of documents that persons seeking US jobs may present to employers as proof that they are lawful workers from the current 29 to six.

Third, both bills seek to prevent LEGAL immigrants from obtaining welfare benefits. Under current law, immigrants must show that they will not become "public charges" in the US, and this requirement is usually met by the US-based sponsors of relatives immigrating. They sign affidavits assuming

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<sup>10</sup> The number of illegal aliens was estimated to be increasing by about 300,000 per year between 1988 and 1992

financial responsibility for their relatives. If the pending legislation becomes law, these affidavits will become legally binding.

If immigrants apply for welfare assistance within 10 years of their arrival (Senate), or before they become naturalized US citizens (House), the welfare agency could "deem" or assume that the immigrant has access to his sponsor's income and assets. US residents who want to sponsor immigrants would have to have incomes of at least 125 percent (Senate) or 200 percent (House) of the poverty line (\$14,700 for a family of four in 1993), up from the current requirement of at least a poverty line income.

Under the proposed legislation, if the immigrant and sponsor's incomes are so low that the immigrant nonetheless qualifies for assistance, the immigrant may become deportable. Under US law, an immigrant is deportable if she becomes a "public charge," defined in pending legislation as receiving welfare assistance for 12 months or more in a five-year period (Senate) or seven-year period (House).

The House and Senate bills differ in three important areas. The House bill, but not the Senate bill, would permit states to deny K-12 education to unauthorized children in the US. Second, the House bill prohibits illegal alien parents from applying for welfare benefits on behalf of their US-born and US-citizen children. Third, the House bill permits the immediate expulsion of foreigners who arrive in the US and apply for asylum; the Senate removed a similar provision on a 51-49 vote.

### **The Migration Hump**

The increase in legal and illegal immigration from Mexico is a predictable consequence of the economic integration of North America symbolized by NAFTA. Immigration was downplayed during the U.S. NAFTA debate in order to avoid discussion of an issue that has no easy answer, or that might get worse without NAFTA.

Most government statements echoed U.S. Attorney General Janet Reno, who said, in urging Congress to approve NAFTA: "A richer, stable, more confident is the only real...immigration reform. We will not reduce the flow of illegal immigration until these immigrants can find decent jobs at decent wages in Mexico." (San Diego Union-Tribune, November 14, 1993, 1). The US Department of Labor testified on November 3, 1993 that there were 1.2 to 3.2 million unauthorized Mexican entries to the US each year, and that 50,000 to 225,000 illegal Mexican entrants settled in the US each year, but that "migration levels will be much greater without NAFTA than with it."

In the long run, the economic growth and job creation accelerated by free trade and investment policies should promote what has been called stay-at-home development. But emigration pressures do not cease when an

emigration country such as Mexico adopts growth-accelerating economic policies. Indeed, the U.S. Commission for the Study of International Migration and Cooperative Economic Development concluded just the opposite: "The economic development process itself tends in the short to medium term to stimulate migration." In other words, the increased migration pressures that are now obvious in Mexico were widely predicted but ignored in the run up to NAFTA.

Figure 3 illustrates the "migration hump," the temporary increase in immigration that is followed by declining migration. The important background point about the figure is that same economic policies that increase illegal emigration pressures in the short run reduce them in the longer run. Furthermore, if Mexico-to-U.S. migration is viewed over several decades rather than several years, then there should be less migration with the free trade and investment policies formalized by NAFTA than without them.

The migration hump presents a trade-off for policy makers. Suppose that economic integration adds 10 to 20 percent to current immigration for 10 years, but then reduces economically-motivated migration sharply. Policy makers who emphasize the short run may oppose economic integration on the grounds that unwanted immigration will increase, and those who take the long view may favor economic integration on the grounds that, in the long run, economic integration will accelerate stay at home growth.

Economists tend to emphasize comparative statics-- comparing before and after equilibrium points, thereby ignoring the *process* of adjustment to free trade. In neoclassical trade models, the prediction that free trade in goods offers a substitute for migration, or trade in people, is an example of a long-run comparative statics prediction. The migration hump, by contrast, is a short-run relationship between migration and economic adjustment to free trade.

Consider two countries with different factor endowments. A country in the North (Country N) is capital rich, and a country in the South (Country S) is capital poor. Assume that the two countries share the same technologies (production functions), and that the same two factors of production, capital and labor, are used in each country to produce two goods. If the two countries engage in free trade, each country will export the good that is more intensive in the factor that is relatively more abundant in that. That is, Country N will import labor-intensive goods from Country S, and Country S will import capital-intensive goods from Country N.

