

UNITED STATES AND MEXICO: IMMIGRATION
POLICY AND THE BILATERAL RELATIONSHIP

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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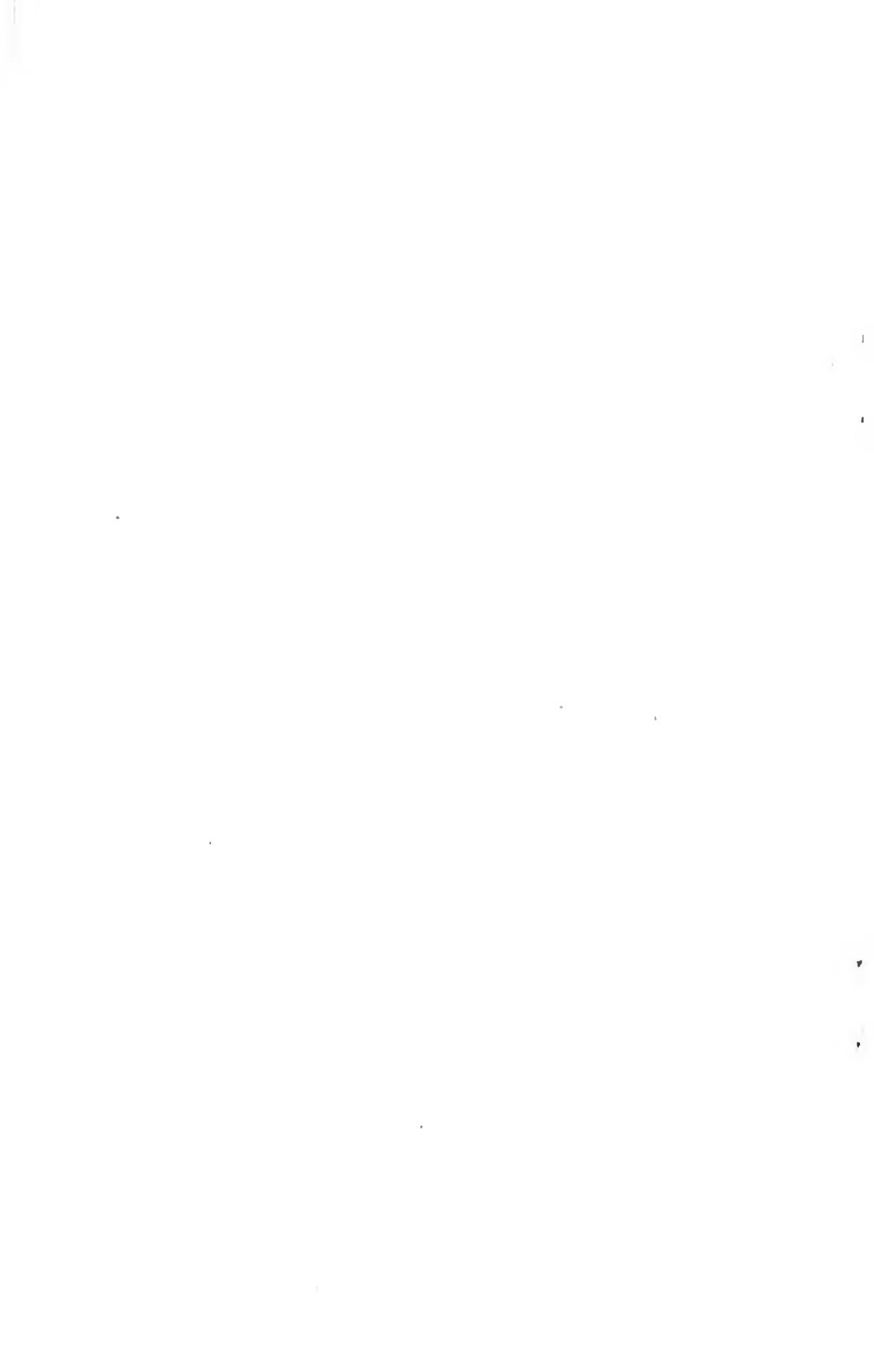
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UNITED STATES AND MEXICO: IMMIGRATION POLICY AND THE BILATERAL RELATIONSHIP

TUESDAY, MARCH 23, 2004

**U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC.***

The committee met at 9:33 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Richard G. Lugar (chairman of the committee), presiding.

Present: Senators Lugar, Hagel, Coleman, Dodd, Boxer, Bill Nelson, and Corzine.

OPENING STATEMENT OF SENATOR RICHARD G. LUGAR, CHAIRMAN

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is called to order.

Today the Senate Foreign Relations Committee meets to examine the United States-Mexico bilateral relationship, with a special focus on the role of immigration. The relationship between Mexico and the United States is complex and wide-ranging. Every day the bilateral agenda deals with trade, management of our common border, water distribution, energy cooperation, transportation, communications, tourism, the environment, human rights, and the struggle against drugs and organized crime.

Americans and Mexicans must understand that the fate of our two nations is inextricably intertwined. Mexico is the second largest trading partner of the United States. An economic downturn in either economy will affect the health of the other. Moreover, Mexico's importance to U.S. national security has been underrated, particularly during this era of global terrorism. Americans will not be as prosperous or as secure as we can be without sustained economic growth and political stability in Mexico, and a United States-Mexican relationship that transcends momentary disagreements in pursuit of our shared objectives.

The most obvious economic and security concerns related to Mexico stem from Mexican migration across the U.S. border. When Presidents Fox and Bush met in January 2001, they recognized that migration is "one of the major ties that bind our societies," a quote from the two Presidents. Mexicans represent 30 percent of the total immigrant population of the United States. Mexico's share of our total unauthorized immigrant population increased from 58 percent in 1990 to 69 percent in 2000.

Too often the debate on how to respond to illegal immigration from Mexico ignores the larger context of our relationship with Mexico or the role that Mexico must play in helping us get a grip

on this question. I believe we need to broaden the context of the debate so that we see immigration as not just an economic or law enforcement issue, but also as a foreign policy issue. We must engage in diplomacy aimed at making the Mexican Government a closer ally in preventing and responding to illegal immigration.

I would offer five common objectives that Mexico and the United States should pursue as we are developing and debating immigration policy.

First, the United States and Mexico both have a strong interest in improving the management of our common border. Both nations must cooperate in preventing illegal immigration, as well as in preventing tragedies in which Mexican citizens, attempting to enter the United States, lose their lives while concealed or transported in dangerous circumstances. Our border cooperation must also include strengthened efforts to stop terrorist infiltration via land, sea, or air.

Second, both the United States and the Mexican governments should try to facilitate greater transparency among the undocumented Mexican population in the United States. It serves the interests of neither nation to keep illegal immigrants in the shadows. Through matricula cards or other methods, we must have greater ability to identify Mexican nationals in this country. Without identification, little interaction with American society is possible. This increases the chances that immigrants will be victims of crime or exploitation, reduces the value of remittances to Mexico, and complicates the jobs of U.S. emergency and social service personnel.

Third, in conjunction with improved border management and immigration transparency, the United States should develop realistic mechanisms through which illegal immigrants can regularize their status through positive behavior.

Fourth, cross border labor must be put in the context of our broader trade relationship. It is legitimate to develop means to match willing Mexican workers with willing American employers in sectors where no Americans can be found to fill a job. We should strive to achieve this through regularized means that accentuate the benefits to both the American and the Mexican economies. President Bush's temporary worker proposal and other similar proposals developed in Congress deserve close examination by this body.

Fifth, the United States and Mexico should expand cooperation aimed at domestic development in Mexico, particularly in the country's poorest regions. The 2-year-old Mexican-United States Partnership for Prosperity is a good start toward this objective, but more needs to be done. The Mexican Government must undertake this effort as a special responsibility that goes hand in hand with American willingness to develop means to regularize the status of illegal immigrants.

This morning we are joined by three impressive panels to discuss these objectives and other aspects of our relationship with Mexico.

On the first panel, we will hear from our colleagues, Senators Hagel, McCain, Craig, Durbin, and Cornyn. Each of these Senators has grappled with the immigration question, and each has sponsored relevant legislation. We are pleased by the strong interest of our colleagues in this hearing, and we look forward to learning

about how their bills would contribute to the improvement of the United States-Mexican relations and American immigration policy.

On our second panel, we will hear from representatives of the administration. We welcome again Roger Noriega, Assistant Secretary of State for Western Hemisphere Affairs; Eduardo Aguirre, Director of the Bureau of Citizenship and Immigration Services at the Department of Homeland Security; and Stewart Verdery, Assistant Secretary for Policy and Planning at the Department of Homeland Security.

On our final panel, we will hear from Dr. Stephen E. Flynn, the Jeane Kirkpatrick Senior Fellow for National Security Studies at the Council on Foreign Relations; Dr. Demetrios Papademetriou, President of the Migration Policy Institute; and Dr. Arturo Valenzuela, Director of the Center for Latin American Studies at Georgetown University.

We thank all of our witnesses in advance. We look forward to their insights.

It is my privilege now to recognize the colleagues that I just mentioned. We are indeed grateful for the interest of our colleagues in the hearing, as well as the specific legislation and thoughtfulness that they have provided. I want to call upon Senator McCain first, because I know he has urgent time requirements. Then we will proceed with Senator Hagel or Senator Craig, depending upon the time requirements of those gentlemen. Senator McCain.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. Thank you very much, Mr. Chairman. I want to thank you and Senator Hagel and my colleague, Senator Craig, and others who have been actively involved in this issue for a long period of time.

I want to just mention a couple of statistics with you and I will try to be as brief as possible because I know you have some very important witnesses.

We are nearing the end of March, Mr. Chairman. In my State of Arizona, since January 1, 2004, since January 1st this year, 470 drop houses have been found across Arizona. Over 2,000 suspected smugglers have been arrested. Over 155,000 undocumented immigrants have been apprehended. In the city of Phoenix, killings are up by 45 percent. Violent crimes such as kidnaping, home invasions, and extortion are up 400 percent.

Those are interesting statistics and a source of enormous concern to the mayor of Phoenix, Mayor Phil Gordon, who said Wednesday's discovery—that is another drop house—156 undocumented immigrants being held by armed smugglers in a rented house in north Phoenix in filthy conditions without food or water. He said, Wednesday's discovery underscores the need for Federal immigration reform, pointing out that although police can stop criminal activity, they can do little to stem the flow of undocumented immigrants into the city. "It's a mandate that affects all of us," Gordon said. "We need an immigration policy that works. We need to secure our borders. The Federal Government has to do something about these issues."

May I just mention, after I mentioned those statistics, Mr. Chairman, an article recently in the Arizona Republic. "It is a lonely place to die, out in the soft sandy washes. The desert floor, with its volcanic rock, can reach 160 degrees. Most people go down slowly.

"Blood starts to seep into the lungs. Exposed skin burns and the sweat glands shut down. Little hemorrhages, tiny leaks, start in the heart. When the body temperature reaches 107, the brain cooks and the delirium starts.

"Some migrants claw at the ground with their fingernails, trying to hollow out a cooler spot to die. Others pull themselves through the sand on their bellies, like they're swimmers or snakes. The madness sometimes prompts people to slit their own throats or to hang themselves from trees with their belts.

"This past year, the bodies of 205 undocumented immigrants were found in Arizona. Official notations of their deaths are sketchy, contained in hundreds of pages of government reports. There are sometimes little details, glimpses, of the people who died.

"Maria Hernandez Perez was No. 93. She was almost 2. She had thick brown hair and eyes the color of chocolate.

"Kelia Velazquez-Gonzalez, 16, carried a Bible in her backpack. She was No. 109.

"John Doe, No. 143, died with a rosary encircling his neck. His eyes were wide open."

Mr. Chairman, I give you those statements and those numbers to try to emphasize the urgency of this situation, this crisis. The human dimensions of it are incredibly appalling. If 205 people were dying in such a short period of time anywhere else in America, there would be some great hue and cry about it, but we just sort of discover these bodies. Many times they have been eaten by animals. And we just sort of move on.

I guess what I am trying to say is it is apparent to me that the Congress is not going to act this year on the immigration issue. We have had one hearing in a Judiciary subcommittee, a very good hearing. One hearing. This hearing is of utmost importance. I think we all know that if we go out in the month of August without acting, then of course, we have just the month of September and this year has expired.

Everybody has different proposals. I respect Senator Hagel's proposal that he has proposed along with Senator Daschle. Senator Craig's proposal, obviously, addresses one of the immediate problems and that is an agricultural worker bill.

I think it is time we sat down.

And on the left, the so-called advocacy groups for Hispanics refuse to sign onto a proposal because they want an amnesty, just a blanket amnesty. Mr. Chairman, we tried that in the 1980s. We gave amnesty to several million people. Now we have got several million more people who are here illegally. Blanket amnesty does not work.

On the other side of the coin, we have the other people who say all we have got to do is secure our borders. Mr. Chairman, the war on drugs proved that as long as there is a demand, there is going to be a supply. There is right now a demand for workers. There are jobs that Americans will not do. So it seems to me that maybe for

the good of 2-year-old Maria Hernandez Perez who was almost 2 years old, who died in the desert, that perhaps maybe we ought to give this issue some serious priority.

Finally, could I say, since it is the purview of this committee, I believe that the hopes and aspirations of the Mexican people were very badly dashed after September 11. I think one of the worst casualties of September 11 was any movement toward immigration reform. It has had an obvious affect on the internal politics of the country of Mexico, but more importantly, it has prevented us from addressing this issue in a very comprehensive fashion.

I could go on a lot longer, Mr. Chairman, but I want to thank you for holding this hearing. I want to thank you for your advocacy for reform, and I want to thank Senator Hagel as well for his active involvement.

Some people say to me, why is Senator Hagel involved? There are illegal, undocumented people working in the State of Nebraska. There are illegal, undocumented people working in Indiana. It is not an Arizona problem. It is a nationwide problem and we will be shirking our duties as legislators if we do not give this issue the highest priority and act on it as quickly as possible.

I thank you, Mr. Chairman.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF SENATOR JOHN McCAIN

Last year, more than 300 people died illegally crossing the border separating the United States and Mexico. Over 200 of those deaths occurred in the Arizona desert.

Since the beginning of this year, authorities in Arizona have identified 470 "drop houses" used by human smugglers—or Coyotes. These smugglers typically hold undocumented immigrants at gunpoint, often denying them basic needs including food and water. Since January, over 2,000 suspected smugglers and well over 155,000 undocumented immigrants have been apprehended across Arizona.

Immigration is a national security issue for all Americans and a matter of life and death for many living along the border. America's immigration system is broken, and without comprehensive immigration reform, our nation's security will remain vulnerable. This problem, however, is not ours alone. The human tragedy is felt on both sides of the border. And the solution to this crisis must include a coordinated effort between governments.

With a 6,000 mile land border, the task of "sealing" the U.S. border is herculean—unrealistic and impossible. No amount of manpower or technology will ever completely secure our nation's borders. During the 1990s, the federal government increased the number of Border Patrol agents from 3,600 to approximately 10,000 agents. Instead of decreasing, however, illegal immigration increased by an estimated 5.5 million migrants.

The federal government's inability to stem illegal traffic flowing across the border perpetuates a state of lawlessness and shifts substantial financial and social burdens to residents of the border region. Violent crimes in Phoenix, alone, have risen 400 percent over the past year, largely due to human smugglers.

Across the nation, hospitals spend well over \$200 million a year providing uncompensated care to undocumented immigrants, forcing many hospitals along the border to close their doors or dramatically reduce services. Cash-strapped local law enforcement officials spend millions of dollars covering the cost of incarcerating undocumented immigrants. Frustrated by this situation, some residents have taken the law into their own hands, forming vigilante groups to patrol the border.

Although some of us hear about these troubling issues daily, too many in this country remain dangerously unaware. As a member representing a border state suffering from the immediate and downstream problems associated with illegal immigration, I know first hand the urgent need for reform. Immigration has long been a polarizing and politically divisive issue in this country. The difficulty this issue poses, particularly in an election year, should not allow for an excuse to delay reform. Immigration reform must come from the center—and it must be reasoned and bi-partisan. This issue is simply too important for partisan grandstanding.

The current system has failed because it does not adequately address the labor needs of this country or the reality that as long as there are jobs in the United States that represent better opportunities than those in other countries, people will migrate to this country, and they will risk their lives to do so. Enforcement must be improved, but enforcement of out-dated and inadequate laws will not work.

Earlier this year, President Bush helped to bring the immigration debate to the forefront. His principles for comprehensive immigration reform incorporated a market-based system, similar to the legislation introduced last summer in the House and Senate by Congressman Kolbe, Congressman Flake, and myself, which would pair willing workers with willing employers. The President's leadership and support will be essential to bringing this problem to a resolution and rallying a consensus in a much divided Congress.

Immigration reform must be *comprehensive*—it must address future workers who want to enter the country as well as the current undocumented population. Recognizing the very real labor shortage faced by many sectors of our nation's economy, reform must provide a workable, market-based system without arbitrary numerical limitations. If jobs go unfilled in the U.S., and no American worker chooses to fill them, those jobs should be opened to legal foreign workers. This system should be electronic, accessible, and easy to navigate for both employers and potential workers.

At the same time, in order to ensure we do not create a permanent underclass, new temporary workers must have complete portability to transfer from one job to another, a clear path to citizenship if they choose, and the ability to self-initiate that.

I recognize that several of my colleagues present here today have proposed legislation that address various aspects of our broken immigration system. Although we may approach this problem with competing philosophies and with different solutions, our recognition of the failures of the current system moves the debate forward, and I commend them on their proposals.

We will never be able to please the political extremists on either side of this issue. However, in the interest of national security, we must pursue a carefully balanced compromise. I hope we can work together to put rhetoric aside and enact meaningful comprehensive immigration reform.

Thank you, Mr. Chairman.

[The Arizona Republic—Nogales Bureau, Oct. 16, 2003]

205 MIGRANTS DIE HARD, LONELY DEATHS

(By Susan Carroll)

It is a lonely place to die, out in the soft sandy washes. The desert floor, with its volcanic rock, can reach 160 degrees. Most people go down slowly.

Blood starts to seep into the lungs. Exposed skin burns and the sweat glands shut down. Little hemorrhages, tiny leaks, start in the heart.

When the body temperature reaches 107, the brain cooks and the delirium starts.

Some migrants claw at the ground with their fingernails, trying to hollow out a cooler spot to die. Others pull themselves through the sand on their bellies, like they're swimmers or snakes. The madness sometimes prompts people to slit their own throats or to hang themselves from trees with their belts.

This past year, the bodies of 205 undocumented immigrants were found in Arizona. Official notations of their deaths are sketchy, contained in hundreds of pages of government reports.

Beyond the official facts, there are sometimes little details, glimpses, of the people who died.

Maria Hernandez Perez was No. 93. She was almost 2. She had thick brown hair and eyes the color of chocolate.

Kelia Velazquez-Gonzalez, 16, carried a Bible in her backpack. She was No. 109.

In some cases, stories of heroism or loyalty or love survive.

Like the Border Patrol agent who performed cardiopulmonary resuscitation on a dead man, hoping for a miracle. Or the group of migrants who, with law officers and paramedics, helped carry their dead companion out of the desert. Or the husband who sat with his dead wife through the night.

Other stories are almost entirely lost in the desolate stretches that separate the United States and Mexico.

Within weeks, the heat makes mummies out of men. Animals carry off their bones and belongings. Many say their last words to an empty sky.

John Doe, No. 143, died with a rosary encircling his neck. His eyes were wide open.

ARIZONA IMMIGRATION CRISIS

Since January 1, 2004:

- 470 "drop houses" have been found across Arizona
- Over 2,000 suspected smugglers have been arrested
- Over 155,000 undocumented immigrants have been apprehended

Increased Crime in Phoenix Blamed on Coyotes:

- Killings are up by 45%
- Violent crimes such as kidnaping, home invasions, and extortion are up 400%

In a little over a month, 750 undocumented immigrants and 20 suspected smugglers arrested from 13 drop houses:

- February 11th—159 found in Shea drop house, at the edge of a golf course in Phoenix
- February 15th—27 undocumented were apprehended at a house in East Phoenix
- February 17th—102 immigrants were found at two Phoenix drop houses, one several blocks from a fire station
- February 23rd—78 undocumented arrested at home in the Arcadia neighborhood of Phoenix; 45 more undocumented found later the same day in another Phoenix drop house
- February 26th—57 immigrants found in West Phoenix, with additional immigrants seen fleeing the property
- March 3rd—apprehended 222 undocumented, including 15 suspected smugglers, from two drop houses in Phoenix, Arizona
- March 4th—77 undocumented aliens found in two apartments used as drop houses in Mesa, Arizona
- March 9th—185 suspected undocumented found hiding in 18 rooms at a Motel near Tucson, Arizona

The CHAIRMAN. Well, thank you very much, Senator McCain, for a very strong keynote statement, as we begin this hearing. I think that the hearing is important, and I hope that all the considerations today will lead to action. I hope that August will not yield inactivity. I think that the relationship is important, as you pointed out.

I want to call now upon Senator Craig. Senator Hagel has graciously stepped aside, out of the batting order, because he claims that he will be here throughout the hearing. I am taking him at his word. Thank goodness that he will do that. For the moment, Larry, will you proceed.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Well, Mr. Chairman, thank you.

And as John has mentioned, all of us have legislation pending at this moment to deal with this problem. I approach it with the same passion that John does, although the difficulties that are happening in Arizona are phenomenally inhumane and he is right to be passionate about this problem.

You have outlined it well, the relationship we have with the great nation of Mexico and the dependency we truly have on each other at this moment to work this problem out.

I have introduced legislation, as has John, as has John Cornyn, and certainly Senator Hagel. It is a problem that truly cries out for a solution sooner rather than later. I must tell you that this President has finally stepped forward and offered up a solution. Up until that time, the Federal Government really remained in a state of denial and it was 9/11 that awakened us to the reality that we have got somewhere between 8 million and 12 million undocumented foreign nationals in this country.

Of course, as you know, Mr. Chairman, when we then shut the borders or worked hard to shut the borders after 9/11, we did two interesting things. Our intent was to keep people out, but we also locked people in. Hundreds of thousands of Hispanics who flowed back and forth over the Texas, Arizona, New Mexican, and California borders on an annual basis, working and going home and taking their money with them and not being able then to get back or staying because they were fearful if they left, they could not get back and they would not have the kind of resource that they had been able to have prior to 9/11. So border closures are not just the only solution here.

And I think you are so right to hold this hearing to deal with this kind of problem. John spoke already of the over 200 people who have died in Arizona. Last year over 300 died in the deserts of the Southwest, as they struggled to make their way into this country to work. And that is what is important. They died in boxcars. They died in the backs of vans. They died of thirst, as John offered those descriptions.

Now, that is the reality that we are dealing with. Shame on us for dragging our feet toward this problem, but we are doing just that at this moment.

I think, as John has said, some would suggest that it is purely a law enforcement solution, but I am here to tell you that that is a part of it and only a part of it. Those who say just round them up and get them out of the country are suggesting something that on its face is impossible to do. When you have between 8 million to 12 million—and we use those numbers because we do not know exactly how many undocumented foreign nationals we have in our country. We know that law enforcement is a part of it. But these people who are here by the vast majority deserve a responsible, humane approach toward dealing with them, treating them appropriately for the roles they play in this country and for the desire I think many nations have and in this case dominantly two nations, the United States and Mexico, have in solving this problem.

I am going to offer you a solution today. It deals with only a small part of the total problem, but it is one, Mr. Chairman, that is ready. It is mature. It has been well thought out over 5 years of negotiation. You are a cosponsor. Senator Hagel is a cosponsor. John McCain is a cosponsor. It is my AgJOBS bill. We have not got John Cornyn on it yet, but he is leaning.

He is leaning in our direction.

Senator BOXER. You have got me on it.

Senator CRAIG. Barbara is on it. We will have within 2 weeks over 60 Senators on this legislation. Mr. Chairman, we have at this moment over 400 organizations nationwide who support it.

Now, here are the key elements that make this a workable proposition. Not only does it reach out to identify 500,000 workers who are now eligible in this country undocumented who can do something that is significant and important for themselves and for the economy of our country, and that is, earn a legal status. Earn a legal status. That is the key component of the AgJOBS bill: earned adjustment to a legal status. And they can do that by staying here and working for a period of time under a temporary legal situation and move that forward.

In doing so, we fill a tremendous need for our country. We treat a great many hard-working people in a phenomenally humane and responsible way and we bring them out of the back streets and the alleys and the shadows of our culture to the front street where they belong because they are, as John has said, an important component in the economy of our country.

That is what AgJOBS is all about and I think both you and I know that there are great numbers of these people working in your State, in Nebraska, in Idaho, in Texas. We believe in Idaho that it is possible that during the peak of the work season, there are between 25,000 and 30,000 undocumented workers. And Idaho is not a very big State, but it is a big agricultural State and that is important.

I have a couple of letters that I would like to add for the record. I have a letter here from Clayton Yeutter, former Secretary of Agriculture, and he is asking that we get on the AgJOBS bill and move it this year as a way of moving something in the right direction. Here is what he says. "In the northeastern United States, 99 percent of the new entrants into the farm labor force admit they are lacking legal status." That is a phenomenal statistic, but it is an important one.

I also would like to introduce for the record the names of the 400 organizations that are supporting this legislation, Mr. Chairman, from the American Farm Bureau to the United Farm Workers Union. When I was standing in front of a microphone with the national presidents of those two organizations, who have for decades been arch-enemies, they see and recognize the importance of solving this problem now. The U.S. Chamber of Commerce and the AFL-CIO, the National Association of State Departments of Agriculture, and the legal services advocates for both large and small workers and Latino groups across the country.

It is a mature product. It is something that I will urge the Senate by my action or collectively by this and other committees' actions to vote on this year, Mr. Chairman, because as all of us believe, this is something we do not just pass on for another year.

I also agree that amnesty does not work. What I offer is not amnesty. It is the ability to earn a legal status, and all who are coming want that opportunity. To deny those people that opportunity, to deny our economy this needed work force, to fail to treat these undocumented workers in a responsible and humane way is in my opinion un-American. That is what we are about here.

Thank you for holding this hearing. It is critically important, as we build the necessary base to move this legislation, and I would hope we could move it this year, or at least a small part of it. I believe mine is the excellent and appropriate template from which

to move and look at the criteria for developing a legal status by causing those who come to earn it and to give them that opportunity to do so. So I thank you for convening this hearing, Mr. Chairman.

[The prepared statement of Senator Craig follows:]

PREPARED STATEMENT OF SENATOR LARRY E. CRAIG

Mr. Chairman, thank you for holding this hearing. I appreciate your holding this hearing on a timely subject of immense importance to our homeland security, our economy, and the future of our nation.

The United States shares a border of about 1,950 miles in length with our closest southern neighbor. Mexico is our second-largest trading partner. By some counts, the second largest component of Mexico's gross domestic product is receipts sent home from workers in the United States. Mexico provides a majority of our immigrant farm worker population and, by all estimates, a majority of undocumented workers in the United States, economy-wide.

A nation that fails to manage its borders cannot be secure at home. It begins to lose control over the safety of its people, the order and legality of its commerce, and even its very identity. On the other hand, with approximately 7,500 miles of land borders and 95,000 miles of shoreline and navigable rivers, we cannot seal our country off. Our only alternative is to manage our borders and ports of entry effectively. This fact is true of our border with Mexico and demands a manageable, forward-looking, national immigration policy, as well.

For the decade before this President came into office, the federal government led the way as our nation remained in denial, ignoring both the rapidly growing number of undocumented persons in this country and the increasing dependence of critical sectors of our economy on undocumented workers. Some would say, with justification, that the nation actually spent the last four decades looking the other way.

A few of us saw this problem and began talking about it some years ago but, for almost all of us, a real wake-up call came on September 11, 2001. There has never been a more graphic or horrible demonstration of the need to manage our borders effectively—and of the failure to do so for many years before.

In the last 2½ years, we have made progress. President Bush has demonstrated tireless leadership on and since September 11. The new Department of Homeland Security has been established to bring rationality to our border, immigration, and homeland security efforts. With the hard work of Secretary Ridge and the Administration, our men and women in uniform, and the Congress, our country and our borders are more secure and our homeland is safer.

However, a lot of work remains to be done, and you, Mr. Chairman and Members of the Committee, have recognized that by holding this hearing.

We face multiple challenges.

With an estimated 8 to 12 million undocumented persons in the country, we need to identify them, treat them humanely and reasonably, and bring them out of the underground economy. We need to face facts and realize that whole sectors of our economy are dependent on the labor of these workers—the vast majority of whom want nothing more than to work under decent conditions at jobs that, quite frankly, American citizens often do not want.

We need to restore the confidence of the American people that their government can and will manage our borders effectively and protect the public. We need to ensure respect for the law, from all parties.