Stolper and Samuelson considered the effect on factor prices (wages and the return on capital) of an import tariff that increases the domestic price of the import-competing good relative to that of the export good. Under the

Heckscher-Ohlin assumptions, and the assumption that the underlying trade pattern is not altered by the tariff, an import tariff increases the price of the relatively-scarce factor versus the wage of the other factor, and the price of both goods. Thus, a tariff levied against labor-intensive imports in Country N will increase Country-N wages relative to the return to capital and goods prices, compared with the free-trade case.

Both Stolper-Samuelson and the Heckscher-Ohlin theorem on which it is based rule out international factor movements, including migration. If migration responds positively to international wage differentials, then (1) protectionism in the North (Country N) should increase migration from the South, or (2) the protection of capital-intensive industries in the South should spur emigration. Even if trade in goods is restricted, labor will flow across borders to equalize wages and stop migration, or, "labor mobility [can] fully compensate for the non-traded good" (Krauss 1976, 474).

Trade liberalization permits the capital-rich and labor-rich countries to specialize, to produce the goods in which each has a comparative advantage, and to satisfy the demand for other goods through trade. Eliminating tariffs shifts the production of labor-intensive goods to Country S. and capital-intensive goods to Country N, which in turn puts upward pressure on Country-S wages, discouraging emigration, and bringing emigrants home.

The standard trade model can produce a migration hump by altering some underlying assumptions. The critical assumptions fall into five main categories:

1. The two countries share identical production technologies;
2. The two countries use the same factors of production (factor homogeneity);
3. Technologies exhibit constant returns to scale in production (there are no scale economies);
4. Adjustment to changes in international markets is instantaneous;
5. There is perfect competition, with full employment and complete markets in both countries.

### **Technology Differences**

One critical assumption of the standard trade model is that the two countries have access to the same technologies (production functions). In other words, if we observe tractors plowing fields in the United States and oxen pulling plows in Mexico, the reason is that Mexico has more labor, not that tractor technology is unavailable in Mexico-- differences in the labor and capital intensities of production between the two countries are due solely to differences in each country's factor endowments.

With access to the same technologies and no migration, Country N produces with a higher capital-labor ratio than country S, and higher wages in Country N encourages the use of relatively cheaper capital. Migration, by reducing wages in the North, encourages more labor-intensive production, perhaps helping to preserve "sunset industries."

If the protected good is produced with a labor-intensive technology in the South, but a highly efficient capital-intensive technology in the North, then the North may have a comparative advantage in producing the good, and free trade may force the south to substitute away from the labor-intensive activity. In this case, the displacement of labor in the South's previously "protected" sector may put downward pressure on wages, and encourage South-North migration.

A few economists have noted that trade and migration can increase simultaneously if the standard trade assumptions are relaxed. Markusen, for example, argues that if the basis for trade are differences in technologies, trade and migration may be complements. Schiff notes that many import substitutes in labor-rich developing countries are produced on small, labor-intensive farms, and that domestic food and fiber production that competes with agricultural imports is often more labor intensive than the methods used in the production of tradable goods. In both

### **Productivity Differences**

Differences in factor productivity between countries are implicit in the standard trade model. The issue for the trade-migration linkage is *why* such differences exist. In many cases, differences in factor productivity are due to the presence of complementary public inputs, as when public services, transportation, communication, and education systems in the North make the same resource more productive there than in the South.

In some cases, Country S may have so little infrastructure that it may not have a comparative advantage even in the production of labor-intensive goods. Under such conditions, it may be more efficient to produce labor-intensive goods using third-world workers and a first-world infrastructure in Country N than to produce the same goods with third-world workers and a third-world infrastructure in Country S. Something like this occurred in Los Angeles in the 1980s when the Mexican shoe industry in Leon shrank, while a shoe industry that employed workers from Leon, Mexico in Los Angeles expanded. In this, trade liberalization reduced prices and expanded the market in both the US and Mexico, and the expanded shoe market led more migration.

The fact that a Mexican worker may be more productive in the US underscores the long-standing debate in the trade literature over the definition of labor abundance. If labor supply is measured in efficiency units,

and if workers are significantly more efficient in the North than in the South, then the North may be labor abundant--the so-called Leontief Paradox. Migration, by converting southern workers into northern ones, can increase the amount of labor available in the North, measured in labor efficiency units. The greater efficiency of labor in the North relative to the South may discourage the production of some labor-intensive goods in the South, and thus encourage South-North migration.