We also need to realize that putting more locks on the border works both ways. As we have begun succeeding with better border enforcement, many undocumented workers have been locked in our country. Many of these workers would have preferred to leave the country when the growing season was over or other work was done. Now, they are trapped here, because getting smuggled home has become as dangerous as coming here in the first place.

We also need to consider the humanitarian aspects of this issue. Every year, more than 300 human beings die in the desert, in boxcars, in trunks, or otherwise, being smuggled into this country. That cost in human life is intolerable.

We need to consider the economic impact of future demographics for our country. Japan has suffered a prolonged period of recession in part because it has a closed society and, now, an aging population. Last year, in hearings before the Senate Committee on Aging, Alan Greenspan and others testified that, as America also looks forward to a "greying" future, immigration and guest workers will have an important role to play in keeping our own economy vital and in making sure there are enough workers to support a growing number of retirees.

These are not easy or popular issues and I commend the President for his bold leadership, in stepping forward, issuing another kind of wake-up call, to focus the bright light of public attention on these issues. The Chairmanship of this Committee often is not an easy or popular job, so I also commend you for your leadership, Mr. Chairman.

I agree with the President, and with my colleagues who also have come here today to talk about their bills, on many of the broad, key principles necessary for a lasting solution.

Increased enforcement is part of the solution—but only part. In the last decade, we have tripled the number of agents securing our borders and enforcing our immigration laws. Worker identification checks have intensified. Formal removals have increased sixfold. However, the population of undocumented individuals living here has more than doubled.

Consider, also, what the “enforcement only” answer really means. No, Americans will not tolerate a vast, intrusive government sweep through our homes and neighborhoods to find, flush out, investigate, prosecute, and forcibly relocate men, women, and children numbering six to nine times the population of Idaho. We fought a Revolutionary War over that kind of government intrusion. From the founding of our republic, Americans have always abhorred other nations sending storm troopers door to door in communities, looking for suspected infractions of domestic laws.

Those who say, “Just round ‘em up, just enforce the law,” are only proposing an excuse, not a solution, while the status quo just gets worse.

Robust, expanded, guest worker reforms are part of the solution—but only part. The old Bracero program of the 1950s has been criticized—justly—in many respects. No one is proposing a revival of that kind program. However, our nation’s experience with that program has provided us with empirical evidence, cited recently by the National Foundation for American Policy, that a guest worker program actually helps reduce illegal immigration. That and other experiences also have shown us that a guest worker program can be part of a more functional immigration system and can extend economic opportunity to those of our neighbors most in need.

However, guest worker programs take substantial time to stand up, in terms of design, administration, infrastructure, coordination with employers and prospective workers, and working with consulates around the world. As we also have learned from experience, very different factors, often unique to different industries and occupations, have to be considered. There are a lot of issues to be debated and details to be worked out. For example, depending on the supply of willing, available, domestic workers in different occupations, some will argue that different industries need different mechanisms to guarantee that domestic workers have the first opportunity at domestic jobs. Historically, Congress has applied different labor standards to guest workers in different industries. Labor markets may be local, regional, national, or international. Work opportunities may be seasonal or permanent, migrant or stationary. We want any program to be as simple to use and as non-bureaucratic as possible, while we also realize that Congress is not going to rush forward with a one-size-fits-all program.

Amnesty is not the solution. It has been tried and it has failed. Even if, as a Federal Reserve study suggests, amnesty may have some economic benefits, we also have to consider the effects that blanket amnesty has on respect for the law and expectations of future rewards for unlawful activity. I am, and have always been, opposed to blanket amnesty. I am pleased that the President has stated his opposition.

An effective federal partnership with state and local law enforcement should be part of the answer. In Canyon County, Idaho, it’s been reported that 1,200 undocumented aliens were arrested last year—by local law enforcement. In many cases creating partnerships—not unfunded mandates, but true partnerships—with local law enforcement would be far better than simply further expanding federal agencies. This would be more cost-effective, more practical, and more likely to build community support. Our colleague, Senator Sessions, has introduced a bill on this subject that I’ve cosponsored. I hope and believe that approach will be considered in other hearings.

Finally, a key part of any solution will be the fair, humane treatment of those undocumented workers already here, already contributing to our economy and paying taxes. They are among the most vulnerable persons in our nation and, too often, are exploited by labor smugglers—“coyotes.” If these workers have been, and will be, law-abiding in every other respect, if they are willing to make sacrifices to earn the right to stay, then we can and should establish a system that allows them to stay here and work legally.

I stress, as the President has stressed, that he has proposed a *framework* for guest worker reform. I applaud the Administration’s repeated assurance that it is

not taking any position on any one bill and has no intention to preclude any bill. The President has emphasized he wants to work out the details with Congress and we are ready to work with him.

Mr. Chairman, I appreciate this opportunity to highlight the fact that one bill already introduced in Congress is ready to move. We have a vehicle ready to road-test key principles in the President's framework. I also believe this bill is consistent with the broad goals and principles of our other colleagues who have introduced bills and are testifying here today.

That bill is AgJOBS—the Agricultural Job Opportunity, Benefits, and Security Act, introduced as S. 1645 and H.R. 3142. The principal difference from other bills is that AgJOBS deals with one industry—agriculture.

AgJOBS is a mature, thoroughly-developed product.

AgJOBS represents more than seven years of work on these issues. It reflects four years of tough, bipartisan negotiations among Republicans and Democrats in the Senate and House, employer and employee representatives, agriculture and other sectors of the economy, immigration issue advocates, church groups, state government agencies, Latino groups, and others. Legislation involving major labor and immigration issues simply does not become law, unless it achieves this kind of bipartisan and broad-based consensus. Fifty-four Senators, including a majority of this Committee, are cosponsors.

I want to thank you, Mr. Chairman, as well as the Ranking Member of this Committee, Senator Biden, for being cosponsors of AgJOBS.

AgJOBS demonstrates the level of detail necessary to the successful design of a guest worker and immigration reform package.

This bill gives us the opportunity to use reform in agriculture as the demonstration program that will help us work out the details, anticipate challenges, prevent problems, and fine-tune the mechanics of an economy-wide reform package down the road.

Moving forward with AgJOBS as the pilot program for economy-wide reforms is practical. It is going to be easier and faster to set up, a program involving one industry and about 500,000 eligible workers than to wait and debate the design of a program for 8 to 12 million workers.

Agriculture also has a unique history of guest worker programs and migrant employment. We have the necessary data and experience to draw on. There is no doubt in the minds of most of us that there really are few American citizens today who want to work, on a seasonal and migrant basis, at the hard physical labor of agriculture. In contrast, in some other industries, there remains the controversy over the availability of willing and qualified domestic workers and concern about their displacement by guest workers.

Agriculture is the industry most impacted by dependence on undocumented workers—not by anyone's design, but by circumstance and necessity. The government's own data—based, incredibly, on *self-disclosure* by workers, themselves—indicates that more than half of the agricultural work force is undocumented. Responsible private estimates run as high 75 to 85 percent. Farmers are going out of business today because they cannot find legal workers at the times they are needed.

With AgJOBS, we could begin immediately to improve our homeland security—and especially ensure the safety and security of our food supply—by knowing who is planting and harvesting our crops, where they came from, and where they are working.

With AgJOBS, we do not need to wait to start putting an end to the inhumane risks and exploitation suffered by these most vulnerable of workers.

AgJOBS takes the same long-term approach consistent with the President's framework and other bills—an improved guest worker program. It also addresses the need for a transition program in the immediate term, by allowing workers the *earned adjustment* to legal status. This is not amnesty. Conditioning the right to stay here on a worker's commitment to 3 to 6 more years of physically challenging agricultural work is not a reward—it is an opportunity for the worker to rehabilitate his or her status under the law and *earn* the right to stay.

Mr. Chairman, I've just recently received a letter from Clayton Yeutter, former Secretary of Agriculture under the first President Bush, and former U.S. Trade Representative under President Reagan, in support of AgJOBS. I ask permission to make that letter part of the record.

Secretary Yeutter points to the startling, official government statistic that, "In the northeastern U.S.—far from the border . . . 99 percent of new entrants into the farm labor force admit to lacking legal status." He also points out, correctly, "Agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way."

I also ask to insert into the record some background and explanatory materials that discuss the bill in greater detail.

Finally, our AgJOBS bill has something no other proposal has: A historic, nationwide, broad bipartisan coalition of grass roots support. I ask to insert into the record a letter of support that we recently received from more than 400 organizations—national, state, and local organizations—asking Congress to enact AgJOBS into law expeditiously.

This letter is somewhat historic in its own right. In support of AgJOBS, it brings together employers and workers—from the American Farm Bureau to the United Farm Workers. Because of the promise of AgJOBS as a necessary pilot program, this support goes far beyond agriculture—from the U.S. Chamber of Commerce to the AFL-CIO. Its cosigners include the National Association of State Departments of Agriculture, worker and legal-service advocates, large and small employers, Latino groups, religious groups, social service organizations, and others.

Thank you, Mr. Chairman and Members of the Committee.

[Attachments.]

March 19, 2004.

The Honorable LARRY CRAIG
United States Senate
Washington, D.C. 20510

DEAR SENATOR CRAIG:

Continued tragic deaths of Mexican workers seeking illegal entry to the U.S. to pursue economic opportunity, and a worsening labor crisis in American agriculture, have raised once again the wisdom and feasibility of our immigration policies at the U.S.-Mexico border. This is an issue that many of us have tried to address over the years, but few have listened. In that regard, we are grateful that you are testifying at a hearing to look at the immigration issue and the U.S. and Mexican bilateral relationship. With your leadership, and with your bipartisan legislation now before Congress to begin to address this problem, perhaps our views can now be heard.

Many of the workers entering the U.S. from Mexico are hoping for jobs on farms and ranches or in nurseries and dairies. Such jobs often await them as thousands of American farmers wonder every year whether they'll have dependable help at harvest time. This is especially critical for our fruit and vegetable industries, where the "open window" for harvest can be very short-lived. But similar concerns are now emerging in many other farm enterprises, ranging from dairy to poultry to greenhouse crops to beef to Christmas trees. This has become a national problem and a recurring nightmare for our agricultural employers nationwide.

Growing evidence suggests that at least 50 percent and perhaps 70 percent of the current agricultural workforce is not in this country legally. In the northeastern U.S.—far from the border—government statistics show that 99 percent of new entrants into the farm labor force admit to lacking legal status. The immediate reaction of some is to say that these workers have broken the law and should be deported, and that U. S. farmers and other employers have brought this problem on themselves by not doing a better job of detecting fraudulent documents.

That "easy" answer ignores the reality that few Americans are drawn to highly seasonal and physically demanding work in agriculture. At chaotic harvest times, a stable, dependable workforce is essential. American farmers are in a "damned if you do, damned if you don't" situation where they're required by law to be policemen, immigration officials, and security experts while simultaneously trying to get their crops harvested before they spoil.

Agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way. They do not want a program with major shortcomings, for which they will inevitably be blamed. Unfortunately, that is what our laws have imposed upon them.

As a nation, we can and must do better—for agricultural employers and for immigrant workers. Last fall, a bipartisan bill was introduced by you, Ted Kennedy (D-MA) and a bipartisan group of colleagues that we see as a major step forward in the battle to provide a stable and legal agricultural work force without sacrificing border security or weakening immigration laws. The so-called AgJOBS bill now enjoys the bipartisan co-sponsorship of 53 Senators as well as from agricultural employer, business, conservative, religious, immigrant and labor organizations.

As you know, Sen. Craig, this legislation would allow certain laborers who have worked in American agriculture on a regular basis and have lived here for years

doing our toughest jobs a chance to earn the privilege of remaining here. It would also reform and modernize the fifty-year-old guest worker program for agriculture. It would assure that when there are domestic labor shortages in agriculture in the future, growers would have access to workers who would enter the country legally for temporary periods and then return to their home countries after their work here is completed.

This legislation has the additional advantage of permitting our government to better focus its limited monitoring/enforcement resources, particularly where security may be a concern. Let's use entry/exit tracking, tamper proof documentation, biometric identification, etc. where it will truly pay security dividends, and let's stop painting all immigrants with the same brush.

The limited, earned legalization for agriculture, a key component of this bill, is quite different from a traditional or blanket amnesty program. It would apply only to immigrants who are at work providing Americans with a safe, abundant, and affordable food supply. The opportunity is conditioned upon substantial future work and lawful behavior. These laborers are an important part of our nation's agricultural workforce. We need them! American agriculture and our border infrastructure also need time to transition to and build capacity for a much more widely used guest worker program.

During my years of service in our government, I saw difficult policy issues that could only be resolved with broad bipartisan consensus. This is such an issue. There is another choice: if we cling to partisan solutions, or wait perhaps several more years for comprehensive immigration reform proposals to ripen, we will be presiding over the "offshoring" of key components of our agricultural productivity. Along with the loss of key agricultural industries, we will see job losses in the sectors that serve agriculture: equipment manufacturing, sales and service, transportation, processing, farm lending . . . these are jobs that are filled by our sons and daughters. Is this really in our national interest?

This issue deserves immediate and serious consideration by the Congress, and Congress should be open to solving this enormous problem in incremental steps. Before us is a chance to start to test certain approaches, keeping in mind that the agricultural solution may differ in some respects from the right solution for comprehensive reform.

The status quo is simply unacceptable. It puts both American employers and immigrant workers in an untenable situation—with a high cost in economic efficiency, respect for the law, and sometimes even in human life. The reforms now being proposed are a practical solution to a serious problem that is evolving into a national crisis. It is time, and in our great country's interest, to enact these reforms.

Sincerely,

CLAYTON YEUTTER
FORMER U.S. SECRETARY OF AGRICULTURE
and U.S. Trade Representative

THE NEED FOR AGJOBS LEGISLATION—NOW

February 2004

Americans need and expect a stable, predictable, legal work force in American agriculture. Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. All workers deserve decent treatment and protection of basic rights under the law. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works. Yet Americans are being threatened on all these fronts, because of a growing shortage of legal workers in agriculture.

To address these challenges, a bipartisan group of Members of Congress, including Senators Larry Craig (ID) and Ted Kennedy (MA) and Representatives Chris Cannon (UT) and Howard Berman (CA), has introduced the *Agricultural Job Opportunity, Benefits, and Security (AgJOBS)* Act of 2003—S. 1645/H.R. 3142. This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others.

The Problems:

Of the USA's 1.6 million agricultural work force, more than half is made up of workers not legally authorized to work here—according to a conservative estimate by the Department of Labor, based, astoundingly, on self-disclosure in worker surveys. Reasonable private sector estimates run as high as 75 %.

With stepped up documentation enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement (the successor to the old INS), aliens here illegally are not leaving the country, but just being scattered. The work force is being constantly and increasingly disrupted. Ag employers want a legal work force and must have a stable work force to survive—but federal law actually punishes “too much diligence” in checking worker documentation. Some growers already have gone out of business, lacking workers to work their crops at critical times.

Workers here illegally are among the most vulnerable persons in our country, and know they must live in hiding, not attract attention at work, and move furtively. They cannot claim the most basic legal rights and protections. They are vulnerable to predation and exploitation. Many have paid “coyotes”—labor smugglers—thousands of dollars to be transported into and around this country, often under inhumane and perilous conditions. Reports continue to mount of horrible deaths suffered by workers smuggled in enclosed truck trailers.

Meanwhile, the only program currently in place to respond to such needs, the H-2A legal guest worker program, is profoundly broken. The H-2A status quo is slow, bureaucratic, and inflexible. The program is complicated and legalistic. DOL’s compliance manual alone is 325 pages. The current H-2A process is so expensive and hard to use, it places only about 40,000-50,000 legal guest workers a year—2% to 3% of the total ag work force. A General Accounting Office study found DOL missing statutory deadlines for processing employer applications to participate in H-2A more than 40% percent of the time.

The Solution—AgJOBS Reforms:

AgJOBS legislation provides a two-step approach to a stable, legal, safe, ag work force: (1) Streamlining and expanding the H-2A legal, temporary, guest worker program, and making it more affordable and used more—the long-term solution, which will take time to implement; (2) Outside the H-2A program, a one-time adjustment to legal status for experienced farm workers, already working here, who currently lack legal documentation—the bridge to allow American agriculture to adjust to a changing economy.

H-2A Reforms: Currently, when enough domestic farm workers are not available for upcoming work, growers are required to go through a lengthy, complicated, expensive, and uncertain process of demonstrating that fact to the satisfaction of the federal government. They are then allowed to arrange for the hiring of legal, temporary, non-immigrant guest workers. These guest workers are registered with the U.S. government to work with specific employers and return to their home countries when the work is done. Needed reforms would:

- Replace the current quagmire for qualifying employers and prospective workers with a streamlined “attestation” process like the one now used for H-1B high-tech workers, speeding up certification of H-2A employers and the hiring of legal guest workers.
- Participating employers would continue to provide for the housing and transportation needs of H-2A workers. New adjustments to the often-arbitrary Adverse Effect Wage Rate would be suspended during a 3-year period pending extensive study of its impact and alternatives. Other current H-2A labor protections for both H-2A and domestic workers would be continued. H-2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. Growers would be protected from frivolous claims, exorbitant damages, and duplicative contract claims in state courts.

Adjustment of workers to legal status:

Outside the H-2A program, reforms would create a new program in which farm workers already here, but working without legal authorization, could earn adjustment to legal status. To qualify, an incumbent worker must have worked in the United States in agriculture, before September 1, 2003, for at least 100 days in a 12-month period over the last 18 months prior to the bill’s introduction. (The average migrant farm worker works 120 days a year.)

This would not spur new immigration, because adjustment would be limited to incumbent farm workers with a significant work history in U.S. agriculture. The adjusting worker would have non-immigrant, but legal, status. Adjustment would not be complete until a worker completes a substantial work requirement in agriculture (at least 360 days over the next 3-6 years, including 240 days in the first 3 years).

Up to 500,000 workers would be eligible to apply. Their spouses and minor children would be given limited rights to stay in the U.S., protected from deportation. The worker would have to verify compliance with the law and continue to report his or her work history to the government. Upon completion of adjustment, the

worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

AgJOBS would not create an amnesty program. Neither would it require anything onerous of workers. Eligible workers who are already in the United States could continue to work in agriculture, but now could do so legally, and prospectively earn adjustment to legal status. Adjusting workers may also work in another industry, as long as the agriculture work requirement is satisfied.

AgJOBS is a Win-Win-Win approach:

Workers would be better off than under the status quo. Legal guest workers in the H-2A program need the assurance that government red tape won't eliminate their jobs. For workers not now in the H-2A program, every farmworker who gains legal status finally will be able to assert legal protection—which leads to higher wages, better working conditions, and safer travel. *Growers and workers* would get a stable, legal work force. *Consumers* would get better assurance of a safe, stable, American-grown, food supply—not an increased dependence on imported food. *Law-abiding Americans* want to make sure the legal right to stay in our country is earned, and that illegal behavior is not rewarded now or encouraged in the future. *Border and homeland security* would be improved by bringing workers out of the underground economy and registering them with the AgJOBS adjustment program. Overall, AgJOBS takes a balanced approach, and would work to benefit everyone.

AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2003 S. 1645/H.R. 3142

Summary of Significant Provisions—February 2004

TITLE I—ADJUSTMENT OF AGRICULTURAL WORKERS TO TEMPORARY AND PERMANENT RESIDENT STATUS

Title I establishes a program whereby agricultural workers in the United States who lack authorized immigration status but who can demonstrate that they have worked 100 or more days in a 12 consecutive month period during the 18-month period ending on August 31, 2003 can apply for adjustment of status. Eligible applicants would be granted temporary resident status. If the farmworker performs at least 360 work days of agricultural employment during the six year period ending on August 31, 2009, including at least 240 work days during the first 3 years following adjustment, and at least 75 days of agricultural work during each of three 12-month periods in the six years following adjustment to temporary resident status, the farmworker may apply for permanent resident status.

During the period of temporary resident status the farmworker is employment authorized, and can travel abroad and reenter the United States. Workers adjusting to temporary resident status may work in non-agricultural occupations, as long as their agricultural work requirements are met. While in temporary resident status, workers may select their employers and may switch employers. During the period of temporary resident status, the farmworker's spouse and minor children who are residing in the United States may remain in the U.S., but are not employment authorized. The spouse and minor children may adjust to permanent resident status once the farmworker adjusts to permanent resident status. Unauthorized workers who do not apply or are not qualified for adjustment to temporary resident status are subject to removal. Temporary residents under this program who do not fulfill the agricultural work requirement or are inadmissible under immigration law or commit a felony or 3 or more misdemeanors as temporary residents are denied adjustment to permanent resident status and are subject to removal. The adjustment program is funded through application fees.

TITLES II AND III—REFORM OF THE H-2A TEMPORARY AND SEASONAL AGRICULTURAL WORKER PROGRAM

This section modifies the existing H-2A temporary and seasonal foreign agricultural worker program. Employers desiring to employ H-2A foreign workers in seasonal jobs (10 months or less) will file an application and a job offer with the Secretary of Labor. If the application and job offer meets the requirements of the program and there are no obvious deficiencies the Secretary must approve the application. Employers must seek to employ qualified U.S. workers prior to the arrival of H-2A foreign workers by filing a job order with a local job service office at least 28

Issue	Bipartisan AgJOBS Reform Plan
Status of Spouses and Dependents	Spouses and minor children of workers who adjust status may not be removed nor given employment authorization while the qualifying worker is in temporary resident status. Once a worker obtains permanent resident status through satisfaction of the agricultural work requirement, he/she may seek to adjust the status of a spouse and minor child.
Proof of Agricultural Work During Qualifying Period After Enactment	Adjusting workers claiming that they are deprived of qualifying days of work in agriculture through termination without just cause are entitled to arbitration of their termination. A favorable arbitration decision for a worker can result only in a credit of work days or hours but cannot be used for any other purpose in any other litigation. Workers also can get credit for days lost through an inability to work due to injury or disease arising out of agricultural employment during the qualifying period, as long as proven through medical records. Secretary of the Department of Homeland Security (DHS) has limited authority to relax hours of agricultural work requirement during the first 3 years due to a natural disaster.
Confidentiality of Information	Information provided by workers and employers to the Secretary of DHS shall remain confidential and can only be used to determine whether a worker qualifies to adjust to legal status.

H-2A GUEST WORKER REFORMS

Issue	Current Law	Bipartisan AgJobs Reform Plan
DOMESTIC WORKER RECRUITMENT AND SEC. OF LABOR CERTIFICATION OF EMPLOYERS TO EMPLOY H-2A FOREIGN GUEST WORKERS		
Limitation on Covered Job Opportunities	Job opportunities must be "agricultural" and must be "temporary" or "seasonal". Maximum duration of jobs 10 months. Agriculture defined as in Fair Labor Standards Act and Internal Revenue Code.	Job opportunities must be "agricultural" and must be "temporary" or "seasonal". Maximum duration of jobs 10 months. Agriculture defined as in Fair Labor Standards Act and Internal Revenue Code.
Mechanics of Process	Labor Certification: Application for temporary guest worker labor certification must be filed at least 45 days before date of need with local office and DOL regional office. DOL accepts or requests modification in 7 days. Certification 30 days before date of need. DOL has discretion to waive time frames in "emergency" situations. Requests for redetermination allowed.	Labor Condition Application: Process similar to H-1B high-tech program. Application for H-2A workers is filed with Secretary of Labor (SOL). Application provides assurances that employer will comply with program requirements most of which are set forth in the following Labor Standards section. Unless the application is incomplete or contains obvious inaccuracies, SOL must approve it.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Domestic Recruitment	Local and interstate orders, filed with DOL 45 days before date of need for workers. Newspaper, radio advertising and other requirements imposed by Secretary of Labor (SOL). Emergency provisions allow SOL to waive recruitment requirements where there is insufficient time before date of need and need could not have reasonably been foreseen.	Employer must contact former workers and advertise jobs in local paper likely to be patronized by farmworkers no later than 14 days before date of need for workers. Employer must file job order with local job service office 28 days prior to date of need and authorize posting of job on an electronic job registry. Interstate recruitment of workers is not required. Emergency provisions allow SOL to waive recruitment requirements where there is insufficient time before date of need and need could not have reasonably been foreseen.
In General	Open-ended, terms and conditions of employment may not adversely affect U.S. workers.	Limited to standards in statute unless higher wages, benefits or working conditions are offered or provided to H-2A workers.
Wages	Highest of Adverse Effect Wage Rate (AEWR) administratively established by DOL, prevailing wage, or federal or state minimum wage. AEWR methodology set by SOL by regulation.	Similar to existing H-2A, except AEWR may not be higher than the applicable AEWR on 1-1-03. If Congress fails to enact a new wage rate within 3 years of enactment, thereafter the existing AEWRs will be annually indexed by the % change in the CPI, with a maximum adjustment of 4% annually. During 3 year period after enactment, GAO and Congressional commission study wage rate and make recommendations to Congress.
Housing	Employer must offer housing to all non-local workers. H-2A application limited to capacity of available housing. May use public accommodation housing. Local workers not requiring housing not counted against H-2A request up to number of local workers usually employed. No charge for housing permitted.	Employer must provide housing or a housing allowance. From the date of enactment, the housing allowance may be offered only if the Governor of State certifies that housing is available in the area of intended employment. Housing allowance is based on HUD Section 8 statewide average fair market rental rates for existing housing. In non-metropolitan counties the allowance is the statewide average fair market rental for existing housing for non-metropolitan counties and for metropolitan counties it is the statewide average for metropolitan counties.

Issue	Civilian Law	Hipathian App/H-2A/US R-fain Plan
Transportation	Reimburse in-bound if worker completes 50% of period of employment; pay outbound if worker completes 100% of period of employment. Transportation must be advanced if it is prevailing practice.	Same as existing H-2A program except no reimbursement if worker travels less than 100 miles or does not reside in employer provided housing or housing obtained through an allowance.
Workers' Compensation	State coverage or equivalent.	State coverage or equivalent.
Employment Guarantee	Employer guarantees employment for 1/4 of work hours of anticipated period of employment. Guarantee terminates if an "Act of God" terminates need for workers. Guarantee waived for workers terminated for lawful job related reasons or who abandon employment.	Same as existing H-2A program except statute defines "Act of God" circumstances that cause termination of guarantee.
Collective Bargaining Agreement	No Provision.	If the job opportunity is covered by a collective bargaining agreement, the employer does not have to provide the wages and other benefits required of employers without such an agreement.
Preference for U.S. Workers	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.
Lawful Job Related Requirements	Permitted at the discretion of SGN. Complicated scheme for regulating productivity standards	Permitted Employers may use legitimate selection criteria that are normal or customary to the job.

Issue	Current Law	Bipartisan Ag/JOBS Reform Plan
Application of MSPA to H-2A Workers	H-2A workers are exempt from the coverage of MSPA. H-2A workers are provided a federal private right of action to enforce the housing, transportation, wage, employment guarantee, motor vehicle safety and retaliation provisions and any other written promises in the employer's job offer. Either party may request mediation after the filing of the complaint. H-2A worker must elect between DOL enforcement of rights or right to sue. State contract claims based on H-2A program requirements are preempted by federal right of action.	H-2A workers are exempt from the coverage of MSPA. H-2A workers are provided a federal private right of action to enforce the housing, transportation, wage, employment guarantee, motor vehicle safety and retaliation provisions and any other written promises in the employer's job offer. Either party may request mediation after the filing of the complaint. H-2A worker must elect between DOL enforcement of rights or right to sue. State contract claims based on H-2A program requirements are preempted by federal right of action.
Enforcement of Labor Standards	SOL has the authority to investigate compliance with H-2A requirements and assurances. SOL has authority to seek civil money penalties and backpay through an administrative hearing process for alleged violations of program requirements and has the authority to debar employers from the H-2A program for program violations.	Aggrieved persons or third parties can bring a complaint to SOL within 12 months of employer's alleged failure to comply with assurances, for misrepresentations in the labor condition application, and for displacement of U.S. workers. If, after investigation, SOL finds reasonable cause, the parties are entitled to a hearing and the SOL must make a finding not less than 60 days after the hearing. If a violation is found after a hearing, SOL may require backpay for wages and benefits not paid, as well as civil money penalties (CMPs) of up to \$1,000 for non-willful violations, \$5,000 for willful violations and \$15,000 for displacement of U.S. workers. CMPs are capped for all types of violations at no more than \$90,000.
Initial Waiver of Ineligibility for Unlawful Presence	Banned from admission up to 10 years for previous unlawful presence. Must show non-immigrant intent and meet other criteria for admissibility.	One time waiver of bar on admission for unlawful presence. Must show non-immigrant intent and meet other criteria for admissibility.
Strike and Lockout	Cannot hire an H-2A worker if the specific job opportunity for which the employer is requesting an H-2A worker is vacant because the former occupant is on strike or being out in the course of a labor dispute.	Same as current law.