For example, when NAFTA went into effect on January 1, 1994, Mexico lowered its tariff and non-tariff barriers on a variety of agricultural commodities, including fresh and processed fruits and vegetables. US exports of lettuce and grapes jumped sharply, as the US grower-shippers who dominate North American production learned that it was cheaper to produce such commodities with Mexican workers in the US for Mexico because of better US infrastructure. After 5 years in Mexico, the second largest U.S. vegetable grower ceased operations there with the observation that "we can even produce more efficiently for the Mexican market from the U.S." (Ag Alert, July 14, 1993, 28).

Basic trade models do not allow for disparities in public infrastructure and labor quality between countries because the two trading countries are assumed to use the same factors of production. But capital (infrastructure) that is important in the production of goods in the North may not be available--or it may be of lower quality--in the South, so that a day of labor by a worker in Country N may be substantially more productive than a day of labor by the same worker in Country S. For example, Mexican tomato pickers pick tomatoes into buckets about twice as fast in the US as in Mexico, in part because piece-rate wages in the US tend to attract Mexican workers who prefer to be paid by how much work they accomplish, while many farm workers in Mexico are paid by the day.

If infrastructure and other factors affect productivity, then public services and infrastructure may be necessary for countries in the South to exploit their potential comparative advantage in labor-intensive production. Even if market integration stimulates North-South investment, countries in the South may not be able to depend on private investment to overcome infrastructure and public services deficiencies.

### **Scale Economies**

The third assumption of the standard trade model is that (identical) production functions in the two countries exhibit constant returns to scale, which means that increasing all inputs by 10 percent will increase output by 10 percent, whether a country produces 10 or 90 percent of the world's supply of the good, i.e., there are no economies of scale. However, if costs fall as production increases in migrant-intensive industries in the North, trade

liberalization may lead to expanded production in the North, and thereby create a demand-pull of jobs to attract immigrants.

When trade is due to scale economies, migration and trade are complements (Markusen, 1983 and Markusen and Melvin, 1981). This is the case with strawberry production in California. Strawberry production is one of the most labor-intensive activities in US agriculture--labor costs are typically half of the \$25,000 cost of bringing an acre of strawberries into production in CA. Much of the strawberry industry moved to Mexico after the Bracero program ended in 1964, for labor reasons and because Mexico had lower sugar costs to turn strawberries into jam.

However, US producers increased the size and yields of strawberries grown in CA, and developed varieties that could be sold fresh to consumers year-round. Growers used a sophisticated form of sharecropping, whereby former strawberry workers became "farmers" who supplied all the labor needed to tend and harvest the berries--at prices set by the shipper who supplied the land, plants, and cooled and sold the berries. Some sharecroppers expand beyond the three acres that a family normally tends, and take advantage of newly-arrived immigrants at sub-minimum wages to work on their expanded acreages. As one result, the industry is expanding in CA despite one of the worst immigration and labor law compliance records--most of the sharecroppers fined simply go out of business (Schlosser, 1995).

In 1994, US strawberry production increased to 1.1 million pounds, the US was a net exporter of strawberries, and per capita consumption reached a record 4 pounds per person per year. California is expected to have a record 25,200 acres of strawberries in 1996, producing an average 57,500 pounds or 23.5 tons per acre with about 30,000 immigrant workers.

### **Slow Adjustments**

Comparative static models usually ignore the adjustment path to a new equilibrium, assuming that adjustment is instantaneous, and that the process of adjustment will not affect the new equilibrium. However, the costs of adjusting to new market and policy environments can be significant, and these costs can, in some cases, affect the outcome.

Trade liberalization creates losers and winners. When a developing country opens itself to freer trade, the losers in protected sectors often feel the pain of job loss immediately, and it may be several years before opportunities are created in other sectors, since investment and employment generation take time. This means that, during the adjustment period, there may be a temporary or permanent wave of emigration, as occurred in 19th century Europe during industrialization.

Mexican agriculture provides a case in point. About 30 percent of Mexico's 91 million people live in rural areas, and most depend on agriculture for at least some of their income. However, Mexican agriculture generates only 7 percent of the country's GDP, which means that rural residents have an average per capita income that is only one-third of the \$3000 average for Mexico, and one-fifth of the \$5000 average in Mexico City. It is for this reason that Mexicans have traditionally migrated at least temporarily in search of opportunity, often retaining a link to their home community because of their access to ejido land, which could until recently not be sold or rented.

NAFTA promises to free up trade in commodities, including corn (maize). Corn occupies a special place in the Mexican diet and agriculture--about half of Mexico's crop land is used to grow corn, and three in four Mexican farmers produce some corn, although over 90 percent of all corn farmers in the early 1990s reportedly had fewer than 5 hectares of corn (de Janvry, Sadoulet, and Anda, 1994). About three-fourths of Mexico's corn production is on ejidos, so that the combination of ejido and land reform, free trade, and reduced price supports promise a major period of agricultural adjustment.

Mexican corn farmers are not competitive producers of corn-- yields are low, averaging in the early 1990s less than two tons per hectare on non-irrigated land, and just over three tons on irrigated land--US non-irrigated yields average four tons per acre, and Iowa alone produces twice as much corn as Mexico. For these reasons, some argued that the US should go slow in freeing up trade in corn, under the theory that what is good for Iowa corn farmers may be bad for US workers who compete with immigrant workers in California.

NAFTA does provide for a 15-year phase in of free trade in corn, but Mexico took a series of steps that promise to speed up its agricultural revolution, phasing out input subsidies, permitting ejido farmers to sell or rent their land, and "decoupling" farm production from government supports (Hinojosa and McCleery, 1992, Hinojosa and Robinson, 1992). One result is that there appears to be an emigration wave from Mexico in 1995-96.

Mexican farmers are abandoning agriculture because, in an integrated North American economy, Mexico does not need 25 percent of its labor force, and one-third of its population, to produce food and fiber. New job growth in Mexico is concentrated in the northern regions--over one-third of Mexico's 2 million manufacturing jobs are in the 2500 maquiladoras that are usually located in border cities. However, the adjustment to free trade in agricultural commodities is complicated by factor specificity--many of those displaced from Mexican agriculture are older men, and the maquiladoras tend to hire younger women for to fill the mostly electronics and auto parts jobs they offer. For this reason, many of the Mexican men migrate across the border, to seek work in US farm fields.



In the long run, migration pressures should ebb, as the reservoir of surplus farmers and other workers in free trade economies shrinks, and as younger workers move directly into expanding sectors. However, the unemployment associated with moving experienced workers out of contracting sectors can lead to at least temporarily more emigration.

### **Imperfect Markets**

Standard trade models assume that all markets clear, that information is perfect, and that there are no transactions costs in shifting from job to job. In the real world, missing or incomplete markets, imperfect information, and transactions costs are common.

The so-called new economics of labor migration or NELM emphasizes that imperfect markets can be a reason for migration (Stark, 1991), especially when these market imperfections are combined with household decision making models. Suppose that the average return from emigration is high, but that there is also a large standard deviation around this average—some migrants succeed in entering the destination country and taking advantage of wage differences, and others do not.

A rural Mexican family may view each of its potential earners as part of a financial portfolio, and send, e.g., the husband and teenage son to the US to work, sending a teenage daughter to a border-area maquiladora, and having the wife stay behind to care for young children and grazing animals, thus increasing the family's potential earnings and reducing the risk that the family will have no earnings. Indeed, many migration researchers note that the social capital embodied in "networks" that can provide information, jobs, and often the financing needed to cross the border is more important to a rural Mexican family than its human capital, as measured by years of schooling.

In many emigration areas, there are few banks to loan funds for productivity-improving investments, or to offer insurance against crop or other failure. In such situations, emigration may compensate for missing or incomplete markets-- the family that wants to buy farm equipment, or experiment with a new crop, may find it easiest to obtain capital, or to earn money in the event of failure, by emigrating. In rural Mexico, it is sometimes said that it is easier to borrow money to illegally enter the US than to buy equipment or experiment with new crops--markets have worked out the risks and rewards of emigration to the US.

In most cases, it is not difficult to borrow money to migrate illegally--note that in the coastal provinces of China, where average incomes are less than \$1000 per person per year, that a significant number of Chinese are able to raise \$25,000 to \$35,000 to be smuggled to the US. However, if the cost of

emigration is high, than trade and migration can be complements in the short run if freer trade raises incomes, and thus makes it easier for migrants to obtain the funds needed to emigrate.

### **Policy Options**

There are three broad options available to the US and Mexico to deal with the migration hump: for the US to develop better border and interior controls designed to deter Mexican and all other illegal immigrants, for the US to try to convert illegal Mexican migrants into legal guest workers, and for the US to induce Mexico to cooperate to reduce illegal immigration over the southern border.