Issue	Current Law	Bipartisan AgJOBS Reform Plan.
Transportation	Reimburse in-bound if worker completes 50% of period of employment; pay outbound if worker completes 100% of period of employment. Transportation must be advanced if it is prevailing practice.	Same as existing H-2A program except no reimbursement if worker travels less than 100 miles or does not reside in employer provided housing or housing obtained through an allowance.
Workers' Compensation	State coverage or equivalent.	State coverage or equivalent.
Employment Guarantee	Employer guarantees employment for 3/4 of work hours of anticipated period of employment. Guarantee terminated if an "Act of God" terminates need for workers. Guarantee waived for workers terminated for lawful job related reasons or who abandon employment.	Same as existing H-2A program except statute defines "Act of God" circumstances that cause termination of guarantee.
Collective Bargaining Agreement	No Provision.	If the job opportunity is covered by a collective bargaining agreement, the employer does not have to provide the wages and other benefits required of employers without such an agreement.
Preference for U.S. Workers	Must hire qualified U.S. workers who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.	Must hire qualified U.S. workers until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.
Lawful Job-Related Requirements	Permitted at the discretion of SOL. Complicated scheme for regulating productivity standards.	Permitted. Employers may use legitimate selection criteria that are normal or customary to the job.

		Bipartisan AgJOBS Reform Plan
Issue	Current Law	
Public Notice and Access to Information	No provision.	Employers covered by a collective bargaining agreement must at the time of filing of the application give notice to the bargaining representative of the employees in the occupational classification at the place of employment for which H-2A workers are sought. Employers must keep copy of application at principal place of business for public inspection. SOL must keep a public list by employer of the applications filed under the H-2A program, including the wage rate, number of workers sought, period of intended employment and date of need. The list is available for examination at DOL in Washington, D.C.
Continuation of Obligation to Meet H-2A Standards Upon Withdraw from Program	May withdraw. Policy on applicability of program requirements not clear, but generally believed that H-2A obligations continue if any workers are recruited under H-2A terms.	May withdraw if no H-2A guest workers are employed. Any employer obligations incurred under other laws would continue.
Payment of Users' Fee	Employers pay fees set by SOL and INS.	Employers pay user's filing fee for filing labor condition application and for admission of H-2A guest workers. Fees established by federal standards.
Effective Date	Not applicable.	One year after enactment.
Regulations	Not applicable.	Secretaries of Labor and Agriculture and DHS consult regarding regulations, which must be issued 1 year after enactment.

February 12, 2004

Dear Member of Congress:

The undersigned organizations representing a broad cross-section of America join together to support enactment of S.1645 and H.R.3142, the Agricultural Job, Opportunity, Benefits and Security Act (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives, and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. Nowhere is the status quo more untenable than in agriculture. America needs reforms that are compassionate, realistic and economically sensible – reforms that also enhance the rule of law and contribute to national security. AgJOBS represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with broad bipartisan support. For these reasons, we join together to encourage the Congress to enact S.1645 and H.R. 3142, the Agricultural Job, Opportunity, Benefits, and Security Act of 2003, before the 2004 Congressional April Recess.

Sincerely,

AGRICULTURE COALITION FOR IMMIGRATION REFORM
AMERICAN FARM BUREAU FEDERATION
NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS
AFL - CIO
U.S. CHAMBER OF COMMERCE
U.S. HISPANIC CHAMBER OF COMMERCE
NATIONAL COUNCIL OF LA RAZA (NCLR)
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (MALDEF)
LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC)
WILLIAM C. VELASQUEZ INSTITUTE
UNITED FARM WORKERS (UFW)
NATIONAL CATTLEMEN'S BEEF ASSOCIATION
NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE
CATHOLIC CHARITIES USA
THE EPISCOPAL CHURCH, USA
FARMWORKER JUSTICE FUND (FJF)
AMERICAN NURSERY & LANDSCAPE ASSOCIATION
ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS (AFOP)

BIRDS EYE FOODS
DEERE & COMPANY
TYSON FOODS INC.
UNION OF NEEDLETRADES, INDUSTRIAL AND TEXTILE EMPLOYEES (UNITE)
UNITED EGG PRODUCERS
NATIONAL CHRISTMAS TREE ASSOCIATION
UNITED FOOD AND COMMERCIAL WORKERS UNION (UFCW)
NATIONAL LEGAL AID AND DEFENDER ASSOCIATION (NLADA)
UNITED FRESH FRUIT & VEGETABLE ASSOCIATION
U.S. APPLE ASSOCIATION
U.S. CUSTOM HARVESTERS, INC.
WESTERN GROWERS ASSOCIATION
WESTERN RANGE ASSOCIATION
WESTERN UNITED DAIRYMEN
ESSENTIAL WORKER IMMIGRATION COALITION
SERVICES EMPLOYEES INTERNATIONAL UNION (SEIU)
A. DUDA & SONS
EVANGELICAL LUTHERAN CHURCH IN AMERICA
AMERICAN HORSE COUNCIL
GENERAL BOARD OF CHURCH AND SOCIETY, THE UNITED METHODIST CHURCH
AGRICULTURAL AFFILIATES
AGRI-PLACEMENTS INTERNATIONAL
AL FRENCH, FORMER USDA DIRECTOR OF AG LABOR RELATIONS
NATIONAL IMMIGRATION FORUM
NATIONAL POTATO COUNCIL
NEW ENGLAND APPLE COUNCIL
COBANK
FIRST PIONEER FARM CREDIT
FARM LABOR ORGANIZING COMMITTEE, AFL-CIO (FLOC)
NATIONAL ASSOCIATION OF ELECTED AND APPOINTED LATINO OFFICIALS
(NALEO)
AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA)
NATIONAL CHICKEN COUNCIL
NATIONAL COUNCIL OF CHURCHES
NATIONAL MILK PRODUCERS FEDERATION
SOUTH EAST DAIRY FARMERS ASSOCIATION
NORTH EAST DAIRY PRODUCERS ASSOCIATION
NORTHWEST HORTICULTURAL COUNCIL
WINEAMERICA, THE NATIONAL ASSOCIATION OF AMERICAN WINERIES
WINEGRAPE GROWERS OF AMERICA
AMERICAN JEWISH COMMITTEE (AJA)
AMERICAN MUSHROOM INSTITUTE
CAMPAIGN FOR LABOR RIGHTS
COOPERATIVE PRODUCERS, INC.
COOPERATIVE THREE, INC.
COUNCIL OF NORTHEAST FARMER COOPERATIVES
DAIRYLEA COOPERATIVE
AMERICAN FROZEN FOOD INSTITUTE

NATIONAL MIGRANT AND SEASONAL HEAD START ASSOCIATION
FOR OUR GRANDCHILDREN
GULF CITRUS GROWERS ASSOCIATION
GULF HARVESTING, INC.
LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT (LCLAA)
LEADERSHIP CONFERENCE ON CIVIL RIGHTS (LCCR)
MOARK LLC
TURFGRASS PRODUCERS INTERNATIONAL
SOCIETY OF AMERICAN FLORISTS
MAFO
MONROVIA GROWERS (CA, OR, GA, NC)
NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM (NAPALC)
NATIONAL EMPLOYMENT LAW PROJECT
ARAB AMERICAN INSTITUTE (AAI)
NATIONAL FARM WORKER MINISTRY
NATIONAL KOREAN AMERICAN SERVICE & EDUCATION CONSORTIUM
(NAKASEC)
NORTHEAST FARM CREDIT REGIONAL COUNCIL
OFA - AN ASSOCIATION OF FLORICULTURE PROFESSIONALS
PAN AMERICAN RECRUITING
NORTHWOODS AGRI WOMEN
SALVADORAN AMERICAN NATIONAL NETWORK
PEOPLE FOR THE AMERICAN WAY
PERENNIAL PLANT ASSOCIATION
POLISH AMERICAN CONGRESS
PACIFIC EGG AND POULTRY ASSOCIATION
SOUTHERN NURSERY ASSOCIATION
TOGETHER IN AMERICA
WESTERN CAROLINAS HORTICULTURAL ALLIANCE
YANKEE FARM CREDIT
TELAMON CORPORATION
SOUTHERN POVERTY LAW CENTER
CATHOLIC MIGRANT FARMWORKER NETWORK
HOUSING ASSISTANCE COUNCIL

ALABAMA NURSERY & LANDSCAPE ASSOCIATION
AMANBCER (AZ)
ARIZONA NURSERY ASSOCIATION
ARKANSAS GREEN INDUSTRY ASSOCIATION
ALLIED GRAPE GROWERS (CA)
ALMOND HULLERS AND PROCESSORS (CA)
CALIFORNIA ASSOCIATION OF NURSERIES AND GARDEN CENTERS
CALIFORNIA ASSOCIATION OF WINEGRAPE GROWERS
CATHOLIC CHARITIES OF THE DIOCESE OF SANTA ROSA (CA)
CALIFORNIA APPLE COMMISSION
CALIFORNIA ASSOCIATION OF WINEGRAPE GROWERS

CALIFORNIA FLORAL COUNCIL
CALIFORNIA FARM BUREAU FEDERATION
CALIFORNIA GRAIN AND FEED ASSOCIATION
CALIFORNIA GRAPE & TREE FRUIT LEAGUE
CALIFORNIA INSTITUTE FOR RURAL STUDIES
CALIFORNIA LANDSCAPE CONTRACTORS ASSOCIATION, INC
CALIFORNIA RURAL LEGAL ASSISTANCE FOUNDATION (CRLAF)
CALIFORNIA SEED ASSOCIATION
CALIFORNIA STRAWBERRY COMMISSION
CALIFORNIA WOMEN FOR AGRICULTURE
CATHOLIC CHARITIES, SAN DIEGO
CENTRAL AMERICAN RESOURCE CENTER (CA)
LA CLINICA DE LA RAZA (CA)
COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES (CHIRLA)
FRANCISCAN FRIARS OF ST. BARBARA PROVINCE (CA)
HARRY SINGH & SONS (CA)
IMPERIAL VALLEY VEGETABLE GROWERS ASSOCIATION
JOHN HARRIS FARMS INC (CA)
KOREAN RESOURCE CENTER, LOS ANGELES
LASSEN CANYON NURSERY, INC. (CA)
LOS ANGELES COALITION TO END HUNGER & HOMELESSNESS
MARIN INTERFAITH TASK FORCE FOR THE AMERICAS
NISEI FARMERS LEAGUE (CA)
NORTHERN CALIFORNIA GROWERS ASSOCIATION
NURSERY GROWERS OF SOUTHERN CALIFORNIA
OUR LADY OF VICTORY MISSIONARY SISTERS (CA)
RAISIN BARGAINING ASSOCIATION (CA)
VENTURA COUNTY (CA) AGRICULTURAL ASSOCIATION
VENTURA COUNTY (CA) FARM BUREAU
SOUTHERN CALIFORNIA ECUMENICAL COUNCIL
UNITED FOOD AND COMMERCIAL WORKERS UNION (UFCW) LOCAL 1442 (CA)
UNIVERSAL IMMIGRATION SERVICE (CA)
COLORADO NURSERY ASSOCIATION
COLORADO SUGAR BEET GROWERS ASSOCIATION
ESTES VALLEY MULTICULTURAL CONNECTIONS (CO)
NORTHERN COLORADO ONION ASSOCIATION
SISTERS OF LORETO (CO)
CONNECTICUT FARM BUREAU
CONNECTICUT NURSERY & LANDSCAPE ASSOCIATION
CONNLEAF, INC (CT)
H.F. BROWN INC. (CT)
THE LYMAN FARM, INC. (CT)
DELAWARE NURSERY & LANDSCAPE ASSOCIATION
LATIN AMERICAN COMMUNITY CENTER (DE)
LATIN AMERICAN YOUTH CENTER (DC)
MIGRANT LEGAL ACTION PROGRAM (DC)
BIG CYPRESS HOUSING CORPORATION (FL)
CPNTRO CAMPESINO (FL)

CARLOS ROSARIO INT'L CAREER CENTER AND PUBLIC CHARTER SCHOOL
CARIBBEAN IMMIGRANT SERVICES INC. (FL)
CATHOLIC CHARITIES OF ORLANDO, INC.
COALITION OF FLORIDA FARMWORKER ORGANIZATIONS
EVERGLADES COMMUNITY ASSOCIATION, INC.
EVERGLADES HAMMOCK, INCORPORATED
FAIR FOOD AMERICA (FL)
FARMWORKER ASSOCIATION OF FLORIDA, INC
FARMWORKERS SELF-HELP (FL)
THE FELLSMERE COMMUNITY ENRICHMENT PROGRAM (FL)
FLORIDA CATHOLIC CONFERENCE
FLORIDA CITRUS MUTUAL
FLORIDA CITRUS PACKERS, INC.
FLORIDA FARM BUREAU FEDERATION
FLORIDA IMMIGRANT ADVOCACY CENTER
FLORIDA IMPACT
FLORIDA FRUIT AND VEGETABLE ASSOCIATION
FLORIDA NURSERYMEN & GROWERS ASSOCIATION
FLORIDA STRAWBERRY GROWERS ASSOCIATION
FUNDACION SALVADORENA DE LA FLORIDA
GUATEMALAN UNITY INFORMATION CENTER (FL)
IMMOKALEE MULTICULTURAL MULTIPURPOSE COMMUNITY ACTION AGENCY,
INC. (FL)
INDIAN RIVER CITRUS LEAGUE (FL)
LEGAL AID SERVICE OF BROWARD COUNTY, INC. (FL)
LIVE OAK VILLAS, LLC (FL)
LITTLE MANATEE HOUSING CORPORATION (FL)
MIGRANT FARMWORKER JUSTICE PROJECT, FLORIDA LEGAL SERVICES, INC.
MUJER (FL)
PINELLAS SUPPORT COMMITTEE (FL)
RANCH ONE COOPERATIVE, INC. (FL)
REDLANDS CHRISTIAN MIGRANT ASSOCIATION (FL)
RETAIL SYSTEMS CONSULTING (FL)
SARASOTA/MANATEE FARMWORKER SUPPORTERS
SISTERS OF THE HUMILITY OF MARY - INDIAN RIVER (FL)
SKINNER NURSERIES (FL)
SUGAR CANE GROWERS CO-OP OF FLORIDA
UNITE FOR DIGNITY, INC. (FL)
CENTER FOR PAN ASIAN COMMUNITY SERVICES (GA)
GEORGIA GREEN INDUSTRY ASSOCIATION
GEORGIA RURAL URBAN SUMMIT
IDAHO COMMISSION ON HISPANIC AFFAIRS
IDAHO COMMUNITY ACTION NETWORK
IDAHO FARM BUREAU
IDAHO FOOD PRODUCERS
IDAHO GRAIN PRODUCERS ASSOCIATION
IDAHO GROWER SHIPPERS ASSOCIATION
IDAHO MIGRANT COUNCIL

IDAHO NURSERY & LANDSCAPE ASSOCIATION
POTATO GROWERS OF IDAHO
SNAKE RIVER FARMERS ASSOCIATION (ID/MT)
CENTRO ROMERO (IL)
CHICAGO JOBS WITH JUSTICE
CONGUAUTE (IL)

DISCIPLES JUSTICE ACTION NETWORK (DISCIPLES OF CHRIST) (IL)
HEARTLAND ALLIANCE FOR HUMAN NEEDS & HUMAN RIGHTS (IL)
HISPANIC LAWYER'S ASSOCIATION OF ILLINOIS
ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS
ILLINOIS LANDSCAPE CONTRACTORS ASSOCIATION
ILLINOIS MIGRANT COUNCIL
ILLINOIS NURSERYMENS' ASSOCIATION
IMMIGRATION PROJECT (IL)
INSTITUTO DEL PROGRESO LATINO (IL)

KOREAN AMERICAN RESOURCE & CULTURAL CENTER (KRCC), CHICAGO
LAW OFFICE OF SHIRLEY SADJADI (IL)
LAW OFFICE OF DOUGLAS W. WORRELL, CHTD. (IL)
THE MIDWEST IMMIGRANT & HUMAN RIGHTS CENTER (IL)
PROJECT IRENE (IL)

THE RESURRECTION PROJECT IN CHICAGO
CENTRAL INDIANA JOBS WITH JUSTICE
INDIANA NURSERY & LANDSCAPE ASSOCIATION

IMMIGRATION OUTREACH OFFICE, CATHOLIC CHARITIES/ ARCHDIOCESE OF DUBUQUE

IMMIGRANT RIGHTS NETWORK OF IOWA AND NEBRASKA
IOWA NURSERY & LANDSCAPE ASSOCIATION
IOWA PROJECT
SISTERS OF CHARITY (IA)
EL CENTRO, INC. - KANSAS
KANSAS FARM BUREAU
KANSAS NURSERY & LANDSCAPE ASSOCIATION
KENTUCKY NURSERY & LANDSCAPE ASSOCIATION
CATHOLIC CHARITIES ARCHDIOCESE OF NEW ORLEANS
FARM CREDIT OF MAINE
MAINE NURSERY & LANDSCAPE ASSOCIATION
ANGELICA NURSERIES (MD)
BELL NURSERY (MD)
CASA OF MARYLAND
CENTRO DE LA COMUNIDAD, INC (MD)
JOHN SHORB LANDSCAPING, INC. (MD)
MARYLAND AQUATIC NURSERIES, INC.
MARYLAND NURSERY & LANDSCAPE ASSOCIATION

MIGRANT AND REFUGEE CULTURAL SUPPORT, INC. (MRECS) (MD)
QUINN'S KINGSVILLE FARMS (MD)
ROBIN HILL FARM NURSERY (MD)
SPEAKMAN NURSERIES, INC. (MD)
CENTRO PRESENTE (MA)

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Transportation	Reimburse in-bound if worker completes 50% of period of employment; pay outbound if worker completes 100% of period of employment. Transportation must be advanced if it is prevailing practice.	Same as existing H-2A program except no reimbursement if worker travels less than 100 miles or does not reside in employer provided housing or housing obtained through an allowance.
Workers' Compensation	State coverage or equivalent.	State coverage or equivalent.
Employment Guarantee	Employer guarantees employment for 3/4 of work hours of anticipated period of employment. Guarantee terminated if an "Act of God" terminates need for workers. Guarantee waived for workers terminated for lawful job related reasons or who abandon employment.	Same as existing H-2A program except statute defines "Act of God" circumstances that cause termination of guarantee.
Collective Bargaining Agreement	No Provision.	If the job opportunity is covered by a collective bargaining agreement, the employer does not have to provide the wages and other benefits required of employers without such an agreement.
Preference for U.S. Workers	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive.	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.
Lawful Job-Related Requirements	Permitted at the discretion of SOL. Complicated scheme for regulating productivity standards.	Permitted. Employers may use legitimate selection criteria that are normal or customary to the job.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Application of MSPA to H-2A Workers	H-2A workers are exempt from the coverage of MSPA.	<p>H-2A workers are exempt from the coverage of MSPA. H-2A workers are provided a federal private right of action to enforce the housing, transportation, wage, employment guarantee, motor vehicle safety and retaliation provisions and any other written promises in the employer's job offer. Either party may request mediation after the filing of the complaint. H-2A worker must elect between DOL enforcement of rights or right to sue. State contract claims based on H-2A program requirements are preempted by federal right of action.</p>
Enforcement of Labor Standards		<p>SOL has the authority to investigate compliance with H-2A requirements and assurances. SOL has authority to seek civil money penalties and backpay through an administrative hearing process for alleged violations of program requirements and has the authority to debar employers from the H-2A program for program violations.</p>
Initial Waiver of Ineligibility for Unlawful Presence		<p>Banned from admission up to 10 years for previous unlawful presence. Must show non-immigrant intent and meet other criteria for admissibility.</p>
Strike and Lockout		<p>Cannot hire an H-2A worker if the specific job opportunity for which the employer is requesting an H-2A worker is vacant because the former occupant is on strike or being out in the course of a labor dispute.</p>

Issue	Current Law	BipartisanAgJOBS Reform Plan
GUEST WORKER ADMISSION AND ELIGIBILITY PROVISIONS		
Procedures for Admission of H-2A guest workers	Governed by current INS statute and regulations. Employer petitions INS and, upon approval, workers apply for visas and admission.	Employer files petition with Secretary of the Dept. of Homeland Security (DHS), accompanied by valid labor certification covering petitioner. Secretary of DHS is required to adjudicate petitions on an expedited basis within 7 working days and send copies of approved petition to petitioning employer and consular office where worker will apply.
Issuance of Identity and Employment Eligibility Document	Subject to current INS regulations and law. Receives same documents as all other admissions.	Requires counterfeit-proof document.
Extension of Stay of H-2A worker	Worker may remain in U.S. for 14 days after period of employment ends to seek additional employment. Cannot work for employer who has filed an extension until extension approved. Continuous stay for period of labor certification up to 3 years with successive certified employers.	Worker may remain in U.S. for period of labor certification plus 14 additional days after period of employment ends to seek employment. Can work immediately for employer who has filed an extension of stay but must within 60 days obtain valid work authorization documents. Continuous stay up to 3 years with successive approved employers, but no more than ten months in each job opportunity.
MISCELLANEOUS PROVISIONS		
Filing by Associations of Agricultural Employment	Permitted; association may be agent, joint employer or sole employer. Association must be joint employer for workers to transfer among members.	Similar to current law. Associations may file applications as actual employers or on behalf of members who have written agreements to comply with program requirements.

Issue	Current Law	Bipartisan AJOBs Reform Plan
Public Notice and Access to Information	No provision.	Employers covered by a collective bargaining agreement must at the time of filing of the application give notice to the bargaining representative of the employees in the occupational classification at the place of employment for which H-2A workers are sought. Employers must keep copy of application at principal place of business for public inspection. SOL must keep a public list by employer of the applications filed under the H-2A program, including the wage rate, number of workers sought, period of intended employment and date of need. The list is available for examination at DOL in Washington, D.C.
Continuation of Obligation to Meet H-2A Standards Upon Withdraw from Program	May withdraw. Policy on applicability of program requirements not clear, but generally believed that H-2A obligations continue if any workers are recruited under H-2A terms.	May withdraw if no H-2A guest workers are employed. Any employer obligations incurred under other laws would continue.
Payment of Users' Fee	Employers pay fees set by SOL and INS.	Employers pay user's filing fee for filing labor condition application and for admission of H-2A guest workers. Fees established by federal standards.
Effective Date	Not applicable.	One year after enactment.
Regulations		Secretaries of Labor and Agriculture and DHS consult regarding regulations, which must be issued 1 year after enactment.

The CHAIRMAN. Thank you very much, Senator Craig, for your testimony, and for your advocacy, and for the bill that you have introduced.

The chair wants to intervene at this point. Senator Boxer will necessarily need to move to another hearing soon. She will not be able to stay for the hearing. I would like to recognize her at this point for comment or questions.

Senator BOXER. Thank you. I will be very brief. I have a statement and I would ask it be put in the record and just take less than 5 minutes. First, to thank you, Mr. Chairman, and to thank Senator Hagel as well.

For my State of California, this is obviously extremely important and I would like to associate myself with the comments of Senators Craig and McCain. I think Senator McCain put a human face on this issue. We need to do that. It is important.

And I also think when Senator McCain said that one of the issues growing out of 9/11 is that we really did not make a priority of this relationship, I think that is just a fact of life. I have met with members of the Mexican Government. They certainly feel this way. So I think your doing this is a wonderful signal that we are ready to engage in this.

So briefly let me just say that I am on the Craig-Kennedy bill, that it is not correct what Senator McCain said that the Hispanic organizations have not backed any bill. They all support the Craig-Kennedy. This is a bill that, frankly, I think we just ought to go to the floor and do it because it is dealing with the ag portion of the problem. Everyone supports it: the workers, the bosses, the Hispanic groups. There just seems to be, as far as I can tell, no opposition.

The beauty of the bill, as Senator Craig says, is you are giving people hope. You are giving them an opportunity. You are giving them hope, if they play by the rules, they get their legal status.

I am also proud to see Senator Durbin here. I am a proud co-sponsor of the DREAM Act. Basically he will explain it, so I will not take time to do so. Again, it gives hope and help to children. The kids did not know that they were doing anything wrong when their parents brought them here. Their parents came here in an undocumented fashion. They are working hard at school and I think when you hear from Senator Durbin, that is another wonderful bill.

Those two, along with the State criminal alien assistance program, which we will not be looking at, but which helps our States and localities bear the costs of incarcerating undocumented immigrants, taken together, we begin to move forward here.

I would just quickly say, without going into it, that the President's proposal—and he did step forward with a proposal—if you really look at it—and I do not know that we are going to do that later today—I think it makes matters worse because what it does is it sets up a 3-year program where people can come in and if they want to re-up for another 3 years they can. After 6 years, they need to leave the country and go back. If they are lucky enough to have a sponsor, they might get in line for legal status. So what this does is it just sets up a permanent class of very powerless workers.

And that leads me to my last point I want to make. An AP reporter did an investigative story about what is happening to our Mexican workers in the American work place, and it is very shocking. One in 14 work place deaths are Mexicans as opposed to 1 in 24 workers of other nationalities. The reason AP found for these death rate disparities, Mexican immigrants are less likely to receive job training or safety equipment, and are more reluctant to complain. It seems certain that if we do not have a program like the Craig-Kennedy plan, people are going to stay in the shadows. They are going to be fearful. So, God knows, we do not want people to die excruciating deaths at the borders. We also do not want them to die in the work place.

This is an issue we need to deal with in a very forthright fashion. I think our colleagues that are sitting before you have done that, and I think Senators Hagel and Daschle are also doing that as well. So I am really grateful to you for having this hearing and allowing me to speak out of turn at this point because I have to go to a hearing on rail safety. Thank you.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF SENATOR BARBARA BOXER

Mr. Chairman, thank you for holding this hearing. I also want to thank my colleagues who are testifying today.

I particularly want to welcome Senator Craig. I am pleased to be a supporter of his and Senator Kennedy's AgJOBS bill, which would give undocumented farm-workers the opportunity to earn citizenship after a period of years living by the rules.

I am also a cosponsor of Senator Durbin's DREAM Act to give undocumented children the right to become legal permanent residents of the United States in order to pursue higher education. The way it works would be that to be eligible for legal residence status under the DREAM Act, a student must have been under age 16 at the time of entry into the U.S., have resided continuously here for at least 5 years, and have a high school diploma or have gained admission to an institution of higher education. These children did not come here of their own volition and limiting their potential hurts them and us.

As a third key policy, I support the State Criminal Alien Assistance program (SCAAP) to help our states and localities bear the costs of incarcerating undocumented immigrants.

Taken together, these policy proposals aim to maximize the benefits of immigration and share the costs it creates. These policies serve as good models for broader reform: let those who play by the rules earn citizenship and let the national government assist our key immigration states.

The President has an alternative that I believe won't work and is unfair to both immigrants and American workers.

The proposal allows a new class of temporary guestworkers, and it guarantees employers that they will have access to additional new guestworkers once the original guestworker's status is up. That design promises a permanent supply of low-skilled, low-wage workers rather than encouraging employers to invest in workers and retain them.

It also means workers without a voice. That's because to be able to renew for a second three years of guestworker status, the workers in many ways will be forced to tow the line even if there is an abusive or hurtful environment.

We know that already immigrant workers face unique challenges in the workplace. I wrote a letter last week to Labor Secretary Chao about an Associated Press story which found that while Mexicans now represent about 1 in 24 workers in the United States, they represent about 1 in 14 workplace deaths. Among the reasons the AP found for these death-rate disparities: Mexican immigrants are less likely to receive job training or safety equipment and are more reluctant to complain. It seems that would hold true for participants in the President's new guestworker proposal as well.

My last point is that the President's proposal is unfair. It says that these immigrants are good enough to pick our fruit, raise our kids, and clean our houses but

they are not good enough to become citizens. When the six year guestworker period is up, these workers are expected to go back to their home country. To come back to the United States they would have to go to the end of the family sponsor or employer sponsor lines for reentry.

The President's proposal doesn't seem like a good deal for immigrants or American workers. We can do better.

Immigration comes with serious costs for our cities and states and brings with it unique challenges. If we handle it right, we will treat people well and gain the value of their work and their contribution.

I want to work with my colleagues here today and with you Mr. Chairman to tackle this challenge—and to strike a balance between combating illegal immigration and having a rational and fair immigration policy where everyone benefits. The Craig-Kennedy bill and the DREAM Act are the right place to start.

The CHAIRMAN. Thank you very much, Senator Boxer.
Senator Durbin.

**STATEMENT OF HON. RICHARD J. DURBIN, U.S. SENATOR
FROM ILLINOIS**

Senator DURBIN. Thank you very much, Mr. Chairman. My Senate colleagues and fellow immigrants, I want to thank you for giving me the opportunity to testify today about immigration reform. I believe this is a priority for America. It is a priority for Mexico, and it is important that we act this year.

It is imperative that we address our deeply flawed immigration policy. It jeopardizes our national security and our economy. It often treats hardworking immigrants unfairly.