### **Border and Interior Controls**

The Immigration Reform and Control Act of 1986 sought to reduce illegal immigration by wiping the slate clean with legalization, and using employer sanctions to close the labor market to additional illegal entrants. The Border Patrol was increased in size, and the SAVE computer system was implemented to enable states and cities to verify the legal status of applicants for welfare benefits.

While IRCA was being debated, there were warnings that, without a secure work and benefits eligibility document, illegal aliens might continue to enter the United States and find employment or get public benefits. These warnings proved prophetic. The INS concentrated on educating employers rather than aggressively enforcing sanctions, while the fraudulent documents industry expanded into immigrant communities across the nation.

IRCA imposed penalties on employers who knowingly hire illegal aliens, but it did not change the structure of industries that had become dependent on such workers. For this reason, fraudulent documents permitted pre-IRCA employment patterns to persist. When there was work place enforcement, employers often appealed INS fines, settling them for 30 cents on the dollar over what employers claimed were "paperwork" or technical violations.

The INS has begun to upgrade the quality of and reduce the number of documents that it issues to aliens who are authorized to work in the United States. The INS is also expanding its computer-based system that permits employers to verify the right to work of newly-hired workers. President Clinton has proposed significantly more labor and immigration inspectors to check U.S. work places, and proposed doubling the fine for employers caught hiring illegal aliens if they also are in violation of another law, such as the minimum wage.

Experience in the U.S. and elsewhere suggests that preventing the entry and employment of illegal aliens requires strategies that are tough and flexible. There are several more notches of toughness that can be tried. For example,

the United States could follow the example of Germany and permit the employer fine to include any profits earned by employing illegal aliens, and to fine illegal alien workers any wages they earned in an unlawful status. Even though the calculations may seem to be a full employment act for accountants, it takes only a few publicized cases to send the message that employing illegal aliens is a serious offense, and aliens who lose the wages from often unpleasant jobs may also be deterred.

Toughness must be coupled with flexibility. The US labor market has gotten far more flexible over the past decade, as more and more workers are employed by subcontractors and other middlemen. In order to prevent illegal immigration, the United States may have to be prepared to adopt a policy of strict liability in employment, meaning that the beneficiary of the work must check that verification was done by the intermediaries who actually deal with the workers.

The United States is headed down the tougher and the more flexible paths, but there are many technical as well as political obstacles to adopting and implementing these measures. For these reasons, one of two other approaches may be tried: guest workers and conditional assistance to emigration countries.

### **Guest Workers**

Illegal Mexicans seeking U.S. jobs could become legal Mexican workers under a guest worker program. The purpose of guest worker programs is to add workers to the labor force but not permanent residents to the population. The legacy of guest worker programs is universal—around the world, it is clear that there is nothing more permanent than temporary workers. Guest worker programs tend to produce immediate economic benefits to migrants and their families and to the employers who hire them, but they everywhere leave a legacy of distortion and dependence.

Distortion refers to the fact that flexible economies and labor markets soon become accustomed to the ready availability of unskilled workers, and that the availability of such workers is soon incorporated into business planning. Investment and other business decisions are made on the premise that labor costs will continue to be held down by immigration. Distortion often takes concrete form, as when citrus or avocado trees that will produce fruit for 10 to 20 years and can be picked only by hand are planted in areas where all new harvesters are Mexican immigrants who pick for 10 years or less. It should come as no surprise that the owners of assets whose value has been increased by immigration are willing to spend considerable lobbying funds to keep the border gates open to their immigrant workers.

Dependence or settlement is a reminder that guest workers are mostly young men and, even if most do return, there is invariably some settlement and

family unification, setting in motion migration streams that expand over time. Both Mexican President Salinas and Governor Wilson in November 1994 called for a U.S.-Mexican guest worker program. If three events happen in sequence, there could be a serious effort to launch a guest worker program with Mexico, despite the negative halo of the 1942-64 Bracero program and Congressional rejection of the guest worker concept in the early 1980s:

- \* If credible labor shortages develop in the US
- \* If it is concluded that INS border controls have reduced illegal immigration at the border significantly
- \* If Mexico makes a push for a guest worker program to legitimize an "inevitable" migration.

The outlines of a guest worker program are already being laid out in endorsements of the concept from the strange bedfellows often found in immigration discussions. Both Frank del Olmo of the Los Angeles Times and CA Attorney General Dan Lundgren, for example, have called for a guest worker program that withholds 20 to 30 percent of the guest worker's U.S. earnings to encourage return migration. Agreeing to withhold wages to induce returns ignores, of course, the more basic question of whether guest workers are necessary or desirable.