In recent months, the discussion about immigration reform has been dominated by President Bush's guest worker proposal. Though I agree with Senator Boxer that I think there are some fundamental flaws with the President's proposal, let me go on record to commend the President. It took courage, political courage, for him to step out and say it is time for America to speak forthrightly about immigration. I think he opened the door and I think we have an obligation, as public servants who understand the gravity of this issue, to step through that door and make positive changes.

To my knowledge, the President's proposal has not yet been introduced as a bill. It may be later this year. But we should not wait for that. I think we can move on immigration reform. We should pass the DREAM Act. It is the only immigration reform proposal reported favorably by the Judiciary Committee in this Congress. It will signal that we are serious about immigration policy reform.

I have introduced this act with Senator Orrin Hatch. What an unlikely political couple—Hatch and Durbin—who happen to agree, and 42 cosponsors have joined us. The bill was reported favorably by the Judiciary Committee on an overwhelming 16 to 3 vote. It is narrowly tailored to provide immigration relief to a select group of students who have good moral character, have no evidence of wrongdoing in their background, and who are trying to pursue higher education and really give more back to America.

Mr. Chairman, I note that you and eight other members of this committee are cosponsors of the DREAM Act. I think we have the wind at our back on this issue. The administration has not taken a position, and I hope that their witnesses today will tell us that the President supports the DREAM Act.

I know several of my colleagues on the committee have met some of the inspiring young people who would benefit from the DREAM Act. Let me tell you just a couple of illustrations that tell the story.

Diana, was born in Mexico, and raised in Chicago. Her parents brought her to this country at the age of 6. Her father works construction, for \$25,000 a year income. Her mother manages a fast food restaurant and earns \$15,000 a year. Last year Diana graduated from high school in Chicago in the top 5 percent of her class with a GPA of 4.4 on a 4.0 scale. An aspiring architect, she is an Illinois State scholar and the first place winner of the national Annual Design and Drafting Contest. An active member of her Catholic parish, she was the recipient of the 2003 New Leadership Award from the U.S. Catholic Conference of Bishops.

Because of her excellent grades and her great background, she was accepted at Northwestern University, a prestigious school, but due to her immigration status was unable to attend. Nonetheless, she became the first member of her family to attend another college when she enrolled in the Architecture School at the University of Illinois in Chicago.

Let me tell you another story of a young person who is not Mexican. Teresa was raised in Chicago. Her Korean parents brought her to the United States when she was 2 years old. Her mother, the family's sole bread winner, earns \$20,000 per year, working 12-hour days at a dry cleaners.

Here is how I came to know Teresa. Her parents called my office and said Teresa is a musical prodigy. She has been accepted at the Juilliard School of Music, but when she went to fill out her application to go to school there, they had a box that said "what is your citizenship." She turned to her mother who said, "Teresa, I am sorry. We never filed the papers. You are not documented in the United States." And she then came to learn that she could not get admitted to the Juilliard School of Music. She came to our office and said, "I have been here since I was 2 years old. What can I do?"

We called the Immigration and Naturalization Service and they said, "well, it is clear what she should do. She should return to Korea." This young girl had been in the United States for 16 or 17 years. She knows no other country.

Well, thank goodness, she went ahead and went to a top music school, and she is a musical prodigy. She will be a person that we look up to and admire and probably buy her CD's in years to come.

But the hardship on her and her family trying to achieve this dream is the reason that Senator Hatch and I have offered this bill.

Mr. Chairman, the DREAM Act would provide immigration relief to these students. It will permit young people of good moral character who graduate from high school, attend college, or enlist in the military and are long-term U.S. residents to become permanent residents. The DREAM Act will also repeal a provision of the Federal law that makes it prohibitively expensive for States to grant in-State tuition rates to undocumented students.

In the interest of time, I will not go through the details, but keep in mind the DREAM Act simply gives to States the option to decide their own tuition policies. We precluded that with legislation we passed years ago.

Mr. Chairman, I cannot think of another bill that I have introduced that has created so much support and hope among people who are desperate. To have a young person come to me, as I am sure each of us can tell this story, and say, "Senator, I am about to graduate from college, I have worked my way through, extra jobs, it has been extremely difficult." One young man said to me, "I have degrees in biology and computer science. I want to go into medical research, but my undocumented status stops me from contributing back to the only country I know, the country that I love, the United States of America."

Mr. Chairman, at the end of this hearing, I hope that we do not just have a great committee report and little action. You are not that kind of chairman. You are looking for solutions, and I want to join you. And I hope by the end of this Congress, we will respond favorably and pass the DREAM Act. Thank you very much.

The CHAIRMAN. Well, thank you very much, Senator Durbin, for your testimony today. I think the news you bring, that the Judiciary Committee has forwarded the DREAM Act to the Senate by a vote of 16 to 3 should be underlined. It may have been missed by many. One purpose of our hearing is to highlight constructive action that is occurring. This is one area in which we could take action, and I pray that we will. The Mexican Consul in Indiana feels that this is the most important way that we could make headway in the relationship in a legislative session. I appreciate your championship of the DREAM Act, as well as your testimony here today. We thank you for coming.

Let me add that the entirety of Senator Boxer's statement will be made a part of the record. Likewise, the documents that Senator Craig offered to us will also be made a part of our record along with a statement submitted by Senator Cornyn.

[The prepared statement of Senator Cornyn follows:]

PREPARED STATEMENT OF SENATOR JOHN CORNYN

I would like to thank Chairman Lugar for holding this very important hearing today on immigration policy as it relates to our relationship with Mexico. We have a responsibility to reform our immigration policy to ensure that the tragedies of human smuggling and exploitation of our Mexican neighbors come to an end. We also have a responsibility to ensure the safety of our borders by creating a system of orderly, legal migration.

I introduced my comprehensive immigration reform bill in July. My bill acknowledges that millions of undocumented men and women go to work every day in America in violation of our immigration law, outside the protection of our labor law, and without any way of our government knowing who, or where they are. The program I propose would allow us to account for undocumented individuals, distinguishing those who pose a threat to America from those who do not.

The principles for immigration reform courageously outlined by President Bush show his understanding that our nation has failed to solve our immigration crisis and show a strong resolve to end the status quo. It was encouraging to see that among the many important principles he outlined is a critical component of reform that largely mirrors an important element of my bill: a work and return policy.

The current economic and demographic conditions in Mexico illustrate the need for such a policy, and the President wisely included incentives to encourage guest workers to return to their home country. In my recent visit with government leaders in Mexico City, and again during Foreign Minister Ernesto Derbez's visit to the United States, I was repeatedly told that they want their workers back; they want entrepreneurs to return with capital and skills. But our current immigration policy fails to encourage such a return. That must, and will, change.

The key to economic recovery in Mexico—without which there will be no end to illegal immigration across our southern border—is to encourage the growth of small

businesses and entrepreneurs. However, the bulk of Mexico's risk-takers and entrepreneurs are heading north—and they've not been given a reason to return. Our border should not be a one-way street; temporary workers should be allowed to work, and then return home.

The temporary worker plan I propose is neither amnesty, nor a guaranteed path to citizenship. Instead, it acknowledges the vital role hard-working immigrants play in our economy and creates a comprehensive program as an important step toward reestablishing respect for our laws and restoring safe working conditions for immigrants who work here. It will enhance America's homeland security, facilitate enforcement of our immigration and labor laws, and protect millions who labor today outside the protection of the law. I look forward to working with my colleagues as we move forward to address comprehensive immigration reform.

The CHAIRMAN. I would like to call now upon Senator Hagel.

STATEMENT OF HON. CHUCK HAGEL, U.S. SENATOR FROM NEBRASKA

Senator HAGEL. Mr. Chairman, thank you. I thank you and all of our colleagues on this committee for the attention this morning and focus on an issue that, as we have heard from our distinguished colleagues, is as important a priority as any priority we have in the Congress certainly this year. I too recognize our colleagues for their proposals and their leadership on these big issues that cannot continue to be deferred any longer not only in the national security interests, economic interests, geopolitical strategic interests of this country, but as Senator McCain said this morning, there is a human dynamic to this that often gets lost in the underbrush of the technicality of legislation and regulation.

I might also say that, as you have noted, Mr. Chairman, the Craig-Kennedy proposal, the DREAM Act that Senator Durbin so concisely outlined and what it would do, I believe deserve consideration in the Congress this year and should be passed this year. I am a cosponsor of each of those bills. In fact, it would take us a long way toward a comprehensive immigration reform that we need.

A strong bilateral relation, as you have noted in your opening comments, Mr. Chairman, is important to our national security interests as any bilateral relationship we have today. And with nearly 100 million people and a 2,000-mile border with the United States, strong relations with Mexico are critical to enhancing our national security, our political stability, our economic growth, and free trade throughout the Western Hemisphere.

America's security and vitality depend on policies that are based on the strengths of America, not our insecurities. Adjusting to the global economy requires immigration policies that consider those seeking to live and work in the United States as assets to and not burdens on our national economy.

Daniel Henninger recently wrote in The Wall Street Journal that: "The global migration of human labor, on which there is little organized data, is perhaps the most powerful force on the globe today."

Many politicians and commentators have portrayed immigration as a threat to American workers. But immigration is a vital part of America's strength, and it always has been. As noted in his opening comments, Senator Durbin greeted us all as fellow immigrants.

In January, Senator Daschle and I introduce S. 2010, the Immigration Reform Act of 2004. Our legislation is a bipartisan, comprehensive proposal that addresses the complicated and difficult issues related to U.S. immigration law.

Briefly, Mr. Chairman, our bill would strengthen national security by identifying undocumented immigrants living in the U.S., tracking foreign workers entering our borders, and increasing funds for border security.

Fix the current system for immigrants who follow the law by reducing visa processing backlogs, reunifying families, and remedying inequities under the current law.

Improve economic stability by establishing an enforceable program to bring needed foreign workers into the U.S. for jobs that would otherwise go unfilled.

And national security to track and identify immigrants living within these borders.

The participants in the bill's worker program would be required to maintain counterfeit-resistant authorization cards issued by the Department of Homeland Security. Individuals who continue to break immigration laws would be barred from these programs. Fees associated with our bill would be designated for border security.

Fixing the current system. Our legislation reduces the existing backlog of applications for family sponsored visas to ensure that immigrants will be allowed to reunite with their U.S. citizen and legal resident family members. The bill provides designated funding to implement these changes.

To provide foreign workers for jobs that would otherwise go unfilled, our bill admits a limited number of workers through a willing worker program. Employers seeking to hire a foreign worker must first demonstrate that no qualified U.S. worker exists and that they will provide the same wage levels and working conditions as provided for U.S. workers.

Workers will be admitted for a limited period of time and will be allowed to change employers. Visa renewals would be available on a conditional basis. Qualified workers and their families would be provided an opportunity to adjust their immigration status.

Finally, our legislation provides an opportunity for undocumented workers and families currently living in the United States to become invested stakeholders in the country if they can demonstrate that they have met all the following requirements: one, passed national security and criminal background checks; two, resided in the U.S. for at least 5 years preceding the date of introduction; three, worked a minimum of 4 years in the U.S., one of which must occur post-enactment; five, paid all Federal taxes; six, demonstrated knowledge of English and American civics requirements; and seven, paid a \$1,000 fine in addition to required application fees.

Individuals who qualify for this program will submit an application to the Department of Homeland Security. Upon approval, DHS may adjust the immigration status of qualified applicants.

Mr. Chairman, Senator Daschle and I and our cosponsors look forward to working with this committee, other appropriate relevant

committees in the Congress, and the Bush administration and all of our colleagues on this important issue.

Mr. Chairman, I too wish to offer my thanks for your attention to this issue and thank you for your leadership.

[The prepared statement of Senator Hagel follows:]

PREPARED STATEMENT OF SENATOR CHUCK HAGEL

Mr. Chairman, Senator Biden, and my colleagues on the Foreign Relations Committee, thank you for inviting me to testify on "U.S. and Mexico: Immigration Policy and the Bilateral Relationship."

A strong bilateral relationship with Mexico is as important to our national security interests as any bilateral relationship we have today. And with nearly 100 million people and a 2,000-mile border with the United States, strong relations with Mexico are critical to enhancing our national security, political stability, economic growth, and free trade throughout the Western Hemisphere.

America's security and vitality depend on policies that are based on the strengths of America, not its insecurities. Adjusting to the global economy requires immigration policies that consider those seeking to live and work in the United States as assets to, and not burdens on, our national economy.

Daniel Henninger recently wrote in The Wall Street Journal that: "The global migration of human labor, on which there is little organized data, is perhaps the most powerful force on the globe today."

Many politicians and commentators have portrayed immigration as a threat to American workers. But immigration is a vital part of America's strength. In January, Senator Daschle and I introduced S. 2010, the Immigration Reform Act of 2004. Our legislation is a bi-partisan, comprehensive proposal that addresses the complicated and difficult issues related to U.S. immigration law. Our bill will:

- *Strengthen National Security* by identifying undocumented immigrants living in the U.S., tracking foreign workers entering our borders, and increasing funds for border security;
- *Fix the Current System* for immigrants who follow the law by reducing visa processing backlogs, reunifying families, and remedying current inequities under the law; and
- *Improve Economic Stability* by establishing an enforceable program to bring needed foreign workers into the U.S. for jobs that would otherwise go unfilled.

National Security:

To track and identify immigrants living within and entering U.S. borders for work, our bill requires immigrants to undergo criminal and national security background checks prior to authorization.

Participants in the bill's worker program would be required to maintain counterfeit-resistant authorization cards issued by the Department of Homeland Security. Individuals who continue to break immigration laws would be barred from these programs. Fees associated with our bill would be designated for border security.

Fixing the Current System:

Our legislation reduces the existing backlog of applications for family-sponsored visas to ensure that immigrants will be allowed to re-unite with their U.S. citizen and legal resident family members. The bill provides designated funding to implement these changes.

Economic Stability:

To provide foreign workers for jobs that would otherwise go unfilled, our bill admits a limited number of workers through a Willing Worker Program. Employers seeking to hire a foreign worker must first demonstrate that no qualified U.S. worker exists and that they will provide the same wage levels and working conditions as provided for U.S. workers.

Workers will be admitted for a limited period of time and will be allowed to change employers. Visa renewals would be available on a conditional basis. Qualified workers and their families would be provided an opportunity to adjust their immigration status.

Opportunity to Become a Stakeholder:

Finally, our legislation provides an opportunity for undocumented workers and families currently living in the U.S. to become invested stakeholders in the country if they can demonstrate that they have met all of the following requirements:

- Passed national security and criminal background checks;
- Resided in the U.S. for at least 5 years preceding the date of introduction;
- Worked a minimum of 4 years in the U.S., (one of which must occur post-enactment);
- Paid all federal taxes;
- Demonstrated knowledge of English language and American civics requirements; and
- Paid a \$1,000 fine, in addition to required application fees.

Individuals who qualify for this program will submit an application to the Department of Homeland Security (DHS). Upon approval, DHS may adjust the immigration status of qualified applicants.

Senator Daschle and I look forward to working with this committee and the Bush administration on this important issue.

The CHAIRMAN. Well, thank you very much, Senator Hagel, for the excellent legislation that you have offered and described today.

Let me ask now whether members of the committee have any opening comments. You have a short statement, I understand, Senator Dodd.

Senator DODD. Well, Mr. Chairman, in the interest of time, let us move along. We have got a couple of panels of witnesses. I am very interested in hearing what they have to say. I do have an opening statement, but I will ask that it be included in the record.

Let me just express my gratitude to you, Mr. Chairman, for putting the bilateral relationship of the United States and Mexico back on the front burner. As Senator Hagel has said—and I apologize that I missed the comments of our colleagues who were here earlier, but I suspect by their presence here, they shared the view that it is always dangerous to prioritize any bilateral relationship as the most important, but certainly one could never argue that if you had to list the four or five most important bilateral relationships, Mexico would have to be on that list at any given time. And I think the committee's assertion of the importance of this agenda item, particularly the issue of migration, is commendable. I commend Senator Hagel and others who have put together some very thoughtful pieces of legislation.

This is a very complicated issue, one that is going to require a lot of attention and detail. But the fact that we have 8 million undocumented workers in this country needs to be addressed. Obviously, the border issues are critical, but it is also true that we have good people here. The overwhelming majority of the people who come here to work make a significant contribution to our country, and that should not be lost on us at any moment.

So I thank you for doing this. I am anxious to hear our witnesses. Again, I apologize for missing the opening statements of others, but I commend you for holding this hearing.

[The prepared statement of Senator Dodd follows:]

PREPARED STATEMENT OF SENATOR CHRISTOPHER J. DODD

The Foreign Relations Committee has convened this morning to discuss a topic which has not been receiving the attention it deserves: the bilateral relationship between the United States and Mexico. I thank the Chairman for holding today's hearing. It is an opportunity to once again bring what I believe is an important relationship back to the forefront of the U.S. foreign policy agenda where it belongs. I would also like to welcome our distinguished witnesses here today, especially my colleagues, Senators Hagel, McCain, Craig, and Durbin. I appreciate your willingness to be here today to participate in this important discussion.

Along with many, I have been disappointed over the past several years by the Bush administration's lack of engagement with our friend and neighbor to the south. There was every reason to be hopeful early on in the Bush administration that the strong personal bonds between Presidents Bush and Fox would translate into real progress on the U.S.-Mexico agenda—an ambitious agenda which includes migration, border security, human rights protection, drugs, trade, investment, energy, and economic development.

But the reality has turned out to be quite different. Rather than engagement, there has been indifference at best on the part of the Bush administration both with respect to Mexico and our hemisphere generally. The low point in the U.S.-Mexico relationship clearly surrounded the UN Security Council consideration of Iraq and Mexico's opposition to a UN resolution supporting multilateral force against the regime of Saddam Hussein. That disagreement frankly froze any possible progress on issues of interest to Mexico, most especially migration reform. Now, it appears that there is a thaw in that relationship. I certainly hope so, because the important issues facing our two countries have been in limbo for much too long.

This has been a turbulent period in our area of the world. From as far away as Patagonia, Argentina, or closer to home in the Caribbean nation of Haiti, many of our friends have been struggling to create and ensure a safe and secure future for their people. That includes Mexico. And as neighbors, partners, and friends, many of Mexico's problems have and continue to affect the United States very directly.

More recently there has been some very limited progress on the bilateral agenda. Although it was held a year-and-a-half after originally scheduled, I am pleased that during their recent meeting in Texas on March 5th-6th, Presidents Bush and Fox were able to come to an important agreement with respect to visa entry requirements for Mexican workers who travel across the border to work during the day in the U.S.

I also commend U.S. and Mexican authorities for their close cooperation on controlling our shared border. Border protection is an integral component of ensuring our security and Mexico's. Indeed, the Department of Homeland Security recently launched a new program—the Arizona Border Control initiative, and I am hopeful that this initiative will contribute to strengthening our capabilities in this area.

But as we move forward, we must continue to keep in mind that this is more than just an issue of protecting our borders. It is an issue of protecting human life. More than 200 migrants died last year trying to enter the United States, as increased capabilities of the U.S. border patrol are forcing them to cross in dangerous desert regions. Indeed, according to reports, Border Patrol agents in Arizona apprehended almost 200,000 people from October 2003 to March 2004.

Moreover, human smuggling rings are allegedly to blame for a variety of human rights violations, including executions, torture, and kidnappings. And some smugglers—so called coyotes—are not just transporting adults looking for work. They are also transporting children—from Mexico and other Latin American nations—in exchange for exorbitant fees. Undocumented, desperate parents are often willing to pay these fees so that they can be reunited with their children.

Together, the U.S. and Mexican governments must continue to address these and other issues of shared importance. Indeed, illegal border crossing is not the only aspect of migration that needs to be addressed—a serious and thoughtful review of U.S. migration policy is long overdue, as are fundamental reforms. Any effort at reform will have to address issues critical to all Americans, including legitimate security concerns related to our borders. And any immigration reform must, to the greatest extent possible, protect the job security of American citizens, while also ensuring in cases where Mexicans, Salvadorans or other non-U.S. citizens are being employed by U.S. employers, that these workers are not exploited or otherwise mistreated.

We cannot get away from the reality that there are at least eight million undocumented workers who are currently living and working in the United States. Anything we do in the context of immigration reform will have to address that reality. Clearly our domestic security will be greatly enhanced if we know who is living and working within our borders. Many of these individuals are hard working people who contribute to their communities, however some are not. Comprehensive migration reform would better enable us to identify those individuals who truly are a threat to our domestic security. The issue of migration is always an extremely difficult and complex one for the Congress to address in the best of times. Without real leadership on the part of the President, no reform is going to get done this year or even next.

Moreover, the migration issue will never be resolved in a vacuum. The announcement of the Partnership for Prosperity initiative in 2002 by President's Bush and Fox was an important first step toward recognizing the roots of the problem. Alleviating the poverty and lack of regional investment and infrastructure that promote

migration is a central goal of the Partnership for Prosperity initiative. But there is still a tremendous amount of work to do if we are to help people in less developed areas of Mexico realize their dreams of success at home. I urge the Bush Administration to work closely with the Mexican government to achieve the sustainable growth necessary to reach that goal.

Making progress on the U.S.-Mexican bilateral agenda is important to both of our countries and to the hemisphere at large. And to make significant progress, we must have sustained engagement at the highest levels. Only with extensive engagement will we be able to successfully battle issues such as migration, economic development, corruption, drug trafficking, and terrorism—issues which both threaten the integrity of governments and undermine popular support for democratic institutions and values throughout the hemisphere. Given the tumultuous history of the past few years, I can only hope that today's hearing is the beginning of such an effort.

The CHAIRMAN. Well, thank you very much, Senator Dodd, for your attendance today, as well as for your continued leadership in issues involving our hemisphere. Your statement will be made a part of the record.

Senator Corzine, I want to recognize you, if you have any comments.

Senator CORZINE. Thank you, Mr. Chairman. I will be brief. I want to echo the sentiments that I have heard from my colleagues with regard to the importance of this bilateral relationship.

But recognizing the tension that exists in our society with regard to the immigration issues I think requires it for our own purposes within our own borders. I think many of the initiatives that I have heard presented by my colleagues, several of which I am cosponsoring, I look forward to having them moved aggressively onto the agenda because this is something that not only is important, as Senator Hagel talked about, with regard to national security and economic realities in our own communities, but is one that I think we need to address the tension that actually exists in our society that surrounds the questions of immigration, and we ought to get the rules of the road established.

So I thank you very much for the hearing and look forward to the witnesses' testimony.

The CHAIRMAN. Thank you very much, Senator Corzine.

Let me just indicate that the committee recognizes that other committees have jurisdiction over the bills that have been presented here today, in some cases primarily. We understand that. Action has already been taken on the DREAM Act in the Judiciary Committee. Judiciary has likewise had a hearing with regard to the immigration proposals of our President and of others, as I understand it.

It is clearly not our intent to step on the toes of any of our colleagues, but rather, to emphasize that the overall relationship with Mexico today is important as a foreign policy, and as a national security, issue. These subsets of issues clearly are part of that. We have had, I think, a good understanding with the chairmen of the relevant committees, who have encouraged us to proceed with this hearing. We will try to pursue that diplomatically with our colleagues, as well as with all who are involved in testimony today.

Let me now call our second panel of witnesses. These are witnesses representing our administration, including the Honorable Roger F. Noriega, Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; the Honorable C. Stewart Verdery, Assistant Secretary, Office of Policy and Planning, Border

and Transportation Security Directorate; and the Honorable Eduardo Aguirre, Director of the Bureau of Citizenship and Immigration Services.

My understanding is that the witnesses have agreed upon an order of testimony, which would mean Secretary Noriega first, then Mr. Aguirre, and then Mr. Verdery, in that order. We will ask you to proceed, gentlemen. All of your statements will be made a part of the record in full. Perhaps you would wish to summarize, but our purpose is to hear you out and hear your information today.

STATEMENT OF HON. ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE, BUREAU OF WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. NORIEGA. Thank you very much, Mr. Chairman, and Senators. It is a great pleasure for us to be here this morning. We thank you for the opportunity to discuss the U.S. relationship with Mexico. My comments, which I will summarize here, will provide some additional context for the discussion of the immigration issue.

I agree with you, of course, Mr. Chairman, and the other Senators that this hearing is a good opportunity to generate understanding and support in our country and in our Congress on this important issue.

As President Bush has said, and as has been echoed here this morning, the United States has no more important relationship than the one it enjoys with Mexico. Despite some disagreements and a history that has not been without some difficult episodes, the economies and societies of our two countries are interwoven, and both countries are definitely stronger for it.

Mr. Chairman, I should note that each of the five principles that you outlined this morning are very much at work in our relationship with Mexico. I think President Bush and President Fox have converted this relationship in a short period of time into a win-win equation. We understand that when we work to secure our border for honest commerce, that we both benefit. When we accommodate legal migration and fight against illegal migration, we both benefit. When we encourage trade and economic development, both of our countries stand to benefit, and when we fight drugs and work together in the region and in the world, we both benefit. This is very much a partnership with Mexico, one of shared responsibilities in confronting and dealing with the issues between our two countries and in the world we share, and we do so in a very constructive way.

That was underscored at the meeting between the two Presidents in Crawford at the President's ranch on March 5 and 6, which was an excellent opportunity to discuss these bilateral relations in a very informal, personal, friendly setting. I was inspired by the commitment demonstrated in those meetings by the two Presidents to work together to enhance an already strong relationship in ways that will benefit our people. I would like to discuss very briefly some of those key bilateral issues.

As my colleagues in the Department of Homeland Security can attest, Mexico has offered outstanding cooperation in improving border security and counter-terrorism efforts. During the recent threat to aviation security at the end of 2003, Mexico worked close-

ly with the United States, canceling flights and increasing security and screening in Mexican airports as the situation required. Under the Border Partnership Accord, signed by both Presidents in March of 2002, we are increasing security for both countries and speeding the movement of legitimate goods and travelers across our border.

During the last 3 years, U.S. and Mexican officials have developed an unprecedented level of cooperation on law enforcement, including information sharing and even joint investigations. The Mexican Government has achieved impressive records in capturing leaders of the major drug trafficking organizations that operate on both sides of our borders. The Mexican Attorney General's office and the Mexican military conduct extensive eradication operations. Narcotics-related violence in border communities, particularly in Ciudad Juarez, Nuevo Laredo, and Tijuana, remains a serious problem as does corruption among Mexican state and local law enforcement officials. However, President Fox has not backed away from his efforts to target drug traffickers and to eradicate these illicit crops. It is important that the U.S. Government continue to support Mexico in these efforts.

On the specific issue of extradition, we have made considerable strides. As you know, Mexico does not extradite criminals facing the death penalty, and the Mexican Supreme Court ruling bans the extradition of fugitives facing life imprisonment without parole, and this has caused serious concerns in terms of getting people back to face justice. Differences in our legal systems also lead to problems with the quantity and type of evidence required by Mexican courts, but we are working to address these issues and we hope that the Mexican Supreme Court will revisit the issue of life imprisonment.

President Fox has made noteworthy advances in the area of human rights in the passage of an unprecedented Freedom of Information Act, the creation of a new Federal professional criminal investigative body, and the appointment of a special prosecutor for human rights cases. Many human rights challenges remain, particularly at the state level, but we believe Mexico will continue to tackle these problems.

We share the Mexican Government's concern over the murders of women in Ciudad Juarez. Secretary Powell has raised this issue in his exchanges with Mexican officials, as have I. The United States has provided assistance in the past and stands ready to provide further assistance in addressing these serious crimes.

We are exploring with the Mexican Government ways where we can intensify our joint efforts to address the mutual problem of trafficking in persons across our borders.

Our shared border with Mexico imposes upon us a joint responsibility for resource management of all kinds, and there is no resource more important for people on both sides of that border than water. The deficit in water deliveries from Mexico to the United States is an ongoing serious concern, one which we discuss on a regular basis. I can assure you this came up in Crawford, for example. There is a deficit. Mexico, under President Fox, has not added to that deficit. They have kept up regular annual payments of the water debt, and there has not been an addition to the deficit, but it is something that we need to address to ensure that our farmers

can count on the water supplies that are necessary for their productive enterprises.

In the area of trade, the North American Free Trade Agreement is a success for all three countries. Of course, there are disputes and we are trying to resolve those through the dispute resolution mechanisms of NAFTA and the WTO. But Mexico is an important ally in the efforts to reach a Free Trade Area of the Americas agreement. They understand that trade has benefited all of our countries, definitely all three countries involved in NAFTA.

We are extremely pleased by the activity of the Partnership for Prosperity, a public-private alliance established in 2001 by Presidents Bush and Fox, that seeks to spur growth and address the root causes of migration in those regions of Mexico from which a disproportionate number of persons emigrate to the United States illegally. We seek to engage through this exercise the energies of the private sector to address the problems of poverty and development, and we believe that we have already seen some meaningful progress in this area and this can become a model for us to use elsewhere in the Americas.