In the early 1980s, the debate over guest workers dealt primarily with:

- \* Certifying a US employer's need for them
- \* Whether guest workers were substitutes for illegal aliens, or whether such programs simply laid the basis for more illegal immigration in the future
- \* Whether the United States should use guest workers to subsidize industries that are not competitive at employing U.S. workers at U.S. wages.

The farmers in the forefront of the guest worker debate tried and failed to get the House to approve a guest worker program in March 1996. On March 5, 1996, the House Agriculture Committee approved 25 to 14 an amendment by Rep. Richard Pombo (R-CA) to the House immigration bill that would have granted temporary work visas to 250,000 foreign farm workers, with the ceiling to be reduced by 25,000 each year.<sup>11</sup> On March 21, 1996, the full House rejected the program by a 242-180 vote.

The Pombo proposal is nonetheless interesting because it illustrates what US growers would like in a guest worker program. Under the Pombo proposal,

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<sup>11</sup> The existing temporary farm worker program admitted about 17,000 H-2A workers in 1995.

growers, labor contractors, or associations wanting to employ foreign farm workers would have had to file at least 25 days before the job was to begin a labor condition attestation (LCA) with their state Employment Service office listing the number of foreigners requested and when work was to begin. Local ES offices would review these LCAs "only for completeness and obvious inaccuracies" within seven days after they are filed. Employers violating their attestations or program rules can be assessed civil money penalties, and be debarred from the program.

Under the rejected plan, 25 percent of the foreign workers' wages would be placed into a federal trust fund managed by the INS, which foreign workers could reclaim with interest in their country of origin. Foreign workers would be limited to a maximum two years in the US. Program costs would be financed by employer contributions equivalent to Social Security and unemployment insurance taxes that would not be paid by growers.

The guest worker program would sunset after three years if Congress fails to re-authorize the pilot five-state telephone verification system that the Smith bill establishes to make it easier for employers to determine whether workers are presenting false documents.

### **Mexican Cooperation**

Around the world, rich countries that provide assistance to poorer neighbors are conditioning aid on recipients' willingness to follow free trade policies, guarantee that foreign investments will not be confiscated, and assurance that it will not violate the basic human rights of its own citizens. In Western Europe, countries such as Germany have gone further, making their aid to Poland and other Eastern European countries contingent on recipients helping to deter illegal immigration.

The United States does not provide much formal aid to Mexico, but Mexico was the major beneficiary of NAFTA. NAFTA's labor and environmental side agreements demonstrated that the United States was willing to make NAFTA's approval contingent on requiring Mexico to adopt and enforce policies that protected basic labor and environmental standards. There was no migration side agreement.

What might a migration side agreement to NAFTA have looked like? The United States could have conditioned trade and investment benefits on three types of Mexican policies.

First, Mexican policies could be implemented to reduce the inequality of income and wealth that permits a relative handful of people to capture most of the benefits of faster growth. The Asian economic miracle was based on export led manufacturing growth shared broadly throughout society. In Asia, rural-urban earnings differences did not get too large; Mexico has allowed

them to widen to 1 to 5 or 6, thereby encouraging rural-urban migration and emigration. These disparities create both absolute- and relative- income incentives for more migration.

Second, Mexico and the United States should cooperate to avoid too much border development. The border area is asymmetric--it encompasses some of the richest parts of Mexico and some of the poorest parts of the United States. If economic and job growth is disproportionately concentrated in the border areas of Mexico, internal migrants will inevitably be drawn there, and some will spill over the border into the United States. The United States and Mexico could discourage such a result by taxing development at the border while subsidizing development in the interior.

Third, Mexico could cooperate with the United States to reduce illegal immigration. In no other part of the world do citizens of one nation mass openly awaiting their chance to enter another illegally. Mexican law prohibits Mexican citizens from leaving Mexico except at authorized ports, so Mexican citizens attempting illegal entry into the United States are breaking Mexican as well as U.S. law.

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### **Appendix 1. Proposition 187 in California**

Proposition 187 tests one approach to reducing illegal immigration--deny education and other social services to illegal immigrants to discourage them from coming to or remaining in California. Despite the opposition of President Clinton<sup>12</sup> and all of California's major newspapers, Proposition 187 or the "Save Our State" Initiative was approved by California voters 59 to 41 percent on November 8, 1994.