President Fox recognizes the need for comprehensive economic and fiscal measures to make Mexico more competitive and to generate sufficient jobs for his own citizens. Toward this end, he has introduced legislation to reform Mexico's fiscal structure and energy sector, and he has worked very closely with the political class in Mexico to address these important fundamental issues.

Finally, the relationship we share with Mexico also has a hemispheric and global dimension. The United States and Mexico have very active and productive engagement on regional and world affairs, more than ever before. We cooperate, for example, in helping the Government of Bolivia, in helping the people of Venezuela, and these are two areas where we are working together to advance our mutual interests in democracy.

My colleagues from the Department of Homeland Security will describe in more detail President Bush's January 7 proposal on migration, where it currently stands, and what the President's vision is for safe, orderly, humane, and practical and market-sensitive immigration measures. The President is speaking of a temporary worker program, not amnesty, which will match willing workers with willing employers. While it is not Mexico-specific, it will definitely have a major impact on Mexico and an impact on those who are here or those who want to work here legally.

President Fox understands the importance of the temporary worker program for his country and he voiced support for the proposal during his meeting with President Bush in Monterey in January and again in Crawford.

In conclusion, the progress in the United States-Mexico relationship over the last 3 years has been extraordinary and we believe that progress will continue, again emphasizing that this is a win-win partnership.

Thank you very much, Mr. Chairman. I will answer any questions you might have.

[The prepared statement of Mr. Noriega follows:]

PREPARED STATEMENT OF HON. ROGER F. NORIEGA

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss the U.S. relationship with Mexico. As President Bush has said, the United States has no more important relationship than that which it enjoys with Mexico. Despite some disagreements and a history that has not been without some difficult episodes, the economies and societies of our two countries are interwoven. Both nations are stronger for it. The strength of each country's democracy and economy is fundamental to the other's, and the relationship directly affects the lives of millions of United States and Mexican citizens every day. The meeting between President Bush and President Fox in Crawford March 5 and 6 reflects a strong bilateral relationship forged by shared geography and growing economic ties. Under Presidents Bush and Fox, relations between the United States and Mexico demonstrate the desire of both countries to address common challenges pragmatically and to collaborate in building a more prosperous future for both countries. Bilateral relations have been defined in recent years by law enforcement concerns such as border security and narcotics trafficking, burgeoning trade, and immigration, as well as by unprecedented levels of cooperation. I would like to take this opportunity to discuss some of the key bilateral issues in more detail.

BORDER SECURITY, COUNTER-NARCOTICS, AND LAW ENFORCEMENT

Mexico has offered outstanding cooperation in improving border security and counter-terrorism efforts. During the threat to aviation security at the end of 2003, Mexico worked closely with the U.S. Government, canceling some Aeromexico flights to Los Angeles and stepping-up passenger screening. Earlier last year, at the time of the war in Iraq, the Government of Mexico implemented a plan by which its military assumed a higher state of alert and afforded enhanced protection for potential targets of international terrorism, including key infrastructure sites and centers of tourism. Funding provided by the United States under the Border Partnership Accord, signed by Presidents Bush and Fox in March 2002, is improving infrastructure at ports of entry, expediting legitimate travel, and increasing security related to the movement of goods. The plan focuses on the use of technology to improve security while diminishing delays in the movement of goods and people. We are also implementing systems and developing training programs to identify individuals who pose a national security threat either before their arrival at airports in North America or at our common border.

During the last three years, U.S. and Mexican officials have enjoyed unprecedented cooperation in the area of law enforcement. President Fox's anti-corruption efforts and institutional reforms have made it possible to expand information sharing and conduct successful joint investigations. In 2003, U.S. and Mexican officials developed a common targeting plan against major drug trafficking organizations in Mexico and the United States and developed secure mechanisms for two-way sharing of sensitive intelligence data without compromise. Mexican authorities have achieved impressive results in capturing leaders of major drug trafficking organizations. In 2003, Mexican authorities arrested over 7,500 persons on drug-related charges. They seized over 20 metric tons of cocaine and more than 2,000 metric tons of marijuana, 165 kilograms of heroin, and 652 kilograms of methamphetamines in 2003. The Mexican Secretariat of National Defense reports that it deployed up to 30,000 troops to eradicate drug crops manually, while the attorney general's office employed helicopters to spray illicit crops. These efforts destroyed 90,000 acres of marijuana and over 49,000 acres of opium poppy in 2003. Nevertheless, Mexico remains a major drug producing and transit country, money-laundering venue, and base of operation for criminal organizations that operate in the United States. Narcotics-related violence in border communities, particularly Ciudad Juarez, Nuevo Laredo, and Tijuana, is a serious problem, exacerbated by rivalries among trafficking organizations in the wake of the arrests of first and second tier drug traffickers by federal police. Institutional underdevelopment and corruption of state and local law enforcement officials are serious challenges. However, President Fox has not backed away from his efforts to target drug traffickers. The border security, counter-narcotics, and law enforcement situation in Mexico is both a great challenge and a great opportunity, which offers more hope than at any time in many years. President Fox has radically strengthened law enforcement cooperation with the United States and with our support has begun the process of reforming and rebuilding law enforcement and counter-drug institutions. With International Narcotics and Law Enforcement funding, the Department of State will be able to continue ro-

bust support of Mexican efforts to improve the capacity of their law enforcement institutions and to enhance their operations.

Extradition is an area where we have seen improvement but where significant challenges remain. Mexico extradited 31 fugitives to the United States in 2003, surpassing the 2002 record of 25. Moreover, Mexico deported or expelled an additional 88 fugitives to the United States for immigration violations in 2003. Mexico does not extradite suspects facing the death penalty, which is in accordance with our bilateral extradition treaty. However, a 2001 Mexican Supreme Court ban on the extradition of fugitives facing life imprisonment without parole, coupled with confusion in some lower courts that are applying the ban too broadly, is a serious concern. This has kept high-level drug traffickers and some of those alleged to have committed the, most heinous state crimes from being extradited. We have also voiced our concerns about the quantity and type of evidence required by the Mexican courts. Denial of extradition by courts asserting a "lack of evidence" is in part due to differences between our two legal systems. We are working with the Mexican Government to address these issues and hope that the Mexican Supreme Court will have occasion to revisit the issue of life imprisonment.

HUMAN RIGHTS AND TRAFFICKING IN PERSONS

President Fox has made historic advances in the area of human rights with the passage of an unprecedented freedom of information act, the creation of a new federal professional criminal investigative body, and the appointment of a special prosecutor for historic human rights cases. President Fox's unparalleled decision to support the opening of an office of the United Nations High Commissioner for Human Rights (UNHCHR) in 2002 was an important sign of how far Mexico has come. One of the fruits of this cooperation was a study of the human rights situation in Mexico, which the representative of the UNHCHR presented to President Fox in December 2003. Certainly, as the Government of Mexico has recognized, challenges remain. Particularly at the state level, corruption, impunity, and the use of torture to extract confessions continue to be serious problems. To meet these continuing challenges, President Fox has promised to use the UNHCHR study to develop a national human rights program. Realistically, it is going to require years of sustained effort in Mexico to overcome many of these problems.

A particularly tragic circumstance is the situation in Ciudad Juarez where, since 1993, some 300 women have been murdered, approximately 90 of them in circumstances suggesting the possibility of serial killing. We have followed this issue closely and have discussed the matter with officials of the Mexican Government, including in conversations between Secretary Powell and Foreign Secretary Derbez. We note that President Fox has ordered the attorney general to assist local authorities, recently naming a special prosecutor, and has appointed a commissioner to coordinate the Mexican Government's assistance. While the crimes are Mexico's to solve, the U.S. Government has provided training and technical assistance in the past and stands ready to provide further assistance.

As President Bush said during President Fox's visit to Crawford, "Mexican and American officials are working together to arrest dangerous criminals, including drug smugglers and those who traffic in human beings." Trafficking in persons—the buying, selling, and transport of human beings, mostly women and children, for sexual slavery or labor exploitation—is a worldwide curse, and one that neither the United States nor Mexico is prepared to tolerate. Our 2,000-mile border and extensive ties of commerce and tourism make it imperative that we work together to combat this heinous international crime. We are therefore exploring with the Mexican Government ways in which we can intensify joint efforts to address this mutual problem.

WATER

Texas farmers in the border region depend heavily on water provided from Mexico under the 1944 Waters Treaty. When the Fox Administration came to office, it inherited a deficit of well over one million acre feet in water owed to the United States. The current government pledged not to permit any further increase in the water debt, and it has kept that pledge. However, it has not significantly reduced the deficit, which now stands at over 1.3 million acre-feet. We are pleased that Mexico not only met but exceeded the minimum annual average water delivery under the treaty by mid-January of this year. Our farmers need this kind of certainty in order to make planting decisions. Nevertheless, we also need a significant effort to reduce the deficit. Mexico has greater volumes of water in storage now than at any time in the past ten years. This is a point we continually emphasize in our bilateral

discussions, and we hope for progress in water talks we are seeking to schedule in April.

TRADE AND DEVELOPMENT

Our economic relationship with Mexico is healthy and thriving. The North American Free Trade Agreement (NAFTA) is clearly working for all three countries. Trade between the United States and Mexico almost tripled from \$81 billion in 1993 to \$236 billion in 2003. Canada and Mexico together receive 37 percent of all U.S. exports and supply 30 percent of all U.S. imports. Mexico remains our second largest trading partner after Canada.

While most trade crosses the border without difficulties, we do have some problems, including disputes over telecommunications, sweeteners, apples, beef, poultry, rice, stone fruit, and pork. These issues are being managed through ongoing negotiations and via NAFTA and World Trade Organization trade dispute resolution mechanisms.

We are extremely pleased by the activity of the Partnership for Prosperity or P4P. Presidents Bush and Fox established P4P in 2001 to build on the bonds between our countries and to promote economic growth and higher standards of living for the citizens of both nations. P4P is a public-private alliance that seeks to spur growth and address the root causes of migration in those regions of Mexico from which a disproportionate number of persons emigrate to the United States illegally. P4P initiatives include projects to reduce the cost of remittances, expand Mexico's housing pool, extend credit to small and medium sized enterprises, establish university linkages, expand opportunities for indigenous handicrafts and promote good corporate citizenship. A 2003 workshop brought together 800 business and government representatives. A second P4P workshop in Guadalajara in June will focus on financial services, housing, information technology, human capital, and competitiveness.

President Fox recognizes the need for comprehensive economic and fiscal measures to make Mexico more competitive and to generate jobs sufficient for his citizens. Toward this end, he has introduced legislation to reform Mexico's fiscal structure and energy sector.

REGIONAL COOPERATION

The United States and Mexico enjoy more active and productive engagement on regional and world affairs today than ever before. We have a common interest in promoting democracy and prosperity in the hemisphere. Mexico has hosted a number of important multilateral conferences, including the recent Special Summit of the Americas and the Hemispheric Security Conference and serves as the venue for the ongoing talks on the Free Trade Area of the Americas. The Mexican Government has voted in favor of United Nations Commission on Human Rights resolutions addressing the problems in Cuba the last two years, and we hope it will do so again this year. Underlining its policy of engagement in support of democracy in this hemisphere, Mexico has co-chaired with us a Bolivia support group and has been an active participant in the Friends of Venezuela group.

BINATIONAL COMMISSION

As befits a unique relationship, the United States and Mexico maintain a unique bilateral forum. The annual meetings of the Binational Commission (BNC), initiated in 1981, provide a cabinet-level review of our joint activities. The BNC, which last met in November 2003, is comprised of 14 working groups, cochaired by U.S. and Mexican cabinet officials, addressing topics such as: migration and consular affairs, law enforcement, security and border coordination, foreign policy, trade and economics, science and technical cooperation, and energy. The next meeting of the BNC will likely be in Mexico City in late November.

IMMIGRATION

The well being of the Mexican community in the United States—including those who reside here legally and those who have entered illegally—represents the most important foreign policy issue on Mexico's agenda with us. Remittances from Mexicans in the United States totaled \$13.3 billion in 2003, accounted for 2.4% of GDP, and surpassed foreign direct investment flows and income from tourism; only crude oil revenue was higher. A full 23 percent of Mexicans indicate they receive remittances of some kind. With approximately 22 million people of Mexican ancestry living in the United States, many of whom are dual nationals, immigration reform affects not only Mexico's economic picture but also directly affects family unity, circu-

larity, travel across the border, as well as educational and cultural ties. Therefore, the Government of Mexico has a very immediate and real interest in our immigration policy.

My colleagues from the Department of Homeland Security will describe in more detail the President's January 7 proposal on immigration, where it currently stands, and the steps this Administration is taking to develop the vision of safe, orderly, humane, practical, and market-sensitive immigration. President Bush has proposed a temporary work program, not an amnesty program, that will offer legal, temporary worker status to undocumented persons who were employed in the United States at the time of his announcement. Under the President's program, America will also welcome workers from foreign countries who have been offered jobs for which American employers have been unable to find American employees. Thus, the President's program will match willing foreign workers with willing employers. The program would also permit these temporary workers to seek existing paths to permanent residency in the United States if they qualify, but they will take their place at the end of the line so as not to disadvantage those who have obeyed the law and have waited in line to achieve permanent residence and American citizenship.

This new temporary worker program is nationality neutral (i.e., it would apply to immigrants from all countries, not just Mexico). But since Mexican illegal immigrants represent the single largest nationality group among the undocumented population, the effect of the proposed reform of our immigration regime would have a profound impact on Mexicans and Mexico. The new program represents an opportunity to strengthen both the American and Mexican economies. The United States will benefit from the labor of hard-working immigrants. Mexico will benefit as productive citizens are able to return home with money to invest and spend in their nation's economy. This system will be more humane to foreign workers who will be less reluctant to assert their rights to the protections provided to all workers in America. Moreover, as the illegal workers emerge from the shadows and register themselves, our homeland security interests will also benefit.

President Fox and the Government of Mexico welcomed the President's initiative and recognize the importance of the announcement. Needless to say, Mexico looks forward to an efficient, humane temporary worker program. While the United States and Mexico continue our dialogue on issues concerning immigration and consular matters, there is also an understanding that achieving immigration reform is very much a U.S. domestic policy matter.

CONCLUSION

The progress in the United States-Mexico relationship over the last three years has been extraordinary and will continue, to the benefit of both countries. To be sure, difficulties exist. They always do between friends. Over the past year, we have worked through some hard issues. In each case we have been able to keep the dialogue open and ultimately move forward constructively. And that is what we expect from friends: to be able to discuss our differences frankly and seek constructive solutions to difficult problems in a spirit of mutual respect.

The CHAIRMAN. Thank you very much, Secretary Noriega. It is a pleasure to have you before the committee again today. We thank you for that testimony.

Director Aguirre.

STATEMENT OF HON. EDUARDO AGUIRRE, JR., DIRECTOR, BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. AGUIRRE. Good morning, Mr. Chairman. Thank you very much, Senators Dodd, Hagel, members of the committee.

My name is Eduardo Aguirre and I have the honor of serving President Bush's administration and our great Nation as the first Director of U.S. Citizenship and Immigration Services [USCIS], within the Department of Homeland Security.

I am pleased to appear before you today to testify on the bilateral relationship between the United States and Mexico in light of the President's recent proposal for immigration reform.

First, a little background on USCIS. With the creation of USCIS, just a little over a year ago, my team of 15,000 and I embraced a simple but imperative mission: making certain that the right applicant receives the right benefit in the right amount of time and preventing the wrong applicants from accessing America's immigration benefits.

We established three priorities: eliminating the immigration benefits backlog, improving customer service, and at the same time enhancing national security.

Accomplishing these priorities will have an impact on Mexico, as many of our customers are Mexican nationals.

On January 7, as you know, President Bush courageously confronted a broken immigration system, one that had been ignored too long. From the East Room of the White House, he called for Congress to deliver true reform and a new temporary worker program that facilitates economic growth, enhances national security, and promotes compassion. The President made clear his principles for reform which are to protect the homeland and control our borders, match a willing foreign worker with a willing employer, when no American can be found to fill that job, promote compassion, provide incentives to return to the home country, and protect the rights of legal immigrants.

This is not an amnesty program, as has been said before, which would otherwise join the illegal track with the legal one by facilitating green card status and potential naturalization. Rather, the President proposes a one-time regulated opportunity for undocumented workers already here as of the date of the President's announcement to legitimize their presence and participate more fully in our economy for a finite period before returning home. And it creates an ongoing opportunity for individuals abroad to apply to come temporarily to the United States to legally fill jobs that American workers will not fill. This proposal presents long-term, viable alternatives to the many risks associated with illegal immigration.

For the committee's consideration, I would like to raise five points to complement my reflections on the process.

First, enforcement is paramount to the temporary worker program. While Assistant Secretary Verdery will elaborate on some of the enforcement aspects of the temporary worker program, for United States Citizenship and Immigration Services, security and fraud prevention are synonymous with enforcement and must be a priority.

Second, the American worker comes first. The President has made it clear that this program would match a willing foreign worker with a willing employer when no American can be found to fill the job.

Third, the success of this program will require incentives, incentives to take advantage of the temporary worker program and incentives to return to the home country. Beyond the obvious economic and social opportunities, it is important that the temporary

worker be able to travel to his or her country of origin to maintain important ties for his or her eventual return.

Many of the individuals already in the United States who would apply to participate in the President's temporary worker program would have accrued sufficient unlawful presence to be subject to the 3- and 10-year bars for reentry. Thus any such legislation would necessarily need to supersede those bars for individuals who register.

Fourth, the program should be fair and not come at the expense of legal immigrants who have respected our laws and earned their place in line. It is the President's belief that if the worker decides to pursue and is qualified to adjust to permanent status, it should be through the current process and should take a spot at the back of the line. Recognizing, however, that the current annual limitations may be insufficient, the President calls for a reasonable annual increase in legal immigrants.

Fifth, the program should be simple and user friendly, thus one that can be effectively administered by our bureau. As you know, the temporary worker program proposal that we are discussing today is of extraordinary importance to Mexico. President Fox, while recognizing the important role of the U.S. Congress in discussing and legislating a temporary worker program has voiced his support of President Bush's proposal. The United States, for its part, is quite cognizant of both the economic and cultural benefits that result from Mexicans coming to work and living in our country. The challenge before us is to ensure that the migration of Mexicans, as well as nationals from other nations, is legal, safe, and orderly.

Our relationship with the Government of Mexico continues to be of great importance to both of our nations. President Bush, Secretary Ridge, and I are committed to frank, frequent, and open exchanges with our Mexican counterparts at all levels of government. As I am sure you know, President Bush and President Fox met on March 5 and 6 at President Bush's ranch in Texas. Last month I traveled with Secretary Ridge to Mexico to engage in meetings with Interior Secretary Creel and other members of the Government of Mexico. In addition, I have had several meetings with various Mexican Government officials both here and in Mexico. In all of our interactions with Mexico, our administration recognizes that migration issues are a key element in our bilateral relationship.

Beyond the temporary worker program, we have been working with the Government of Mexico on a variety of immigration-related issues. In concert with the Department of State and Labor, we have eliminated the numerical limits and the associated requirements of a petition and corresponding labor condition application for Mexican professionals, as provided by NAFTA.

Additionally, the United States and the Government of Mexico have been exchanging information on our respective asylum programs and processes. These are just a few examples of what is a robust, important, and open relationship with the Government of Mexico. The temporary worker program will only enhance this close relationship.

Mr. Chairman, this concludes my remarks. Thank you for the invitation to testify, and I look forward to the opportunity to exchange ideas.

[The prepared statement of Mr. Aguirre follows:]

PREPARED STATEMENT OF HON. EDUARDO AGUIRRE, JR.

Good morning, Chairman Lugar, Ranking Member Biden, Members of the Committee. My name is Eduardo Aguirre and I have the honor of serving this Administration and our great nation as the first Director of U.S. Citizenship and Immigration Services, within the Department of Homeland Security.

This is my first opportunity to appear before this committee and it is my privilege to testify on the bilateral relationship between the United States and Mexico in light of the President's recent proposal for immigration reform.

With the creation of the Department of Homeland Security, America's legal immigration system was put back on the right track, overnight. What remained were the many details and, as I prefer to say—God is in the details.

My team of 15,000 and I embraced a simple but imperative mission; making certain that the right applicant receives the right benefit in the right amount of time, and preventing the wrong applicant from accessing America's immigration benefits.

We established three priorities: eliminating the immigration benefits backlog and improving customer service while enhancing national security.

These priorities dictate every facet of our business, consisting of family-based petitions; employment-based petitions; asylum and refugee processing; naturalization and citizenship services; special status programs; and document issuance and renewals.

On March 1, we celebrated the one-year anniversary of our existence. I am particularly pleased with the progress we have made and the professionalism exhibited by our employees, day-in and day-out, while mitigating security threats that we know to be real and relentless.

In the area of customer service, we have:

- Initiated on-line features that allow customers to file and pay for a number of our commonly used applications, as well as offering individual case status updates;
- Established the Office of Citizenship to develop and implement public outreach and educational initiatives that better prepare immigrants for their rights and responsibilities;
- Improved access to information by establishing a toll-free, bilingual National Customer Service Center help line (800-375-5283); and
- Reduced the lines at a number of offices with the highest customer volume, such as New York, Miami and Los Angeles.

In the area of backlog reduction, we have:

- Created a Backlog Reduction Team to identify immediate changes to speed up adjudication processes as well as to revise implementation plans;
- Eliminated the backlog of applications for Certificate of Citizenship on Behalf of an Adopted Child with a program that proactively provides parents the certificate without application.

We take national security very seriously. We conduct background checks on the front and back end of nearly every application for an immigration benefit. That meant 35 million Interagency Border Inspection System checks last year.

In the vast majority of cases (97%), the checks take only minutes. In the event of a "hit", however, we will move cautiously until the issue at hand is resolved, even if that means a delay and contributing to the backlog. Last fiscal year, we processed about six million applications for an immigration benefit. Approximately 7% of the applications processed resulted in an initial security hit, and after further scrutiny, 2% resulted in confirmed security or criminal threat matches.

We make no apologies for our commitment to the integrity of the immigration system and we will not cut a single corner, if it means compromising security, to process an application more quickly.

Our intra-government coordination demonstrates that our approach realizes intended results. By way of example, our background check procedures identified individuals wanted for murder in Portland and sexual assault in Miami. We are making America safer against security and criminal threats, one background check at a time.

But, that is just part of a typical day's work at USCIS. Today, we will:

- Process 140,000 national security background checks;
- Receive 100,000 web hits;
- Take 50,000 calls at our Customer Service Centers;
- Adjudicate 30,000 applications for an immigration benefit;
- See 25,000 visitors at 92 field offices;
- Issue 20,000 green cards; and
- Capture 8,000 sets of fingerprints and digital photos at 130 Application Support Centers.

Although our customers tell us that they are pleased with our new e-filing opportunities and online status checks, they and we are displeased with the length of time it takes to process benefit applications. We know that the dedication that led to effective background check processes must now be applied to backlog elimination efforts.

We will not declare victory in backlog reduction until we achieve the President's objective of universal six-month processing by the end of fiscal year 2006.

We will not declare victory in customer service until every legal immigrant is greeted with open arms and not endless lines.

And, we will not stop until we have restored public confidence in the integrity of America's immigration system.

That loss of confidence is an unfortunate yet legitimate obstacle and it can be attributed to the second track in our immigration system, the illegal track.

On January 7th President Bush courageously confronted a broken system, one that has been ignored for too long. From the East Room of the White House, he called for Congress to deliver true reform and a new temporary worker program that facilitates economic growth, enhances national security and promotes compassion.

The President made clear his principles for reform, which are to protect the Homeland and control our borders; match a willing foreign worker with a willing employer, when no American can be found to fill that job; promote compassion; provide incentives for return to the home country; and protect the rights of legal immigrants.

This is not an amnesty program, which joins the illegal track with the legal one by facilitating green card status and potential naturalization. Rather, the President proposes a one-time regulated opportunity for undocumented workers, already here as of the date of the President's announcement, to legitimize their presence and participate more fully in our economy, for a finite period, before returning home. And, it creates ongoing opportunity for individuals abroad to apply to come temporarily to the United States and legally fill jobs that American workers will not fill, thereby presenting long-term, viable alternatives to the risks associated with illegal immigration.

The President feels strongly that the Temporary Worker Program should be simple and user friendly. We have the wisdom born of experience, the reliability of modern technology and human expertise and ingenuity to realize the President's vision.

Simply put, I believe it is achievable, and I raise five points that complement my reflections on process for the committee's consideration.

First, enforcement is paramount to the Temporary Worker Program. At present, we go to great lengths to inform the public abroad that America's immigration laws have not changed and enforcement and interdiction procedures continue. Additionally, we inform community based organizations at the grass-roots level that illegal immigrants, already here, should be mindful of their status and recognize that they are in violation of our laws and susceptible to detention and removal.

I add that security and fraud prevention are synonymous with enforcement, and must be a priority. Identifying and enrolling the undocumented population will minimize threats and maximize security. The temporary worker program would introduce effective measures to prevent fraud, by the employer and worker, and would be integrated with programs such as USVISIT.

Second, the American worker comes first. The President has made it clear that this program would match a willing foreign worker with a willing employer, when no American can be found to fill the job. We know that employers in many sectors continue to experience difficulty filling jobs.

We also know that more than 14% of America's labor force is foreign-born and we anticipate that a high percentage of the estimated 8 million undocumented aliens in this country work. The fact that they are here, in the workforce, is evidence of a market demand for their labor.

We know that many pay taxes, but, because of their undocumented status, they may be reluctant to assert their right to protections that American workers have, such wage and hour, and health and safety protections. As President Bush pointed out, this is not the American way.

Third, the success of this program will require incentives, incentives to take advantage of the normalization program and incentives to return to the home country. One obvious incentive is economic and social opportunity.

The President's Temporary Worker Program will offer portability of investments. This will be instrumental in expanding individual participation in the increasingly interlinked worldwide economy, encouraging savings or even capitalization in a business, house or land in the home country.

The United States has bilateral totalization agreements with some 20 countries around the world, which will allow workers from either country to combine earned Social Security credits and receive benefits in their home country. The Administration will work with our international partners to encourage their recognition of the temporary worker's contributions made in both countries.

The temporary worker will also benefit from skills learned and education attained during their work experience in America. This training will contribute to the temporary worker's marketability upon his or her return home.

An additional incentive is circularity. The temporary worker should be able to travel, knowing that he or she can go and return freely to the country of origin for celebrations, funerals or vacation, and maintaining important ties that will aid the worker in his or her eventual return. Since many of the individuals already present in the United States who would apply to participate in the President's Temporary Worker Program would have accrued sufficient unlawful presence to be subject to the 3 and 10-year bars for re-entry, any legislation to create this program would necessarily need to supersede those bars for individuals who register. It is terribly important to maintain the ties between these individuals and their homes abroad as an incentive for their eventual return.

Similar to other non-immigrant categories, the President believes that provisions should be made for family, to remain in the United States or travel to the United States with the temporary worker, providing that the temporary worker can demonstrate an ability to financially support his or her family, and assuming that members of the worker's immediate family present no criminal or security risks. I encourage the Committee to review the structure established by the H non-immigrant category, for best practices regarding eligibility of dependents. In addition, to truly meet the needs of the labor market and economy, the program should be non-sector specific.

Finally, eliminating the fear of deportation will be an incentive. Undocumented aliens will tell you that they often have trouble sleeping at night, and leaving for work each day, not knowing if they will make it home at the end of the day. They realize that a simple traffic violation, automobile accident or other everyday misstep could result in bringing them to the attention of federal authorities and their subsequent deportation.

Fourth, the program should be fair and not come at the expense of legal immigrants, who have respected our laws and earned their place in line.

The President's plan calls for an initial three-year term that is renewable. We need to consider the number of renewals that the worker should be permitted to have prior to his or her mandatory return home. Standards, or thresholds, for renewal should include a job offer and confirmation that the worker does not present any type of criminal or security threat. It is the President's belief that if the worker decides to pursue and is qualified to adjust to permanent status it should be through the current process and should take a spot at the back of the line. Recognizing, however, that current annual limitations may be insufficient, the President calls for a reasonable annual increase in legal immigrants.

Fifth, the program should be simple and user friendly—thus one that can be effectively administered. The President's proposal calls for aliens present in the United States as of January 7, 2004, to pay a fee upon enrollment in the program. In addition, USCIS would anticipate recovering the cost of processing the applications through collection of a processing fee as is done currently with all immigration applications. The processing fee would be set based on full cost recovery. This is important given USCIS is almost an entirely fee-based agency in the Federal government. On February 2nd, the President requested \$1.711 billion in the FY 2005 budget for USCIS, \$1.57 billion of which is mandatory spending, or fee revenues for immigration benefits. We will need to consider how to handle applications for aliens who are outside the United States but wish to enter to take up employment under the program.

America has not seen immigration reform of this depth since enactment of the Immigration Act of 1990. While this program would be very different, for the purposes before us, I tasked my team to share with me lessons learned from that experience—that we can apply toward the President's Temporary Worker Program. Given our structure within DHS, USCIS will exceed the President's expectations.

I respectfully submit the following features:

- A one-time fee to be assessed upon the undocumented alien's registration separate from the application processing;
- A web-based mechanism for applying for program participation;
- A labor market driven program where American workers must first be sought—therefore there are no artificial numerical limitations;
- A retroactive effective date, requiring proof of employment, to prevent an increase in illegal border crossings; and
- Authority to terminate status when the worker fails to meet his or her responsibilities, or in the interests of national security or public safety.

As you know, the Temporary Worker Program proposal that we are discussing today is of extraordinary importance to Mexico. President Fox, while recognizing the important role of the U.S. Congress in discussing and legislating a temporary worker program, has voiced his support of President Bush's proposal. The United States, for its part, is quite cognizant of both the economic and cultural benefits that result from Mexicans coming to work and live in our country. The challenge before us is to ensure that the migration of Mexicans, as well as nationals of other nations, is legal, safe, and orderly.

Our relationship with the Government of Mexico continues to be of great importance to both of our nations. President Bush, Secretary Ridge, and I all are committed to frank, frequent, and open exchanges with our Mexican counterparts at all levels of government. As I am sure you know, President Bush and President Fox met on March 5 and 6 at Mr. Bush's ranch in Texas. Last month I traveled with Secretary Ridge to Mexico to engage in meetings with Interior Secretary Creel and other members of the Government of Mexico. In addition, I have had several meetings with various Mexican Government officials both here and in Mexico. In all of our interactions with Mexico, this administration recognizes that migration issues are a key element of our bi-lateral relationship.

Beyond the temporary worker proposal, we have been working with the Government of Mexico on a variety of immigration-related issues. In concert with the Departments of State and Labor, we have, as of January 1st of this year, eliminated the numerical limits and the associated requirement of a petition and corresponding labor condition application for Mexican professionals as provided by NAFTA. These changes eliminate the time and expense associated with filing a petition with USCIS, thereby streamlining the movement of Mexican professionals traveling between our two countries.

Additionally, the United States and the Government of Mexico have been exchanging information on our respective asylum programs and processes. In 2002, the former INS hosted a delegation from Mexico to introduce them to the U.S. asylum process and discuss the procedural safeguards invested in the program. Last year, a USCIS team visited the Mexican Commission for Refugee Assistance in Mexico City to be introduced to the Mexican asylum process.

Also, our Community Liaison Officers around the country have been working closely with Mexican consulates throughout the United States on issues of outreach and public information. These cooperative efforts enable us to effectively exchange relevant information and to provide guidance on immigration services and initiatives.

These are just a few examples of what is a robust, important, and open relationship with the Government of Mexico. The Temporary Worker Program will only enhance this close relationship.

This concludes my prepared remarks. I thank you for the invitation to testify before this committee and I would be happy to answer any questions.

The CHAIRMAN. Well, thank you very much, Director Aguirre. Secretary Verdery.

STATEMENT OF HON. C. STEWART VERDERY, ASSISTANT SECRETARY FOR POLICY AND PLANNING, BORDER AND TRANSPORTATION SECURITY DIRECTORATE, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. VERDERY. Chairman Lugar and members of the committee, thank you for the opportunity to be here today to testify about the Department of Homeland Security's participation in our very important U.S.-Mexico bilateral relationship.

As you mentioned, I am Stewart Verdery, Assistant Secretary for Policy in the Department's Border and Transportation Security [BTS] Directorate.

As my written testimony details, a sensible immigration policy begins with security at our nation's borders and enforcement of our laws. Our homeland will be more secure when we can better account for those in our country instead of the current situation in which millions of people are unknown. Reforming our immigration laws to strengthen our economy, while bringing integrity to our immigration system, is a worthwhile goal consistent with our homeland security needs.

However, following on the comments of my fellow panelists, I would like to concentrate my brief oral remarks today on several important initiatives DHS and particularly our BTS directorate are developing that impact our relationship with Mexico.

The U.S. and Mexico signed a border partnership plan nearly 2 years ago, and to facilitate progress under that accord, last month Secretary Ridge led a team from DHS to Mexico City, which included Director Aguirre. At that meeting, Secretaries Ridge and Creel signed two important companion agreements: a memorandum of understanding on the repatriation of Mexican nationals and a 2004 border plan of action. These agreements provide a framework for ensuring a secure, safe, and orderly border, especially during the upcoming summer months when dangers to migrants are most acute. We have agreed with Mexico to focus our efforts on the Arizona-Sonora corridor with a combination of resources, equipment, training, and law enforcement cooperation.

Last Tuesday, on March 16, Under Secretary Asa Hutchinson announced the Arizona Border Control initiative, or the ABC, a first of its kind integrated operation aimed at saving migrant lives, enhancing border security, disrupting smuggling operations, and reducing violence in border communities. The announcement launching ABC alerted the community and those who would seek to exploit our borders that we are beginning to build our operational capacity to deal with the unprecedented flow of aliens through this dangerous terrain.

Together with our Mexican counterparts, we are strengthening joint public safety campaigns and intensifying remote surveillance along high-risk routes into the United States. We have provided search, rescue, and lifesaving training to DHS and Mexican officers to respond to migrants who are lost or stranded by smugglers in the dangerous terrain.

ABC integrates not only law enforcement at all levels, but integrates efforts along the border, at our ports of entry and in Arizona communities away from the border. Between our POE's we will deploy 200 additional and experienced border patrol agents, bringing

the Tucson sector to over 2,000. At our POE's, we will strengthen the anti-terrorism contraband teams and the use of non-intrusive inspection equipment, and we will also intensify the presence of DHS at inland transportation terminals and airports.

The ABC will also dovetail with Operation Ice Storm, an initiative of the Bureau of Immigration and Customs Enforcement, in which we were already disrupting and dismantling smuggling operations, uncovering drop houses, and targeting human smuggling infrastructure in Arizona's largest cities and communities. We trust that this initiative will help respond to the concerns raised by Senator McCain and others about the horrific conditions in that area.

Returning to the broader U.S.-Mexico border partnership plan, we have outlined 22 concrete actions our countries are taking to confront the common threat of terrorism against the American and Mexican people. Among the many accomplishments under the plan is the SENTRI program, one of several programs designed to facilitate cross-border travel of prescreened, low-risk travelers to enable DHS officers to focus resources on unknown and higher-risk travelers who seek admission to the country. Currently we operate SENTRI lanes in Otay Mesa, San Ysidro, and El Paso, and eight additional lanes are planned with a target date of the end of this year. As part of the enrollment process, applicants and their vehicles undergo a security check, and the names of enrolled participants are checked regularly against watch lists.

We have also opened the first FAST, or Free and Secure Trade, lane in El Paso for commercial traffic and qualifying truck drivers in September and a second one last month in Laredo. Like SENTRI, participants in FAST are prescreened to determine low-risk and suitability for the program.

Also, we have expanded the Customs-Trade Partnership against Terrorism program to Mexico to strengthen supply chain security and now have 51 importers in Mexico certified for that program.

We are screening rail cargo moving in both directions across the border with the Vehicle and Cargo Inspection System, the VACIS. When a rail VACIS system is deployed at the last of the eight rail crossings this year, we will have reached 100 percent screening.

We have assisted Mexico with the development of the advanced passenger information system and are finalizing arrangements for the exchange of this crucial airline information.

I would also like to highlight the recent announcement following President Fox's meeting with President Bush in Texas that the Department is committed to developing a solution for Mexican border crossing cardholders, the BCC holders, to satisfy requirements under the U.S.-VISIT program, our new entry-exit border program. As background, the biometrically enhanced BCC is both a crossing card and a visa. The BCC is valid for entry to the U.S. within 25 miles of the southwestern border zone for 72 hours or less. Since 1999, this zone has been expanded for 75 miles for the Arizona region only.

The Biometric Verification System, the BVS, was created to fulfill our statutory mandate to incorporate a biometric identifier into the BCC. We are integrating the BVS with other systems within our Department to create an inspection booth capability that will be compatible with U.S.-VISIT requirements. Mexican nationals

who use the travel documents only as a BCC will not initially be subject to U.S.-VISIT processing during primary inspection. This decision is an interim solution for our land border while the Department explores long-term solutions to record the entry and exit of individuals crossing our land ports of entry. Of course, if a Mexican national uses a BCC as a B1/B2 visa for longer travel outside the border zone or is required to obtain a regular visa, he or she will be subject to U.S.-VISIT requirements.

In just 2 months, U.S.-VISIT has successfully and officially recorded the entry of over 2 million passengers without causing delays at ports of entry or hindering trade. The program has resulted in 187 watch list hits, including serious criminals, solely because of the biometric collection from nonimmigrant visa holders.

To conclude, any temporary worker initiative plan that Congress enacts should be matched with the important and successful programs we are developing with our colleagues in Mexico such as repatriation and U.S.-VISIT. The Department looks forward to working with this committee and the Congress to do so. Thank you again for the opportunity to be here today. I look forward to your questions.

[The prepared statement of Mr. Verdery follows:]

PREPARED STATEMENT OF HON. C. STEWART VERDERY

Chairman Lugar, Ranking Member Biden, and Members of the Committee, thank you for the opportunity to testify about the Department of Homeland Security's participation in our important U.S.-Mexico bilateral relationship.

The U.S. has a close, cooperative relationship with our neighbor that accordingly generates many initiatives, agreements, and plans between our governments. DHS is a key player in several of these U.S.-Mexico activities. While it must be noted at the outset that when the President announced his proposed Temporary Worker Program on January 7, he did not announce the temporary worker program just for Mexican nationals, however, it is anticipated that many Mexicans would benefit as they do under existing legal immigration programs.

I. PROTECTING THE HOMELAND BY CONTROLLING OUR BORDERS

The first principle of the President's proposal for a temporary worker program is "Protecting the Homeland by Controlling our Borders" and the facts illustrate why controlling our common border with Mexico is as important a homeland security relationship as we have with any other country.

- Sixty percent of the 500 million aliens who DHS admits to the United States each year do so across our shared border.
- In addition, 90 million cars and 4.3 million trucks cross into the United States from Mexico each year—all part of \$638 million in trade conducted at our border every single day.

For more than a century, the story of our nations has been one that transcends just being neighbors. As Secretary Ridge recalls from an early visit to Mexico, Secretary of the Interior Santiago Creel underscored this fact when he quoted from letters that were exchanged between Abraham Lincoln and Benito Juarez during the darkest days of our Civil War.

The mission of our Department of Homeland Security is to prevent terrorist attacks against the United States. In doing so, we are protecting the inalienable rights of life, liberty and pursuit of happiness that our nation established as its foundation in our Declaration of Independence.

Of course, we do not hold these principles as ours alone. In the Declaration that accompanied the Border Partnership Plan signed nearly two years ago, we stated that "The United States and Mexico are joined by common values, shared interests, and geography in ways that create unprecedented opportunities to work together to strengthen our peoples' physical safety and economic prosperity." It goes on "The terrorist attacks of September 11 were an assault on our common commitment to democracy, the rule of law, and a free and open economy—conditions upon which our nations' well-being depends." Since that time, we have participated in imple-

menting an integrated inter-agency strategy with the Departments of State, Justice and Transportation, state and local partners, as well as an equally broad array of Mexican counterparts. This coordinated approach to collaboration with Mexico enables us to facilitate legitimate trade and travel and simultaneously improve interdiction and investigation of illicit movements of drugs, people, weapons, cash or materials which could potentially be utilized by terrorists to attack our country.

We have accomplished a lot in the border partnership plan as with many other facets of our bilateral relationship with our southern neighbor. In fact, just one month ago, Secretary Ridge, Undersecretary Hutchinson, and many other senior officials traveled to Mexico City to meet with their counterparts as the most recent in a series of regular meetings to monitor progress under that accord. At that meeting, Secretaries Ridge and Creel signed two important companion agreements, a Memorandum of Understanding on the repatriation of Mexican nationals and a 2004 Border Plan of Action. These agreements provide a framework for ensuring a secure, safe, and orderly border, especially during the upcoming summer months when dangers to migrants are the most acute. We have agreed with Mexico to focus efforts on the Arizona-Sonora corridor with a combination of resources, equipment, training, and law enforcement cooperation.

A. ABC Initiative

Last Tuesday, Undersecretary Hutchinson announced the Arizona Border Control ("ABC") Initiative—a first of its kind integrated operation aimed at saving migrant lives, enhancing border security, disrupting smuggling operations, and reducing violence in border communities. Congressman Kolbe joined in the ceremony to launch ABC and alert the community that we are beginning to build up our operational capacity to deal with the unprecedented flow of undocumented migrants through this dangerous terrain. The Border Patrol (in the Tucson Sector) has apprehended more than 116,000 undocumented migrants since January of this year—an increase of 34,000 apprehensions over the same period last year.

This surge in the flow of migrants in the Arizona-Sonora corridor underscores the urgency for additional measures to warn would-be migrants of the perils posed by the desert and smugglers who value profits more than human life.

Together with our Mexican counterparts we are strengthening joint public safety campaigns and intensifying remote surveillance along high-risk routes into the United States. We have provided search, rescue, and lifesaving training to DHS and Mexican officers to respond to migrants who are lost or stranded by smugglers in the dangerous terrain or exposed to the harsh climactic conditions.

Additional personnel, technology, detention and removal capacity, and aviation assets will be available on the ground to DHS and its many law enforcement partners from state and local agencies, the Tohono O'Odham Nation, and the U.S. Attorney's Office.

ABC integrates not only law enforcement at all levels, but integrates efforts along the border, at our ports-of-entry (POE), and in Arizona communities away from the border. Between our POEs, we will deploy 200 additional, experienced Border Patrol Agents bringing the Tucson Sector to over 2,000 strong. At our POEs we will strengthen the Anti-Terrorism Contraband Teams and increase use of Non-Intrusive Inspection Equipment. We will intensify the presence of DHS authorities at inland transportation terminals and airports.

ABC and similar enforcement improvements are consistent with the goals of the President's proposed temporary worker program. The President's proposal would provide participants with lawful documentation. This would permit temporary workers to travel legally and freely through our ports of entry, resulting in more efficient management of our borders, and decrease the number of aliens who will desperately attempt to cross our border through desert land in dangerous conditions, thereby saving lives.

Through Operation Ice Storm—an initiative of Immigration and Customs Enforcement (ICE)—we are already disrupting and dismantling smuggling operations, uncovering drop houses, and targeting human smuggling infrastructure in Arizona's largest cities and communities. Through unprecedented cooperation and coordination with Mexican law enforcement, we are exchanging intelligence about smuggling loads moving toward our borders and taking actions to seek prosecution of ring-leaders on both sides of the border.

To ensure the coordination essential for the success of these multiple law enforcement partnerships and integrated operations, there will be a Departmental "integrator" reporting directly to Under Secretary Hutchinson. Chief Patrol Agent David Aguilar will serve in this assignment.

In addition, the President's request for the FY 2005 Department of Homeland Security budget includes \$2.7 billion for border security inspections and trade facilita-

tion at ports of entry and \$1.8 billion for border security and control between ports of entry. This includes \$10 million for Unmanned Aerial Vehicles testing and \$64 million for border enforcement technology, such as sensors and cameras.

B. U.S.-Mexico Border Partnership Plan

The Border Partnership Plan outlines 22 concrete actions our countries are taking jointly to confront terrorism, drug trafficking, crime, and other threats against the American and Mexican people. Three major pillars support the plan—often called our Smart Border Plan: (1) Secure Infrastructure; (2) Secure Movement of People; and (3) Secure Movement of Goods. The guiding spirit is to facilitate legal and low-risk trade and travel while increasing capacity to stop illicit and dangerous flows. Of course, the secure exchange of information transcends the entire plan, making possible the effective management of the border.

To cite but a few of the many accomplishments under the plan that fit into our strategy of securing the border:

- SENTRI is one of several programs designed to facilitate the cross-border travel of prescreened, low-risk travelers thereby enabling DHS officers to focus resources on unknown, higher-risk travelers who seek admission to our country. Currently, we operate SENTRI lanes in Otay Mesa, San Ysidro, and El Paso. Eight additional SENTRI vehicle lanes are planned for as early as the end of 2004. We had nearly 70,000 travelers enrolled in SENTRI as of the end of January. Of these, approximately 61% are U.S. enrollees and 37% are Mexican. As part of the enrollment process, applicants and their vehicles undergo a security check. The names of enrolled participants are regularly checked against watch lists. We increased the period of enrollment from one to two years for pre-screened participants who qualify for the program. At no cost to SENTRI participants, we are also switching over to the higher technology that we currently use in the NEXUS system on our northern border.
- We opened the first FAST (Free and Secure Trade) lane in El Paso for commercial traffic and qualifying truck drivers in September and a second one last month in Laredo. Like SENTRI, participants in FAST are pre-screened to determine low-risk and suitability for the program. Allowing FAST participants to move quickly through POEs has the twin goal of freeing Government resources to inspect unknown, higher risk commercial traffic while providing faster access to known, lower risk travelers.
- We launched the Customs-Trade Partnership Against Terrorism in Mexico to secure every link in the supply chain. We now have 51 importers certified for the program and another nine pending certification.
- We are screening rail cargo moving in both directions across the U.S.-Mexico border with Vehicle and Cargo Inspection System (VACIS). The Rail VACIS systems are deployed in 7 of the 8 rail crossings. The final location will be installed during the calendar year 2004. Once this is complete, all crossings will receive 100 percent screening for rail traffic arriving into the United States from Mexico.
- We assisted Mexico with the development of its Advanced Passenger Information System and together, we are finalizing arrangements for exchange of this critical information on who is entering North America by commercial airline.
- CBP Border Patrol has trained and equipped close to 800 Mexican law enforcement and rescue personnel in search and rescue, basic medical training and swift water rescue. Additionally, Border Patrol has worked cooperatively with Mexico to develop a bilateral media campaign with a single message regarding border safety.

Each of these initiatives includes working with other U.S. agencies to help Mexico increase its capacities to participate fully and successfully in the programs.

C. U.S.-VISIT on the Land Border

During the recent visit of President Fox to Crawford, TX, President Bush was pleased to announce that the Department is committed to developing a solution for Mexican Border Crossing Card (BCC) holders to satisfy requirements under U.S.-VISIT—our new entry-exit border technology that assesses the security risk of those who seek admission at our POEs.

The Biometric Verification System (BVS) was created to fulfill the statutory requirement to incorporate a biometric verifier into the Mexican Border Crossing Card and to match the verifier to the applicant on each application for entry. State Department consular posts in Mexico issue a combined Border Crossing Card and B1/B2 visa called a BCC and known colloquially as a “laser visa.”

The biometric the system reads is a fingerprint. (The BCC also includes another biometric, the photograph.) The BVS is being integrated, with other systems in DHS to create an inspection booth capability that will be compatible with U.S.-VISIT requirements. Site surveys are underway to prepare the ports for deployment by the end of June.

The BCC is both a crossing card and a visa. The BCC is valid for entry to the United States within 25 miles of the Southwestern border for 72 hours or less (the "border zone"). Since 1999, the zone is 75 miles in Arizona only. No other document is needed for entry.

Mexican nationals who use the travel document only as a BCC will not initially be subject to U.S.-VISIT processing during primary inspection inasmuch as the holder's biometric information was captured at the time the document was issued. This is an interim solution for our land border while the Department explores the long term solution to record the entry and exit of such individuals crossing our land POEs.

However, if used as a B1 /B2 visa for travel outside the border zone or for a longer period, the traveler is issued the I-94 entry document by a Customs and Border Protection inspector and will be subject to U.S.-VISIT requirements. Similarly, Mexican nationals require nonimmigrant visas if they seek admission for a purpose other than a visit for business or pleasure. For instance, Mexican nationals require student or temporary worker visas and they, too, will be subject to U.S.-VISIT requirements.

The President's request for the FY'05 Department of Homeland Security budget asks for \$340 million for U.S.-VISIT, a proposed increase of \$12 million over the FY 2004 funding. Only two months old, U.S.-VISIT has successfully and efficiently recorded the entry of 2,253,382 passengers and the exit of 7,810 travelers without causing delays at ports of entry or hindering trade. The program has resulted in 187 watch list hits, including serious criminals, because of the biometric collection from nonimmigrant visa holders. Aliens who have repeatedly entered the U.S. illegally and used multiple aliases are now being detected. U.S.-VISIT will play a key role in the President's temporary worker program by validating that aliens are complying with the terms of the worker program as they enter and exit through ports of entry, making it easier to enforce the program.

D. Customs and Border Protection

We believe the President's proposed temporary worker program should link efforts to control our border through agreements with countries whose nationals participate in, and benefit from, the program. Cooperation from the Mexican government will be especially critical, including possibly greater Mexican efforts to control the flow of Mexican migrants not qualified under the temporary worker program to the U.S. border. U.S. Customs and Border Protection (CBP) will continue its Integrated Border Enforcement Team (IBET) operations on the Canadian border and continue its cooperative efforts with both the governments of Canada and Mexico.

For a temporary worker program to work effectively, border enforcement will be critical. It is important to recognize that DHS has set the stage for an effective program. Since September 11, 2001, the Border Patrol has increased the number of agents from 9,788 to 11,141 as of March 6, 2004. Between the ports of entry on the northern border, the size of the Border Patrol has tripled to more than 1,000 agents. In addition, the Border Patrol is continuing installation of monitoring devices along the borders to detect illegal activity. Moreover, since March 1, 2003, all CBP officers have received antiterrorism training. The CBP Office of Training and Development is currently developing additional antiterrorism training for all CBP officers.

The Border Patrol is also adding sensors and other technology that assist in detecting illegal crossings along both our northern and southern borders, including Remote Video Surveillance (RVS) systems. These RVS systems are real-time remotely controlled force enhancement camera systems, which provide coverage along the northern and southern land borders of the United States, 24 hours per day, 7 days a week. The RVS system significantly enhances the Border Patrol's ability to detect, identify, and respond to border intrusions, and it has a deterrent value as well. There are currently 269 completed Remote Video Surveillance (RVS) sites in operation; 200 along the southwest border and 69 along the northern border. An additional 216 installations are in progress.

CBP pursues many initiatives in the ongoing effort to ensure a balance of two critical DHS objectives: (1) increasing security; and (2) facilitating legitimate trade and travel. These initiatives include the use of advance information, risk management, and technology, and partnering with other nations, other agencies, state and local authorities, and with the private sector. Using these principles, CBP understands that security and facilitation are not mutually exclusive. Since 9/11, we have

developed strategies and initiatives that make our borders more secure while simultaneously ensuring a more efficient flow of legitimate trade and travel.

In improving our nation's homeland security, CBP has created "One Face at the Border." This includes designating one Port Director at each port of entry and instituting a single, unified chain of command for all CBP Officers at *all* of our ports of entry and all our inspectors—whether they be legacy customs, immigration, or agriculture employees. CBP has also developed specialized immigration and customs antiterrorism response teams and consolidated its passenger analytical targeting units. These units coordinate with CBP's National Targeting Center, which serves as the interagency focal point for obtaining manifests and passenger information for flights of concern.

A Temporary Worker Program will enhance CBP's ability to carry out its continuing mission. Unauthorized entry into the United States will still be illegal, and CBP will continue to improve our homeland security by gaining greater control over our borders and more effectively and efficiently inspecting and screening arriving passengers, vehicles, and conveyances. For this reason, as reflected in the President's 2005 budget request, it will be more important than ever to ensure that the Border Patrol has adequate funding for the personnel, infrastructure, equipment and technology to continue to adopt its tactics and deploy its resources to meet its priority antiterrorism mission.

II. PROVIDING INCENTIVES FOR RETURN TO HOME COUNTRY

The second immigration enforcement principle that the President set out in his proposal is to provide incentives for return to the participant's home country. This includes the requirement that participants in the program return to their home country after their period of work has concluded. As proposed by the President, the legal status granted by this program would last three years, be renewable, and would have an end. Returning home is made more desirable because during the temporary work period, workers would be permitted to come and go across the U.S. borders so the workers can maintain roots in their home country. This has proven particularly important to Mexican nationals.

In addition, the Temporary Worker Program would offer additional incentives for these workers to return home, including portability of investments and the skills learned and education attained during their work experience in America. With respect to Mexican participants in the program, we would certainly work with Congress and the Mexican Government to identify incentives for Mexican nationals to return home where they could then help improve the Mexican economy.

III. WORKPLACE ENFORCEMENT OF IMMIGRATION LAWS

The third immigration enforcement principle in the President's proposal is workplace enforcement of our immigration laws. The FY 2005 President's budget request includes an increase of \$23 million for worksite enforcement. This request to more than double funds for worksite enforcement illustrates the President's commitment to serious immigration enforcement and the rule of law as part of a temporary worker program.

The worksite enforcement mission is now located in Immigration and Customs Enforcement's (ICE) National Security Division. The goal is to maintain integrity in the employment procedures and requirements set forth under our immigration laws. The Critical Infrastructure Protection Unit within the ICE National Security Division is the unit responsible for coordinating enforcement of our employment requirements under the Immigration and Nationality Act. ICE will continue to coordinate its employer sanctions and worksite enforcement activities with agencies having relevant jurisdiction, such as the Department of Labor and the Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices, where there are indications of worker abuse based on illegal status or intentional abuses of salary requirements and laws on account of an alien's illegal status. Further, monitoring will occur in situations such as criminal and administrative investigations of employers, in conjunction with ongoing alien smuggling and trafficking investigations, and in industries where intelligence and ICE auditing indicates widespread disregard of employment verification requirements.

Since 9/11, DHS has audited 3,640 businesses, examined 259,037 employee records, arrested 1,030 unauthorized workers, and participated in the criminal indictment of 774 individuals. Post-9/11 enforcement operations targeting unauthorized workers at critical infrastructure facilities identified over 5,000 unauthorized workers who obtained employment at airports, nuclear plants, sporting arenas, military bases, and federal buildings by presenting counterfeit documents to their employers and providing false information to security officials. DHS' challenge is to en-

hance public safety to ensure that individuals intending to do us harm are not providing access to controlled areas.

Temporary workers will be able to establish their identities by obtaining legal documents under a worker program. It is critically important to create a system that prevents fraud as it was so prevalent under the 1986 Immigration Reform and Control Act (IRCA) worker and legalization programs. It is essential that a new temporary worker program provide uniform documentation for participants that is tamper-proof and as fraud-proof as possible. While this proposed program is a generous and compassionate one, we do not wish to reward those who abuse the program through fraud. Fraud prevention should be a component in creating this temporary worker program. Immigration fraud poses a severe threat to national security and public safety because it enables terrorists, criminals, and illegal aliens to gain entry and remain in the United States. ICE's goal, in conjunction with CIS and CBP, is to detect, combat, and deter immigration fraud through aggressive, focused, and comprehensive investigations and prosecutions. If approved, the \$25 million FY 2005 budget request will provide stable funding to ICE's benefits fraud program by replacing funding previously provided through the Examinations Fee Account.

Detention and removal of illegal aliens present in the United States is critical to the enforcement of our immigration laws. A requested increase of \$108 million in FY 2005 will expand ongoing fugitive apprehension efforts and the removal from the United States of jailed offenders, and support additional detention and removal capacity. Adequate detention space has long been considered a necessary tool to ensure effective removal operations. An increase in bed space to accommodate a higher volume of apprehended criminal aliens results in a significantly higher appearance rate at immigration proceedings. When final orders of removal are issued, this will result in a greater number of removals and fewer absconders. With the \$5 million request, ICE will enhance its ability to remove illegal aliena from the United States.

As part of its overall immigration enforcement strategy, ICE will continue to analyze data generated through the Student and Exchange Visitor Information System (SEWS) and U.S.-VISIT program to detect individuals who are in violation of the nation's immigration laws and pose a threat to homeland security. If approved, the President's request for the FY 2005 budget of \$16 million will increase the funding for ICE's SEVIS and U.S.-VISIT compliance efforts by over 150 percent.

I want to highlight another key aspect to the President's Temporary Worker Program proposal—ensuring that past illegal behavior is not rewarded. This proposal does not provide an automatic path to citizenship. The program has a finite period of time and requires workers to return home. Those who have broken the law and remain illegally in our country should not receive an unfair advantage over those who have followed the law. We recognize that some temporary workers will want to remain in the U.S. and pursue citizenship. They will be able to apply for green card status through the existing process behind those already in line.

A sensible immigration policy begins with security at our nation's borders. The President's proposed Temporary Worker Program is a bold step, aimed at reforming our immigration laws, matching willing workers with willing employers, and securing our Homeland. The President's proposal holds the promise of strengthening our control over U.S. borders and, in turn, improving homeland security.