Proposition 187 would add two major features to current state law: it would bar illegal alien children from receiving free K-12 public education, and it would create a state-mandated screening system for all persons seeking tax supported benefits. In the language of Proposition 187 --no person -- citizen, legal immigrant or illegal immigrant -- "shall receive any public social services to which he or she may otherwise be entitled until the legal status of that person has been verified."

Proposition 187 has five major sections. First, it bars illegal aliens from the state's public education systems, from kindergarten through university, and requires public educational institutions to begin verifying the legal status of both students (effective January 1, 1995, but stayed by court order) and their parents (effective January 1, 1996).

California educational institutions today verify the residence but not the legal status of elementary school pupils and university students. There are no tuition charges for K-12 education. One of California's three higher education systems--the state university system--charges resident illegal aliens lower in-state tuition, while community colleges and UC charge them higher out-of state tuition. Almost 1 in 7 college and university students in the US attends a public institution in CA.

Second, Proposition 187 requires all providers of publicly-paid, non-emergency health care services to verify the legal status of persons seeking services in order to be reimbursed by the state of CA. Persons seeking emergency care must also establish their legal status, but all persons, including unauthorized aliens, must be provided emergency health services.

Third, Proposition 187 requires that all persons seeking cash assistance and other welfare benefits to verify their legal status before receiving benefits.

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<sup>12</sup> Clinton urged California voters to reject Proposition 187 and allow the federal government to "keep working on what we're doing -- stiffening the border patrol, stiffening the sanctions on employers who knowingly hire illegal immigrants, stiffening our ability to get illegal immigrants out of the work force, increasing our ability to deport people who have committed crimes who are illegal immigrants." Clinton promised that the federal government would do more to "help California, and other states, deal with incarceration, health and education costs of illegal immigration."

Unauthorized aliens are generally not eligible for welfare benefits, and they are already screened when applying for benefits provided by the federal government, so this provision adds a state-run verification system on top of the current federal screening system.

Fourth, all service providers are required to report suspected illegal aliens to California's Attorney General, as well as to the Immigration and Naturalization Service. This means that persons enrolling children in school, or clerks who handle applications for public benefits, are required to report persons requesting education or benefits if they suspect that the applicants are unauthorized aliens. State and local police must determine the legal status of persons arrested, and also report suspected unauthorized aliens.

Fifth, the making, distribution, and use of false documents to obtain public benefits or employment by concealing one's legal status is now a state felony, punishable by fines and prison terms. Proposition 187 does not affect, for example, teenagers who buy or use false documents to obtain alcohol. As of June 1995, this is the only section of Prop 187 in effect.

Proposition 187 is an initiative statute whose provisions remain state law unless disapproved by a two-thirds vote of the California Legislature or by another initiative. Sections of Proposition 187 can be implemented individually.

On November 20, 1995, a federal judge in Los Angeles declared most sections of Prop. 187 unconstitutional. According to the judge, "The authority to regulate immigration belongs exclusively to the federal government, and state agencies are not permitted to assume that authority." The judge's ruling means that California cannot implement a system for having teachers, doctors, and other service providers report suspected illegal aliens. California may deny illegal aliens post-secondary education, and services that are completely state funded such as some types of higher education.

The State of California appealed the judge's ruling, first to the 9th Circuit Court of Appeals, and eventually to the US Supreme Court. Most the provisions of Prop. 187 will not be implemented during the appeals process.

The denial of public education to illegal alien children is likely to be the most controversial section of Prop. 187 to be resolved by the courts. In the 1982 *Plyler v Doe* decision, the US Supreme Court declared that the equal protection clause of the 14th amendment protects everyone within a state's borders, regardless of immigration status. However, the court split 5-4 on whether "equal protection" for illegal alien children included the same tuition-free education available to US-citizen and legal immigrant children.

The majority emphasized that education is especially needed to prevent the development of an underclass, and that, in the early 1980s, there was "no evidence in the record suggesting that illegal entrants impose any significant burden on the state's economy." The minority noted that education was not a fundamental constitutional right, and argued that the court was making social policy when it said that Texas could not deny public education to illegal alien children because, in the majority's view, not educating them would prove more costly in the long run.

In March 1996, the US House of Representatives approved, 257-163, with Speaker Gingrich's support, a so-called "Proposition 187" amendment to immigration reform legislation that permits states to deny public education to illegal alien children. Most experts believe that, if Congress approves the denial of free public education to unauthorized children, the US Supreme Court will reverse *Plyler vs Doe*. President Clinton has promised to veto immigration reform legislation that includes the denial of public education to unauthorized children.

Public education is the most costly service used by illegal aliens in California--providing education for the estimated 300,000 to 400,000 illegal alien children in California schools accounts for about half of the estimated \$3 billion annual costs of services provided to the estimated 1.7 million illegal aliens in California [California's state budget is \$40 billion annually].

Proposition 187 may mark the beginning of national efforts to reduce legal and illegal immigration, much as Proposition 13 in California in 1978 arguably laid the basis for the Reagan-era tax cuts of the early 1980s. On the other hand, Proposition 187 may turn out to be a largely symbolic expression of frustration with illegal immigration, much as Proposition 63, a California proposition approved by voters which made English the state's "official language" in 1986.

## **Appendix 2. NAFTA's Migration Provisions**

Migration played almost no role in the negotiation of the Canadian-US Free Trade Agreement, CUSTA, and migration is still largely unregulated and non-controversial on the northern border. On the 5,500 mile Canada-US border, eight percent of the US Border Patrol's 4,000 agents apprehended about 13,000 illegal aliens in 1994, or one percent of all foreigners apprehended. Most of those apprehended in the US were Canadians, but there are reports that, increasingly, smugglers are attempting to use the "northern route" to smuggle e.g., Chinese into the US.

NAFTA permits limited free migration for employment. Under Chapter 16 of NAFTA, four types of non immigrants can cross North American borders for business reasons:

- Business visitors--persons engaged in international business activities who receive no wages in the country they are visiting
- Traders and investors--persons selling goods in another North American country, or persons with management roles in enterprises created with a person's funds
- Intra-company transfers--managers and executives with specialized knowledge who are transferred between branches of companies with operations in two or more North American companies
- Professionals--persons with at least a college education (BA degree) seeking to engage in professional activities in another North American country, including accountants, doctors and nurses, scientists, and college teachers.

The only category that created any controversy is the professional category, since it arguably creates a common labor market for the 20 percent of the US and Canadian labor forces with a BA or more. A professional Canadian wanting to work in the US simply goes to a US port of entry shows a passport, BA credential, and an offer of "temporary" employment from a US employer, and then receives a TN work visa at the US border entry point. There is no numerical limit on how many professionals can cross the border between the US and Canada, but the number of Mexican professionals who can enter the US under NAFTA provisions is limited to 5500 per year until 2003.<sup>13</sup>

The number of Canadian professionals entering the US since 1989 has risen sharply, from 2700 in 1989 to about 20,000 in 1994 (these are crossings, not unique individuals, so that one person could be counted several times).

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<sup>13</sup> In addition, Mexican and Canadian professionals can enter the US to work for up to six years with H-1B visas, which are granted to foreign workers after a US employer "attests" that they are needed to fill vacant jobs for which US workers cannot be found. DOL must approve US employer requests for temporary foreign workers unless it is "obviously inaccurate."

The H-1B program permits up to 65,000 foreign workers to enter the US each year and, since each can stay in the US for six years, there can be a maximum 390,000 H-1B workers in the US. It is estimated that 40 percent of the new H-1B visa approvals are for high tech jobs such as programmers.

Both employer and worker representatives agree that the H-1B program has been abused by so-called "body shops" or contractors in what one witness called a "techo Bracero program." Syntel, a Michigan computer programming firm whose labor force is 80 percent H-1B workers from India, supplied programmers for insurance company AIG after AIG laid off its US programmers. Mastech, the company that maintains the White House's computerized correspondence tracking system, is under investigation for misusing the H1-B program to import over 1,000 of its 1,200 workers.

There is no definition of "temporary" in the NAFTA agreement, so that Canadians and Mexicans could conceivably work for 10 or more years, since there is no recording of or controls over the length of stay of Canadian and Mexican professionals.

**Canadian Professionals admitted under CUSTA/NAFTA**

	1989	1990	1991	1992	1993	1994
Professionals	2,677	5,293	8,123	12,531	16,610	24,837
Dependents	140	594	777	1,271	2,386	6,533

Note: These are crossings, not unique individuals, so one person could be recorded several times.  
Beginning in 1994, data are for NAFTA TN visas and CUSTA TC visas.

Source: INS Statistical Yearbook, 1994, 109.

US nurses have complained of losing jobs to Canadians who entered under NAFTA provisions, and the US DOL is considering removing nurses from the list of professionals who enjoy free entry. Canada has asked that the spouses of TN non-immigrants be permitted to work temporarily in the US, an idea that the US has so far opposed.