Illegal entry across our borders makes more difficult the urgent task of securing the homeland. Our homeland will be more secure when we can better account for those who enter our country, instead of the current situation in which millions of people are unknown. With a temporary worker program in place, law enforcement will face fewer problems with unlawful workers and will be better able to focus on other threats to our nation from criminals and terrorists.

Passing a Temporary Worker Program that works to benefit the American economy while bringing integrity to our immigration system is a reasonable goal for all of us. The Administration is ready to work with the Congress to move forward in achieving this important goal.

The CHAIRMAN. Well, thank you very much, Secretary Verdery.

The chair would suggest a 7-minute question period, to be followed by another round, if that will be required, for Senators to raise their questions.

I will begin the question period by observing that in December the Aspen Institute, under our former colleague, Senator Dick Clark, conducted a very good meeting in Mexico. Twenty Members of Congress met with officials of the Mexican Government, people from think tanks, and others who were involved in the U.S.-Mexico

relationship. Specifically, the new Foreign Minister of Mexico was a participant. That was very valuable, in terms of both the formal sessions and the informal ones.

Some of the points that have been made by Senators and by witnesses of the administration today were clearly a part of that meeting in December. There was a feeling that although the relationship between President Bush and President Fox started with an excellent meeting before 9/11, unfortunately, subsequently to that, the dialog between the countries, or at least its public manifestation underwent a change that was not for the good.

The question before the Members of Congress was, how can we work with the administration to make certain that the relationship improves? We recognize how important our friendship with this vital neighbor is. Mexico is a member with us in the NAFTA treaty. This has resulted in extraordinary changes for the good in my judgment. Clearly this subject, the fallout of NAFTA, would merit another debate all by itself. A lot has happened since then.

I am one who appreciates the fact that the President of the United States has addressed the immigration issue. Even more importantly, he has met with President Fox at Crawford.

Having said that, in this hearing I want to try out some ideas that require much more exploration. One idea that arose from the December conference, from the Mexican side, informally—and I do not attribute this to the Foreign Minister or to anyone—was this thought, that in terms of our energy cooperation, PEMEX needs capital. In the past, this issue has been difficult, simply because of the nationalization of the oil industry. One of the problems for Mexico is that the amount of revenue coming from PEMEX to the government—and that is a major source of income for the stability of that government—is severely limited by lack of capital improvements, or whatever the infrastructure might require.

In the December conference, forward-thinking Mexicans, hopefully interacting with forward-thinking Americans were saying, what if somehow Mexico was prepared to reach out? They proposed that there be a capital infusion by the United States, by either public or private investors, so that the capacity of PEMEX to pump oil would be increased by maybe 100 percent, with the thought that this 100 percent increase would be primarily dedicated to the United States market. In essence, at a time of great energy difficulties for us, with ups and downs even in our own hemisphere with regard to oil supply, quite apart from the Middle East, why not begin to forge a strategic economic partnership based upon supplies that are very ample but an infrastructure with PEMEX which is not very ample in bringing this about?

My understanding is that a serious discussion of this sort will occur in the equivalent of the Mexico Council on Foreign Relations in Mexico City, and maybe other fora as well, so that people in political life will become sensitized to these considerations, just as we were being sensitized to them in the December meeting.

Secretary Noriega, I have not prepared you for this line of inquiry, but what are the possibilities of a more strategic relationship on energy, a subject that is tremendously important in the foreign policies and in the economies of our countries? We have talked today about a jump start for things we might do to help the Mexi-

can economy. That means, we are thinking about revenues for their government, as well as for our own. Here lies a fairly large resource, even if it may be a large political and historical problem. Is this something that perhaps we ought to pursue?

Mr. NORIEGA. Senator, I believe that is a very essential issue that we have to deal with. Estimates are that Mexico will need in the energy sector about \$180 billion in additional investment. We certainly encourage private sector investment in the energy sector. Mexico is a key supplier, our fourth supplier of crude, and it is important also to note that as that economy grows, its demand for energy is increased. So here you have a country with vast resources that is actually having to import electricity from other countries.

I think President Fox and many in Mexico recognize that they must take steps to open up that part of the economy to cooperation and to investment, to joint ventures. But it has, of course, been a neuralgic issue, and a question of sovereignty of the husbanding of that national resource.

It is going to require a dialog in Mexico, and we can support this effort by being transparent in our interests showing that we are interested in mutually-beneficial arrangements and putting it perhaps in a North American context. Certainly the energy relationship we have with Canada is also critical. They are our chief supplier of foreign energy. So if we can put it in the context of North American integration, I think that we can make important strides on that front. It is really essential that we do so.

The CHAIRMAN. I appreciate that comment, because I agree with it. The North American integration idea is a good way to place it.

What I am hoping for is that we move outside the box, and we begin to get a much broader agenda. This is notwithstanding the extreme importance of the immigration issue that we are talking about today, including the specific humane considerations, whether it be safety for Mexicans or the DREAM Act. These are things that we may be able to deal with in the short run.

But I am trying to think, of a much broader agenda in which we begin to take the relationship seriously, across the board in macro-economic terms, and in which we try to think through the various ramifications, if not in a bilateral way, perhaps with Canada, then perhaps as we integrate, hopefully, the Central American Free Trade Agreement, thereby attaining cooperation with even more of the hemisphere as we get into South America. One purpose of this hearing is to send some signals of this variety. My friends in Mexico say, why are you not raising these issues? Why are we not discussing Mexico more? That is an important question. We need to do that, and we need to say that we take it seriously.

Mr. NORIEGA. Yes, Senator, and if I can add just very briefly. We are fleshing out some proposals in the North American context across the board to make us all more competitive and emphasize these mutually-beneficial economic arrangements. Energy has to be a part of that. It is also related to the migration question because for Mexico to generate sufficient jobs at home for their growing population, they are going to have to do some things, retooling their economy to make themselves more competitive, and energy of course is a part of that equation. We are looking at it in a comprehensive way and I can send that positive signal and would look

forward to being a little more specific with you about the ideas that we have in mind for North American integration.

The CHAIRMAN. I have exceeded my time, but I would just add that I know that the committee will welcome those ideas. We would like to be a forum for you not only to express them, but also to provide some wind at your back in pushing them on.

Senator Dodd.

Senator DODD. Well, thank you very much, Mr. Chairman. I would suggest your question goes right to the heart of what this hearing is about. Ultimately, if we are really going to deal with immigration issues—and, Secretary Noriega, let me say you and I have talked about this in the past. I am less benign when it comes to the issue of whether or not we have been engaged in this bilateral relationship in the hemisphere. As you know, I feel strongly. I understand, obviously, since 9/11 there have been other matters of a higher priority in our mind, but it has been a source of significant disappointment to this Senator that we have neglected in my view this region to a large extent.

I am pleased to see that we have begun again in March to address some of these questions. There have been some initiatives. I applaud that, but I have been terribly disappointed that we have had very little to say to the leadership of this hemisphere, including arguably one of the two most important bilateral relationships, that of U.S.-Mexico.

Let me, if I can—because I want to get to Mexico, but I do not often get a chance to have you in front of the committee, so I want to ask you quickly about Haiti, if I can.

There were statements made over the weekend by this new Prime Minister declaring these thugs to be freedom fighters. I know how you described them and I applaud your description of those people. You testified at the hearing we had on Haiti. Has there been any change in our administration's viewpoint of who these people are? And to what extent have we communicated to this new Prime Minister our objections to his description of these people?

He was being ferried around in Black Hawk helicopters and French Chinook helicopters and no disarmament on the part of these people. They were going to lay down their arms. They did not do it. Has anything changed here that we ought to be aware of? And what comments does the administration have about this new Prime Minister's description of these death squad leaders as freedom fighters?

Mr. NORIEGA. Our position has not changed on that. I understand there was some disarmament by these groups, but clearly it is insufficient. I communicated yesterday morning, if not the night before, with Ambassador Foley to tell him that we regarded these statements as appalling and to get some sort of explanation and see if the new Prime Minister understands fully the way we see this problem. The fundamental view on our part is that leaders of these criminal gangs should not benefit in any way from the change in government.

Senator DODD. Well, I appreciate it. That is a public comment you are making here. I think any of the public statements might be helpful because there was a sort of silence after this. I realize

it is a brief amount of time, but nonetheless, it seems to me public statements being made as well about how we view those kind of comments would be helpful.

Second and very quickly, the upcoming elections in the Dominican Republic. The NDI and others have asked to go down—since 1994, they have gone down and participated in the oversight of these elections. I am very worried about how elections are proceeding in the Dominican Republic. I served in the Peace Corps there many years ago. I have a strong interest in the country, as you know. I gather there has been a request made. The Department has turned down the request. I wonder if you might just reexamine that request. I would be very interested and would participate myself. I know others might be interested in going. John Sununu participated with President Carter the last time and had a very effective observation team. And I would like to renew that request to you today. I do not expect an answer at this moment from you, but I would like to see if that NDI request could be reconsidered. It is a very good NGO on the ground that is highly respected in terms of election observations, and it might be helpful if we can get some additional resources to go down and have the NDI there.

Mr. NORIEGA. Senator, I did not, frankly, know that NDI was interested in going down, but we had decided to put our resources behind an OAS observation effort.

Senator DODD. I know that.

Mr. NORIEGA. Having said that, I can give you a clear indication that we will look into this.

Senator DODD. I appreciate that. It's about \$225,000 for the OAS. It is estimated it would need probably another \$400,000 or \$500,000 at least to really do it right. That is what I am told. I do not claim to be an expert in these areas. Nonetheless, would you take a look at this?

Mr. NORIEGA. Absolutely, sir.

[The following information was subsequently provided.]

The United States Government provides substantial assistance to the local Dominican NGO *Participacion Ciudadana* for a variety of programs, totaling \$1.2 million this year, including the training and preparation of more than 6,000 local observers for the presidential election. Over the past year we have urged the Dominican electoral authorities to invite international observers to participate to ensure an open and fair election. On January 30 the Dominicans extended invitations to several organizations, including the Organization of American States (OAS). In response to a request from the OAS' Unit for the Promotion of Democracy, the U.S. Department of State and USAID contributed \$325,000.

Canada has provided funding for the electoral observation mission in the amount of \$48,750 and the European Union has promised an additional \$200,000. We are pleased that the OAS invited the National Democratic Institute to coordinate with its mission and we understand that they will be part of the OAS observer mission. A private effort by the Dominican-American community in the United States has raised a significant amount of money to support additional participation by qualified non-governmental organizations in the election observation process, including a team of 26 observers from IFES chaired by Andres Pastrana, former president of Colombia. The diplomatic community in Santo Domingo responded enthusiastically to our Ambassador's call for volunteers to be observers on election day. More than 50 have volunteered from the U.S. Embassy alone and will be duly accredited through the OAS mission. We believe that between the local and international observers, the election will be properly overseen.

Senator DODD. Let me jump to the issue at hand. I again want to applaud the chairman for raising the issue. I have got some very specific questions about the timing of legislation. Let me just express by my calculation we have got about 36, maybe 40, legislative days left in this Congress. If you assume the fact we do not do much here on Monday and we usually leave by Friday, so we have got Tuesdays, Wednesdays, and Thursdays. If you take that, exclude the weeks we are not in session, the math is not terribly complicated. This is a complicated proposal.

When are we going to see a legislative proposal from the White House? Or are we? Maybe they have decided not to, and if you have decided not to, are you embracing the Hagel legislation or other bills that have been proposed? Mr. Aguirre if you would please.

Mr. AGUIRRE. Well, thank you, Senator. As you know, I am only 3 years in government, but I understand that the legislative process really begins on your side of the government. From the administration's standpoint, the perception that I have is that the President has framed quite effectively the issue and some of the parameters that would be appealing to the administration, in terms of dealing with this issue. But I think we are expecting and finding that the Congress is bringing forth several proposals that in one way or another meet with the President's proposal.

I think, of course, it is not so much the devil is in the details, but God is in the details in this particular case. I find that some of these proposals are so much or not so much with the President's initiative.

Senator DODD. Well, we do not have a lot of time. So we are trying to get this done.

Mr. AGUIRRE. Yes, sir.

Senator DODD. I respect the fact you are not terribly familiar. It is not uncommon for an administration to submit legislative ideas, proposals to the Congress. They do not have to do that, but it seems to me we ought to have a lot more specificity. Senator Hagel can raise questions about his own bill himself, but I would be curious as to whether or not any of these specific proposals, if you are not going to submit a proposal, have the administration's support.

Mr. AGUIRRE. Well, Senator, the administration is prepared to engage with the Congress, both sides of Congress, on the details of these proposals. I do not think any one of these proposals meets exactly the President's initiative, but I think they are close enough that we are happy to engage and to find common points of convergence.

Senator DODD. You have certainly been around long enough to appreciate the fact that with 36 days and a bill like this bill that is being proposed, knowing the hostility you are getting from the more conservative elements of the Republican Party who have expressed strong opposition to this proposal, what likelihood is there? Based on what you are telling me, I see little or no likelihood you are going to get this bill adopted this year. Do you agree with that?

Mr. AGUIRRE. Well, Senator, I think when the President called on the Congress on January 7 to act, I certainly expect that action will be taken. I think we see in these type of hearings action. Whether or not it is going to pass the Senate and the House, I will

leave it to you. I am really not that much of an expert on the legislative side.

Senator DODD. Thank you.

I want to come back, if I can, Mr. Chairman. I want to pick up on your point. The Mexico-United States Partnership for Prosperity was, I think, a very healthy concept and idea, and I want to pursue where that is going because it goes right to the point you are making about encouraging investment in the areas of Mexico that historically have had the highest levels of emigration. It does not seem to me we have done enough to really discourage through economic growth, assuming that most people emigrate or do these things because they lack the opportunities in their own areas, and to the extent we can really promote that is something I want to come back and talk about. Thank you.

The CHAIRMAN. Senator Hagel.

Senator HAGEL. Mr. Chairman, thank you.

Gentlemen, thank you for appearing before us this morning.

To pick up on a point that Senator Dodd made—and I assume I will stay in the channel that Senator Dodd was in with you, Mr. Aguirre. I think we all understand the immensity of immigration reform is going to require Presidential leadership. There is no other way to do that. We have 535 of us up here. We are disciplined by—one reference Senator Dodd made—party structure, by committee structure, by institutional structure. But this is an immense task before us, to try to get comprehensive immigration reform. It is going to require intense Presidential leadership not only because of the narrow window we have, as Senator Dodd mentioned.

And so my question would be, what is the administration doing? What will the administration do to push this issue, since you do not have your own proposal up here? You have a set of principles, which are very important and we appreciate that and the President deserves credit for stepping forward. And I have said so many times publicly. But that only takes us about 5 percent of the way. So what are we going to see from the administration to be up here? Who is going to be up here? Who is going to be pushing it? Give us some sense of that.

Mr. AGUIRRE. Well, Senator, I do not have the exact count, but I believe since January 7, the President has mentioned this particular proposal in varying parts perhaps well over a dozen times. I know it was mentioned during the State of the Union. So I think the President is serious about the issue, and I think the President is looking to the Congress to frame legislation that can be brought to the administration.

The debate that I have seen taking place since January 7 has been much more intense than in earlier years. So I think we are seeing quite a bit of interest here.

You said it very well. The issue of immigration reform is incredibly complicated. In fact, the Immigration and Nationality Act is perhaps the most complex set of laws in the Nation. So I am looking for the Congress to come up with some legislation that we can work with.

Senator HAGEL. Well, in all due respect, I have not seen the same intensity of debate up here that you have. We have had, on the Senate side, one subcommittee hearing in the Judiciary Com-

mittee. This is the second committee structure hearing that I am aware of, the only full committee hearing. As Chairman Lugar said, we do not have jurisdiction over this. So, again, I am at a loss to see where your intensity of debate is up here.

But that aside, what I am trying to get at is has Secretary Ridge been up here. Has Secretary Powell? Has the Vice President? Has anyone, senior members of the administration who can speak for the President meeting with the leadership, Mr. Frist, Mr. Daschle, saying we need this? This is what we need. Can you enlighten this panel as to what has happened in that regard? Mentioning it is good, but that does not move the ball.

Mr. AGUIRRE. Well, Senator, I know that Secretary Ridge has been here to the Senate and the House numerous times. I am not really keeping track of exactly the issues that he is talking about. I suspect this has come up, but I would be less than exact by indicating that he has.

Senator HAGEL. If any of the other panelists would want to join in on this, I would be very pleased to hear from them.

Mr. VERDERY. Well, Senator Hagel, I know Under Secretary Hutchinson has been up here I believe three or four times testifying on the budget and the appropriations. This has been a topic that has come up in almost all of those sessions as to how the President's proposal would mesh with our enforcement efforts that are in the budget, ongoing programs and proposed new ones and the like.

I also would like to offer, obviously, a lot of this issue falls within our bailiwick on the enforcement side both with Customs and Border Protection at the ports of entry, and Immigration and Customs Enforcement on the investigative side, to offer our help working with your staffs and the like because these issues are really, really tricky. And as we sort through drilling down on the proposals, we would like to work with you all on that.

Senator HAGEL. Well, certainly there are budget implications and ramifications of any legislation, but this is not, quite frankly, gentlemen, a budget issue. It is a lot more than a budget issue.

Let me ask you, Mr. Secretary, have you been instructed by the administration to come up here and deal with leadership and committee chairmen, Judiciary Committee, moving this thing? Is this a priority that you have been given by the White House to come up here and engage? When are we going to have hearings? When are we going to get this through? The President wants to get this done. Has that happened?

Mr. VERDERY. It is clear this is an administration priority. We are working very closely with the White House on fleshing out some of the more technical details behind the principles that were outlined. We are available and have been up here talking to staff. I think I am testifying in a couple of weeks before Senate Judiciary in another hearing. So we want to make ourselves available whether it is at the Under Secretary level, my level, or staff levels to come up and flesh out these details. Of course, we have been asked and, of course, would want to provide any information, any kind of insight that would be requested.

Senator HAGEL. Thank you.

Mr. AGUIRRE. Senator, if I could just offer that I would be happy to offer consultation with the leadership on this issue at any time.

Senator HAGEL. Thank you.

Mr. Verdery, would you assess the improvements made to security on the southern border since September 11, and in your assessment of that, would you give this panel some sense of requirements for resources? Are you getting what you need? Do you need more? Do you need less? You got enough? But quickly round that out. What kind of progress have we made? How has that progress been made? What kind of resources are required now and into the future?

Mr. VERDERY. Well, there has been a tremendous amount of achievement in the last 2½ years or so, and especially since our Department was stood up just over a year ago. We have had a major increase in border patrol numbers both on the personnel side and in the use of advance technology, sensors, and these types. In the ABC initiative I mentioned in my oral remarks, we will be using unmanned aerial vehicles for the first time on the southern border. We have reformed our ports of entry. We have now the One Face of the Border initiative, cross-training of immigration and customs officials to do their jobs better and more efficiently. We will be installing U.S.-VISIT, as I mentioned, at the land border at the end of this year per the congressional mandate. We have reformed the cargo side of things, as I mentioned, in terms of trying to screen high-risk cargo and separate out low-risk cargo while giving the radiation screening we need for everything. So I see the time is up, but those are just a few of the things that we have been able to accomplish in the past year.

In terms of resources, the President's budget has requested more resources over the last few years, has gotten those from the Congress. The 2005 budget has additional requests which are obviously under consideration now.

Senator HAGEL. Thank you.

The CHAIRMAN. Well, thank you very much, Senator Hagel.

I will just make one comment and then yield to Senator Dodd. We want to give ample time to our next panel, which is important, too.

Gentlemen, I would just observe that the President, when he made his immigration proposal on January 7, exercised a great deal of political courage. I and others had encouraged the President to do such a thing, describing, as I have again today, our conference with the Mexicans in December. The President, in a very high profile way, indicated his own interest, as well as that of his administration. He has framed these issues.

Now, frankly, the President's proposal was met with all sorts of criticism, from all over the political spectrum, for its inadequacy, or its lack of focus on one factor or another, to the point that one could say that the President fell back. As you have mentioned, Director Aguirre, the President has mentioned this in the State of the Union and several times subsequently. But by the time we got back into session in late January it was already clear that there was great conflict within the Congress with regard to all of this.

I suggested then, because of personal interest in this, as well as the feeling of the members of our committee, that we might have

a hearing. That was not initially discouraged by the administration, but people indicated that, after all, the Judiciary Committee has jurisdiction on these topics. Perhaps they ought to hold the hearing first. I understood that. They have now held a subcommittee hearing on this topic.

The purpose of this hearing, quite frankly, is to try to begin to elevate the whole issue again in our own modest way. We cannot do it all by ourselves. However, we would like to offer a forum for you to give very good testimony, which you have done today. We would also like to invite you to say more, or to come forward with proposals that are outside the box on the economy, as well as on immigration, thereby broadening this agenda and sending some signals to Mexican friends that we care, and that we are actually talking about the relationship. Perhaps we might take this to our Canadian friends in a North American context, as you suggested.

I am hopeful that we are achieving this goal, at least partially, by having this dialog this morning in the form of this committee hearing. We are prepared to do a lot more. I think that we all need some guidance as to the priorities that the White House, and/or the State Department, or Homeland Security, or what have you, have on these issues. They are very technical. As Senator Dodd has said, there are not many days left in this year's legislative calendar. The topic would require intense scrutiny.

If in fact, the thought is that this legislative effort really is too much for this year, and that the proposals are a warmup for the 2005 agenda, at least the three of us will all be around in 2005. We will still be talking about it.

Senator DODD. If that was an endorsement, I deeply appreciate it.

The CHAIRMAN. It is a suggestion of what we might achieve in 2004, I would say to my distinguished colleague. I hope that will be the case.

I yield to him for his sage advice.

Senator DODD. Thank you very much. I could not miss the opportunity.

Just a couple of points. Again, the chairman has said it so well, I am being redundant by repeating the notion. Look, I could spend what little time we have here and bemoan the fact that—I recall that wonderful first meeting that President Bush had with President Fox. I think it was the first—in fact, it was the first—head of state, and the symbolic gesture of that is not lost on anyone. With all the people he could meet with, the very first one was President Fox.

I remember being at President Fox's inaugural in Mexico. There was a tremendous sense of excitement about change, what was going to happen. The No. 1 issue was this issue. From day one in 2000, the one issue that he has begged the United States to engage on is the immigration issue. As someone who has participated for 24 years, I think without exception, in the interparliamentary meetings with Mexico of the last quarter of a century, every meeting we had was about this issue of immigration. So I am not going to do that.

I will take good news. We begin here now in January. We have got an issue on the table. I want to underscore what the chairman has said here.

There are those of us who might look at this and say, look, this is great politics to talk about this right now, but let us be more candid with people. With 36 or 40 days to go and with all due respect, Mr. Secretary, I have been around long enough to know I know when the administration really wants something, any administration, and when they are kind of luke warm. I am being polite by calling it luke warm at this point. I do not get any sense at all about real energy behind this, and even if there were, I am not sure you could get it done. Even if you were intensely interested in getting this done, I think it is very difficult. Senator Hagel is being polite and the chairman is being polite, and I want to be polite. I do not get any sense there is any movement on this at all other than a good meeting, a good message, but little or no likelihood this is going to change.

Now, prove me wrong in the next few days. You are waiting a couple of weeks for another hearing. Another couple of weeks up here, you know, time is flying by here to get this done. So let me put that aside.

Let me come back to something because I think there are some things ongoing that can be important. Again, I want to underscore what the chairman raised earlier about PEMEX in a very excellent idea. Maybe, Secretary Noriega, you might bring this to councils and talk about it, but the Partnership for Prosperity is a 2-year program and the program—just to reacquaint people with it—was a public/private initiative to promote domestic and foreign investment in less developed areas of Mexico at high immigration rates. After 2 years of operation, there were some ideas that were raised. One was the introduction of new low cost service to transfer funds from the United States to rural communities in Mexico, expiration of a Peace Corps program in Mexico to work on science and development projects, and the signing for the first time of an agreement for the U.S. Overseas Private Investment Corporation, OPIC, to offer financial and risk insurance to U.S. firms operating in Mexico in these areas.

Can you give us any sense what has happened with this?

Mr. NORIEGA. Yes, we have made meaningful strides on this, Senator, in terms of entrepreneurship, in terms of lowering the cost of remittances, in terms of university linkages, the establishment of the Peace Corps program in Mexico for the first time. All of these things have been done and are underway too. We are continuing to work on all of these issues.

In Guadalajara, in June we will have a second meeting. The last meeting brought together 800 Mexican and U.S. entrepreneurs to look at opportunities on both sides of the border, but in these areas of Mexico that are—

Senator DODD. How is that going? Tell me how that is going? That seems to be a very important idea.

Mr. NORIEGA. It has generated some joint ventures, some investment. It has encouraged universities to establish linkages between universities on both sides of the border, and I can get you some examples on that.

Senator DODD. OK.

Mr. NORIEGA. We believe that it is a meaningful exercise. But the simple fact is that we have been able to work together and lower the cost of sending remittances back, I believe, at least by half. That is meaningful because that is money that, instead of going into a financial transaction, is going back to families. When you talk about a base number of about \$13 billion, \$14 billion annually, that is a lot of money going into households in Mexico.

Senator DODD. Are you familiar with the effort by George Soros that he has done to establish a housing mortgage market for the first time in Mexico under the Partnership for Prosperity? Are you familiar with that?

Mr. NORIEGA. I am not particularly familiar with his effort, but I am aware that it—

Senator DODD. What I would like to ask is maybe we can have a private meeting—not that it has to be private, but just rather than take the time here. But I would be very interested in fleshing out more where these ideas are going, including the PEMEX idea the chairman has raised. These are the kind of bigger ideas. Getting remittances back is a great idea. I understand that. But it seems to me we ought to be trying to get beyond the notion of remittances, and improving the economic opportunities in Mexico goes to the heart of this issue.

Mr. NORIEGA. Senator, may I comment on that very briefly? We are consciously going to use all of the mechanisms that we have in our bilateral relationship. For example, we have the Binational Commission, 14 working groups bringing together ministers in both of our governments. It meets annually. We are, for the first time, looking to program that agenda from the top proactively saying, that there are the things that President Bush and President Fox want these working groups to work on. I have actually communicated with Mexican Congressmen about taking some issues to the interparliamentary group that you participate in. In the North American context, we are looking at making some initiatives there too. So across the board, we are working systematically on big vision issues as well as the smaller issues.

Senator DODD. Let us arrange that so we can hear what is going on. I would just point, as I mentioned earlier, I know that Speaker Hastert, for instance, has indicated there is little or no likelihood this immigration bill is going anywhere in this Congress. I hope the administration will challenge that comment if in fact you are as committed to this proposal as you claim you are today.

I did not go, Mr. Chairman, into some of the detailed questions on the proposals, things for instance, of requiring that fines be paid by the undocumented workers if they register. I see no corollary requirement that the employers who hired them pay a fine as well, for instance. There are a lot of very specific questions I would have about some of these proposals and how we get people to sign up, in fact, for this, the cost of registration and so forth, all of the obvious questions people would raise. I might submit some detailed questions to you, Secretary Aguirre, so that you could respond to some of these things, at least based on the outlines that you proposed here.

And if you are serious about this—I hope you will utilize the hearing that the chairman has provided—prove me wrong. I would love to be proven wrong on this. I would love to have you come back up here, starting tomorrow—and I think tomorrow may be late, but to come back up with a proposal on the table and really pursue this. You will find a lot of people up here are very aggressively wanting to help you, if that is the case.

If it is not the case, then I think it is very important to say that and to say, look, we need to come back to this next year. Let us use these next few months to try and flesh out details, and whether it is the Bush administration or a Kerry administration, here are some ideas that we put on the table for you to take forward. That, I think, could be a tremendous positive step forward on this issue.

So I would encourage some real candor about this proposal. There is nothing worse than raising expectations here, getting people all excited about a proposal that no one is really taking very seriously.

Thank you, Mr. Chairman.

Mr. AGUIRRE. Senator, I look forward to your written questions, and of course, I will respond. I know the White House has met with the Judiciary Committee, but I will be happy to engage with you at all granularity that you like.

Senator DODD. Thanks.

The CHAIRMAN. Let me just say, Senator Dodd, your questions will all be made a part of the record. Hopefully responses will come promptly. Likewise, I make that request for Senator Coleman, who has also left questions. The record of the hearing will be left open today, in case other members who have not been present, but are interested in the subject, would like to be a part of this.

Senator Nelson.

Senator NELSON. Thank you, Mr. Chairman.

Mr. Secretary, one of the continuing, festering frustrations over NAFTA was the side agreement reached with regard to tomatoes, and Mexico did not keep its part on that side agreement on tomatoes. As a result, we have on winter vegetable crops lost a great deal of the share of the market. What is the latest on this?

Mr. NORIEGA. Senator, I will have to get you an answer in writing on the details of that. I know that we have been addressing these disputes through the dispute resolution mechanisms of NAFTA, but I do not have the details. I will have to get you a detailed answer to that.

[The following information was subsequently provided.]

The current suspension agreement with Mexico on tomatoes was signed in December 2002 and will be subject to a sunset review in five years. The U.S. Government continues to monitor trade in tomatoes between Mexico and the United States and regularly consults on the matter with U.S. industry representatives. Most recently, following the March 23 hearing, Department of Agriculture staff spoke with a leading representative of the Florida tomato industry and was advised that there were, from the industry's perspective, no specific problems associated with the operation of the agreement at the present time.

Senator NELSON. OK, I would appreciate that.

Now, one of the areas that we have heard some dissatisfaction is about the Mexican Government's failure to live up to its obliga-

tions regarding the NAFTA dispute panels. How have the trade disputes affected our bilateral relationship?

Mr. NORIEGA. We have important issues on tomatoes, tuna, trucking, beef, high fructose corn syrup, chicken that, for various reasons, whether it is sanitary requirements or others, are important issues across the board in our relationship. It is an important relationship where trade between our two countries has tripled in the period of NAFTA, but we do have these unresolved issues for which we use the trade dispute resolution mechanisms. We have just, for example, on the corn syrup issue, asked for a panel in WTO or NAFTA.

So clearly we have these mechanisms to deal with these issues, and if we are not getting satisfaction on the tomato issue or on any other issues, I will try to get you a specific answer about measures that we can take, concrete steps that we can take to push for some sort of satisfaction for U.S. producers.

Senator NELSON. Have these disputes harmed our bilateral relationship?

Mr. NORIEGA. They do not do the relationship any good. But we understand that on both sides there are going to be disagreements. What we have resolved to do with our trade agreements is to channel these disputes to particular mechanisms for resolving them in a transparent, technical way. But clearly, when we have disagreements that affect our producers or consumers—and they would feel the same way on the Mexican side—this does have an impact on the relationship.

Senator NELSON. It appears that President Fox has taken a more activist role in bolstering ties with his Latin American neighbors, including the MERCOSUR countries. How can we, as the U.S. Government, best convince him and his government to use its relationship with Cuba to criticize the crackdown on human rights as evidence that we just passed through the one-year anniversary of Castro putting dissident journalists, dissidents who dared to set up libraries, who dared to sign the Varella petition, and he threw them in jail a year ago? How can we use our relationship to convince President Fox that he needs to stand up and criticize Cuba for this kind of activity that has been condemned by previous friends of Cuba who were shocked when Castro threw all those folks in jail?

Mr. NORIEGA. President Fox has criticized, during his period of time in office, Castro for human rights violations. Mexico usually votes, for example, for a resolution in Geneva that would criticize or take note of the continuing violations of human rights by Castro's regime.

I know that in the last several weeks we have discussed this Cuba issue with Mexico and we have indicated our interest and they have indicated their interest to work with us, quite frankly, to find ways to encourage a transition and then to respond in an agile and decisive way to a transition, once one is underway, to make sure that the sorts of political and economic reforms we get in Cuba are deep enough to wash away the vestiges of the regime.

But we will be counting on Mexico to play a leadership role, frankly, in this vote in Geneva. We hope that they will work with us to encourage Latin American countries to cosponsor and support that resolution.

Senator NELSON. Do you think Mexico will say something publicly about throwing dissidents in jail?

Mr. NORIEGA. I will get you an answer for the record on what they have said to date, sir, because I do not want to suggest that they have not said anything. I just do not have anything in mind. I will get you a specific answer on what they are able to do and what they are able to do working with us on the Geneva process which will specifically, we hope, make reference to the crackdown.

[The following information was subsequently provided.]

In April, at the United Nations Commission on Human Rights in Geneva, Mexico joined 21 other countries, including the United States, in voting in favor of a resolution concerning the deteriorating human rights situation in Cuba. That resolution was adopted. This is the third year in a row that Mexico has voted in favor of a resolution addressing the lack of respect for human rights in Cuba. In May, Mexico withdrew its ambassador to Cuba and asked the Cuban Ambassador to leave Mexico after Castro publicly criticized Mexico for its vote in Geneva. We note that when President Fox visited Cuba in 2002, he made a point of meeting with dissidents there.

Senator NELSON. Do you think we can get Mexico involved in Haiti, in the rebuilding of that country?

Mr. NORIEGA. The Mexicans have indicated an interest to provide some sort of humanitarian and diplomatic support for our efforts. They have some sensitive issues in terms of deploying security forces. So that may not be possible. But we have worked with Mexico in the OAS on Haiti and we hope that will continue.

The CHAIRMAN. Thank you very much, Senator Nelson. I thank each of you again for coming with your testimony and your forthcoming responses. Obviously, you have a group here in our committee that would encourage you to press on. We look forward to hearing much more from you. Thank you for coming.

Mr. AGUIRRE. Thank you, Mr. Chairman.

The CHAIRMAN. The chair would like to recognize now a distinguished panel composed of Dr. Stephen E. Flynn, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies, the Council on Foreign Relations; Dr. Demetrios G. Papademetriou, President of the Migration Policy Institute; and Dr. Arturo A. Valenzuela, Director of the Center for Latin American Studies at Georgetown University.

Gentlemen, we welcome you to the committee meeting today. We thank you for your patience in waiting for this point in the hearing. We look forward to your statements. Let me say at the outset that the statements that you have prepared will be put in the record in full, so you need not ask for additional permission with regard to that. We will ask you to summarize or to present your statements as fully as you think is important. We are eager to hear your ideas. That is the purpose of our hearing, and that is why we have invited these independent voices outside of the Senate and the administration.

I will ask you to testify in the order in which I introduced you, and that would mean that we would ask you, Dr. Flynn, to lead off.

STATEMENT OF DR. STEPHEN E. FLYNN, JEANE J. KIRK-PATRICK SENIOR FELLOW IN NATIONAL SECURITY STUDIES, COUNCIL ON FOREIGN RELATIONS

Dr. FLYNN. Thank you very much, Mr. Chairman. I am honored to be here today. I am Stephen Flynn, Senior Fellow of the Council on Foreign Relations but also a former Coast Guard officer retired after 20 years and recently had the opportunity to direct our task force on homeland security at the council that was co-led by your former colleagues, Senators Gary Hart and Warren Rudman.

I would like to sort of start by raising I think rather a sad irony of the reality of the U.S.-Mexican relationship post 9/11 because interestingly, of course, a recognition of the losing of steam with that relationship has been couched in terms of that because of the security imperatives of the post-9/11 world, we had to slow it down. I would suggest in my testimony that our failure to address this issue has, in fact, confounded our security situation, not the opposite. So it is indeed a bit of irony.

To put this thing into context, I think we really need to step back and be mindful of that, which is why I was delighted to hear that your committee was convening this hearing to bring breadth to this issue versus a narrow law enforcement or purely judiciary question. It really is one that is grounded in the depth of our relationship, not with just U.S. and Mexico, but within the broader hemisphere and certainly within the continental context, U.S.-Canada, U.S.-Mexico.

One of the clear realities of 9/11 that we are still having a great deal of difficulty with as a nation coming to grips with is that this new form of warfare is the use of catastrophic terrorism directed at the non-military elements of our power. When you are a nation that spends more than the next 30 nations combined on the conventional military capability, which is what our nation will do this year, that really only means another possibility for the future of warfare, that our future adversaries must go asymmetric. And the asymmetric reality is to exploit these open global networks of which our trade and travel network is one of the more prominent or target those networks in the goal of creating mass economic and societal disruption.

The irony here is that many of our efforts to deal with this problem within terms of a narrow homeland context, particularly a focus on the border, has had the effect of making our border regions more chaotic and in that context creates more of a fertile ground for potentially terrorists and certainly criminals to exploit.

There is something which I call the hardened border paradox. The hardened border paradox is, as we make efforts to secure this line in the sand, what we end up doing, because there are needs, obviously, for that border to be permeated for legitimate purposes for trade and travel and so forth, we end up in the case of immigration specifically creating essentially a demand for a very sophisticated, organized criminal network that helps to evade those controls. Because we are not dealing with the broader issues of immigration within this overarching context—we are dealing with it primarily at the border—we have created the "coyote" trade which has become an enormously lucrative business, where there are a lot of assets to spread corruption along the border.

Because we hardened the border in terms of the extent to which we manage often the inspection regime without integrating within how our infrastructure has been developed and operated there, we have created things like the drayage industry in Laredo, which is the most fertile place for organized crime to operate. It operates that way because it makes no sense for a long-haul truck to connect with a long-haul truck anywhere near the border because of the chaos of the border. So we end up with these mom-and-pop trucks with truck drivers with 300 percent turnover rates that are paid \$7.50 a load regardless of the time of their journey. This environment is obviously a very difficult one to police, but the hardened border paradox, as we look at the narrow chaos at the border, we put more controls in place as in the aftermath and the result ends up that we end up fueling the conspiracy to get around this and creating what again is a real problem in the post-9/11 world, the opportunity for very serious characters in the form of al-Qaeda kinds of networks to exploit these very networks to bring their ultimate threat to our Nation.

The terrorists are clearly positioned to exploit this environment, as we know, but there is also, I guess, another issue that I would raise here which is in the public health side. Another very daunting challenge we know in the homeland security issue is the risk of a bio-threat. One of the presumptions of our public health community is that when somebody gets sick, they will come and ask for help. That is basically the guts of our warning system to deal with that problem. However, when you have 8 million to 10 million undocumented folks who are often in the places, in our urban areas, not just our rural areas, where these folks may be infected, and when they are afraid to essentially come in contact with our public institutions, I would suggest that this is another factor that is going to potentially haunt us down the road to the extent that that bioterrorist threat persists.

The reality is, of course, we often use the term of art in the national security world. We talk about draining the swamp. A lot of this has been directed toward the illicit organizations that are out there in terms of their money trails, as well as the kinds of environments in which they operate.

But there is another part of that swamp that makes it possible for illicit players to hide in, and it is an entirely disconnected, nonsensical immigration policy that makes it virtually impossible to police. And to the extent to which we are very concerned about the asymmetric threat, that terrorists will exploit our trade and travel lanes in order to cause the kind of horror we saw on 9/11, we should be coming four square in front of this immigration issue. We should embrace it as a first priority from a security perspective, and in so doing though, we need to recognize that ultimately the resolution is not at the border, though the border will always play a role. It has to be ultimately grounded in a broader effort within both our continental context and within the global network.

So how do we manage these networks in such a way to continue to facilitate the good while improving on a means to manage the bad? That must be done in a layered, systematic way throughout the networks, not a narrow, myopic focus at the border or narrowly within our homeland.

Thank you very much, Mr. Chairman. I look forward hopefully to answering your questions.

[The prepared statement of Dr. Flynn follows:]

PREPARED STATEMENT OF DR. STEPHEN E. FLYNN

RETHINKING THE ROLE OF THE U.S.-MEXICO BORDER IN THE POST-9/11 WORLD *

Chairman Lugar, Senator Biden, and distinguished members of the Senate Foreign Relations Committee. I am the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations where I recently directed the Independent Task Force on Homeland Security, co-chaired by former Senators Warren Rudman and Gary Hart. In June 2002, I retired as a Commander in the U.S. Coast Guard after 20 years of active duty service. I am honored to be appearing before you this morning to discuss the issue of border control as an element of the bilateral relationship between the United States and Mexico.

North America finds itself in paradoxical times. On the one hand, the hemisphere's economic prosperity depends on an open continental system that facilitates the free movement of people and goods. On the other, worries over America's exposure to catastrophic terrorist attacks have transformed homeland security into one of Washington's leading preoccupations. The result is that while the NAFTA imperative of a more open border was gathering steam prior to 9/11, since that fateful day, controlling the southwest border in an effort to prevent illegal immigration and smuggling has been advanced as essential to combating the terrorist threat against the United States. Security has trumped cross-border facilitation as our abiding interest. This is a mistake since it wrongly presumes that there is an automatic trade-off between advancing greater degrees of openness to support the movement of legitimate people and goods and the need for more rigorous border controls.

The experience over the past decade of stepped-up enforcement along the Mexican border suggests that U.S. efforts aimed at hardening its borders can have the unintended consequence of creating precisely the kind of an environment that is conducive to terrorists and criminals. Draconian measures to police the border invariably provide incentives for informal arrangements and criminal conspiracies to overcome cross-border barriers to commerce and labor movements. In addition, unilateral measures pursued on one side of the border create political impediments for enforcement cooperation on the other. The result is that the border region becomes more chaotic which makes it ideal for exploitation by criminals and terrorists.

Terrorists and the tools of terrorism do not spring up at the border. Instead, they arrive via hemispheric and international trade and travel networks. Advancing a continental approach to deterring, detecting, and intercepting illicit actors seeking to exploit those networks would accomplish two things. First, it would provide some strategic depth for responding to a threat before it arrived at a critical and congested border crossing. Second, it would allow the ability to segment risk so that the cross-border movements of people and cargo deemed to present a low-risk could be facilitated. Then limited enforcement resources could be targeted more effectively at those that present a high risk.

The shared risks of loss of life and massive economic disruption presented by the catastrophic terrorist threat should provide the basis for greater levels of bilateral cooperation that can remove many longstanding barriers to continental commerce precisely because those barriers themselves can elevate security risks. For example, the longstanding neglect of the border in terms of limited infrastructure investment and tepid efforts at customs and immigration modernization and harmonization made no sense in purely economic terms. But the resultant inefficiencies that carry substantial commercial costs also create opportunities that thugs and terrorists can exploit. Thus, there is a national security rationale to redress those inefficiencies. The agendas for both promoting security and greater continental commerce can be and must be mutual reinforcing.

THE HARDENED BORDER PARADOX

Great powers have been building great walls throughout history. The Great Wall of China, the Maginot Line, and the Berlin Wall went up at considerable expense in sweat and treasure and all ultimately failed to block or contain the forces that

* This testimony draws on material found in my book chapter "The False Conundrum: Continental Integration vs. Homeland Security" in *The Rebordering of North America: Integration and Exclusion in a New Security Context* by Peter Andreas (Editor), Thomas J. Bierstecker (Editor), (New York: Routledge, 2003).

prompted their construction. The recent efforts by the United States to "protect" the southwest border including installing a 26-mile long fence between San Diego and Tijuana, has had a similar fate.

Take the case of illegal migration. Stepped-up patrolling and policing of the border may raise the costs of getting to the United States, but it also creates a demand for those who are in the business of arranging the illegal crossings. Migrants who once simply strolled across the border to seek work on the other side, now need "professional" help. That help is provided by guides known as "coyotes" who take migrants to remote border locations or put together increasingly sophisticated smuggling operations at the land border entries. As the coyote business becomes more lucrative, criminal gangs are better positioned to invest in pay-offs of front-line agents.¹ The prevalence of corruption, in turn, undermines information sharing and operational coordination between U.S. authorities and their Mexican counterparts.

Enforcement driven-delays at the border also ironically contribute to creating opportunities for smuggling narcotics as well. In Laredo, Texas for instance, truck crossings were at 2.8 million in 1999, up from 1.3 million in 1993.² Many of these trucks operating at the border are old and poorly maintained and owned by small mom-and-pop trucking companies. The turnover-rate among drivers is extremely high. These conditions are prevalent because waiting hours at a border crossing in order to make a 20-mile round trip, with an empty trailer on the return, is not a lucrative business. Moving intercontinental freight is, so the trucks and drivers who make long-haul journeys tend to be of a higher quality. Since it is uneconomical to run a state-of-the-art rig near the border, trailers are usually offloaded at depots near the border. In the case of south-bound traffic, a short-haul truck is then contracted to move the freight to a customs broker who will then order another short-haul truck to transport the freight to another depot across the border. A long-haul truck will then pick up the load and carry it into the interior. The drivers of these short-haul rigs tend to be younger, less skilled, and are paid only nominal wages—as little as \$7 to \$10 per trip. As a result, the potential payoff for carrying contraband through a congested border crossing is all the more tempting.³

The White House Office of National Drug Control Policy estimates that more than half of the cocaine that arrives in the United States comes via the southwest border.⁴ Even with the rise in the number of inspectors and investigators assigned to the 28 border-entry points in Texas, New Mexico, Arizona, and California, given both the volume and the nature of the trucking sector that services the border, the U.S. government clearly is facing "needle-in-a-haystack" odds as it strives to detect and intercept illicit drugs. The pure cocaine to feed America's annual coke habit could be transported in just fifteen of the more than 20 million 40-foot containers that arrived at America's land and sea borders each year. And in addition to looking for drugs, the U.S. Bureau of Customs and Border Protection is charged with monitoring compliance with more than 400 laws and 34 international treaties, statutes, agreements, and conventions on behalf of 40 federal agencies.⁵

So while the prevalence of migrant and narcotics smuggling seems to provide a compelling rationale for tightening up controls along U.S. borders, aggressive border inspections in turn, confront improbable odds while fostering the kinds of conditions that generate ample time and opportunity within a Mexican and U.S. border city for these illicit transfers to occur. Hardened borders also transform the cost-reward structure so amateur crooks are replaced by sophisticated criminal enterprises and corruption issues become more pronounced. In short, the experience of the southwest border suggests that aggressive border security measures end up contributing to problems that inspired them in the first place.

THE OPEN BORDER PARADOX

The United States has enjoyed the remarkable good fortune of having the oft-heralded "longest undefended border in the world" with its Canadian neighbor to the north. For much of the two nation's history, to the extent that there was a government presence along the 49th parallel, it was only to collect customs duties. As a result, the 5,525 mile border can be summed up as a national boundary with no fences and a few toll gates.

In recent years, those toll gates have come under increasing pressure as cross border trade has flourished. Take the automotive industry, for example. General Motors, Ford, and DaimlerChrysler manufacture many of the parts to build their cars and trucks from plants in the Canadian province of Ontario. Several times each day these parts are delivered to the assembly plants in the United States. Delivery trucks are loaded so that parts meant for specific vehicles can be unloaded and placed directly on the appropriate chassis as it moves down the assembly line. This

"just-in-time" delivery system has given the Big Three a more cost-effective and efficient production process.

It has also generated a great deal of truck traffic. For example, up to 9000 trucks a day transit the Ambassador Bridge between Detroit, Michigan, and Windsor, Ontario. At these rates, U.S. Customs and Border Protection officials must clear one truck every 18 seconds. If they fall behind, the parking lot can accommodate only 90 tractor-trailers at a time. Once the parking lot fills, trucks back up onto the bridge. The resulting pileup virtually closes the border, generating roadway chaos throughout metropolitan Windsor and Detroit, and costs the average automotive assembly plant an average of \$1 million per hour in lost production.

Over the past two decades, the episodic attention directed at the northern border was primarily centered around efforts to minimize any source of administrative friction that added to cost and delay of legitimate commerce. The notion of the 49th parallel as a security issue is a recent phenomenon that burst into the limelight just prior to the millennium. The catalyst was the December 1999 arrest of an Algerian terrorist with ties to Osama bin Laden in Port Angeles, Washington. Ahmed Ressam had arrived onboard a ferry from Vancouver in a passenger car with a trunk full of bomb-making materials. Only a U.S. Customs Service official's unease with the way Ressam answered her questions prevented him from driving onto American soil. The jitters surrounding the Ressam arrest turned into near panic immediately following the September 11 attacks. Worries about the possibility of additional attacks led to the effective sealing of the border as every truck, car, driver, and passenger came under close examination. Within a day there was a 16-hour queue at the major border crossings in Michigan and New York.⁶ By September 13, DaimlerChrysler announced they would have to close an assembling plant on the following day because their supplies were stuck on the north side of the border.⁷ On September 14, Ford announced they would be closing 5 plants the following week.⁸ Washington quickly reconsidered its initial response and within a week, the border inspection wait times returned close to normal.

On its face, the open and very limited controls exercised at the U.S.-Canada border would suggest that it was ripe for exploitation by criminals and terrorists. The reality is that the imperative to manage cross-border threats without disrupting trade that amounts to more than \$1 billion a day and the travel of 220 million people each year, has led to an extraordinary degree of cross-border cooperation. On the Vermont-Quebec border, for instance, Canadian and U.S. law enforcement officers at the federal, state, provincial, and local levels have been meeting for 18 years to discuss their criminal cases without any formal charter. The relationships are such that participants sit together and share information in much the same way they might at a roll call if they all belonged to the same police precinct.⁹ The resultant collegiality spills over into their daily police work. In fact, local agents in Vermont or New Hampshire who are frustrated on occasion by bureaucratic obstacles to getting information or assistance from U.S. federal agencies have found a successful end-run to be to seek out their Canadian counterparts and ask them to serve as intermediaries for their requests!

In Washington state and British Columbia, U.S. and Canadian police, immigration and customs officials, stood up a bi-national team in 1996 to work on cross-border crimes with local, state, and provincial enforcement agencies. The team was called the "Integrated Border Enforcement Team (IBET)" and initially focused on drug smuggling, but the portfolio later expanded to include terrorism. Following the September 11 attacks, Washington and Ottawa agreed to establish a total of 8 of these IBETs along the border.¹⁰

The movement towards emphasizing a broader framework of bi-national cooperation versus focusing on the physical borderline gained impetus in 1999 when Prime Minister Jean Chretien and President Bill Clinton formed a process of consultation labeled the "Canada-U.S. Partnership (CUSP)." The process had as its objective the reinvention of border management to support the seamless passage of legitimate flows of people and goods between the two countries.¹¹ Progress towards this end was somewhat halting until after September 11. With 40 percent of its GDP tied to trade with the United States,¹² the post-9-11 closing of the border transformed the CUSP agenda into Ottawa's top priority. The then Canadian foreign minister, John Manley, was dispatched to Washington to meet with the new White House Director of Homeland Security, Tom Ridge. Manley found a sympathetic audience in Ridge who had just stepped down as Governor of Pennsylvania (Canada was that state's number 1 trade partner.) Together they hammered out a 30 point "Smart Border Action Plan" which they announced on December 10, 2001. The preamble of the declaration declared:

Public Security and economic security are mutually reinforcing. By working together to develop a zone of confidence against terrorist activity, we create a unique opportunity to build a smart border for the 21st century; a border that securely facilitates the free flow of people and commerce; a border that reflects the largest trading relationship in the world.¹³

In short, in dramatic contrast to the approach the United States had pursued on its southern border throughout the 1990s, with respect to its northern border Washington has concluded that its security is optimized by striving to keep the border as open as possible, while working to improve cooperative bi-national arrangements. Indeed, efforts to harden the border along the 49th parallel have been assessed to be self-defeating not just in economic terms, but in security terms. Closing the border in the wake of a terrorist attack only reinforces the military value of engaging in such attacks. This is because it means the U.S. government ends up doing something to itself that no other world power could aspire to accomplish—it imposes a blockade on its own economy. The result is to convert a small investment in terror into massive disruption of daily life that has a clear and adverse effect on the U.S. and overall global economy. America's adversaries would undoubtedly take solace in this and recognize that the potential benefits of this kind of warfare warrants consideration.

BEYOND BORDER CONTROL

Embracing openness and advancing homeland security need not be an "either-or" proposition if Washington is willing to apply the lessons it has drawn from its northern border to Mexico and the broader global community. The end game must not be about defending a line on a map, but advancing greater bilateral integration while managing important safety, security, and other public policy interests. This balancing act can be accomplished by: (1) developing the means to validate in advance the overwhelming majority of the people and goods that cross the border as law abiding and low risk; and (2) enhancing the means of federal agents to target and intercept inbound high risk people and goods. Accomplishing the first is key to succeeding at the second since there will always be limits on the time and resources available for agents to conduct investigations and inspections. The goal must be to limit the size of the haystack in which there are most likely to be illicit needles.

Verifying legitimate cross border flows as truly legitimate is not as fearsome task as it might first appear. This is because aggregate border crossing numbers are somewhat misleading since so many of the vehicles, drivers, and people are regular customers. For instance, while there were 4.2 million recorded southwest border truck crossings in 1999, these crossings were made by roughly 80,000 trucks.¹⁴ If we are willing to make the investment, the technologies are certainly available to identify frequent travelers as such. After undergoing a pre-screening application and inspection process, vehicles can be equipped with an electronic transponder and the driver can be provided with a NAFTA transportation identity card with encoded biometric information to confirm that they are in fact who they profess to be. Quickly clearing these vehicles and their drivers allows inspectors to focus more of their time and energy on examining unfamiliar or suspicious traffic.

Similarly, the vast majority of the daily pedestrian border crossings are made by day laborers who return to their homes south of the border each evening. These individuals can be recognized as such by inspectors who are assigned to the border. Well-designed border crossings that are adequately staffed with inspectors who are well-trained in behavior pattern recognition can be more effective than reliance on high-technology when dealing with this foot traffic. An inspector does not need a machine to tell her if she is looking at a face she has never seen before. And a biometric devise is useless in detecting behaviors such as excessive anxiety that should arouse suspicion. There is no substitute for human judgment when making these kinds of calls.

Manufacturers, carriers, shippers, importers or exporters could be encouraged to adopt stringent internal security practices that reduce their exposure to internal criminal conspiracies and which deter criminal elements from targeting their vehicles and goods once they leave a factory, warehouse, or transhipment facility. They should also be encouraged to invest in information and tracking technologies to maintain near real-time accountability of their drivers, vehicles, and cargo from the point of origin through the final destination. Finally, they should transmit in advance, the electronic information border agents need to assess their compliance with the applicable laws and regulations.

Theft-resistant transportation networks are more difficult for criminals and terrorists to compromise. Should there be advance intelligence of such a compromise, these information systems will make it easier to locate and interdict shipments that

might contain illegal migrants or contraband before it enters a crowded port or land border inspection facility; alternatively, authorities can put together a "controlled-delivery" sting operation, where the contraband is allowed to reach the intended recipient so that the appropriate arrests can be made.

Given the value this has for security, the U.S. government should work to create every incentive for expanding participation in these frequent-traveler programs including providing adequate staff to quickly process applications and eliminating or substantially reducing or waiving of the fees for receiving these biometric cards and transponders. Since these programs advance our national security, making an appropriate investment in federal resources to them is appropriate.

Still, bringing about the kind of transformation that makes the private sector a willing and able partner in supporting a reinvented border control mission requires strong market incentives. Happily such incentives exists if the U.S. government is thoughtful about how new investments in transportation infrastructure are made at and near the border. Specifically, the Transportation Equity Act for the 21st Century has targeted substantial funding for major roadway improvements under the Coordinated Border Infrastructure Program.¹⁵ As development and management plans for such projects as the "Ports-to-Plain" Corridor and the I-69 NAFTA highway are drawn-up, the development of a "dedicated trade lane" should be incorporated. That is, like commuter "High Occupancy Vehicle" (HOV) lanes found around many metropolitan areas, access to a dedicated trade lane would be restricted to only those vehicles and drivers and that cargo that participates in the new border management regime.

An additional incentive could come by moving many of the border entry inspection processes away from the physical border itself and instead consolidate them into a single trilateral "NAFTA inspection facility" and locate it on a dedicated traffic lane that leads to the border. For instance there is an 18-mile new toll road leading from I-39 to the Mexican state of Nueva Leon via the recently constructed Colombia Bridge on the outskirts of Laredo, Texas. Why not have the United States, Mexico, and Canada agree to grant extraterritorial legal authority within a NAFTA inspection facility placed at the start of that toll road where trucks, drivers, and cargo could be examined by inspectors from all three countries and where each agency is allowed to enforce their respective national laws and regulations for goods and conveyances bound for their jurisdiction. Statutes governing the development of border crossing facilities and infrastructure should be examined to identify legal barriers which prevent or slow the investment of federal monies in these projects. Specifically, there should be a fast track for completing environmental impact studies that can delay border infrastructure projects up to ten years.

The Bureau of Customs and Border Protection has already embraced this approach in sea ports under a program Commissioner Robert Bonner has called the "Container Security Initiative." An important element of that initiative is stationing U.S. Customs inspectors overseas in loading and transshipment ports to inspect suspicious cargo before it is even loaded on a ship. Nations who agree to participate are given reciprocal privileges in U.S. ports.¹⁶ In the North American context, the end-state, ideally, should be to develop a single zone conducting "one-stop" arrival and departure inspections. In the case of northbound trucks from Mexico City and Monterey and southbound trucks bound for the Mexican interior, operators would have to stop just once at a location where there is plenty of space to conduct inspections so there is no risk of hours-long backups that now routinely plague the bridges. Once the trucks are cleared, the flow of traffic could be closely monitored by use of "intelligent transportation systems" (ITS) radio frequency or GPS technologies.

But simply relocating where inspections take place is not enough. Border control agencies need to fundamentally change the way they are doing business as well. The days of random, tedious, administrative and labor-intensive border inspection systems—the bane of every legitimate international traveler and business—must be numbered. The manpower constraints inherent in traditional border-control practices guarantee their continuing inability to adequately police the surge in continental and global commerce. What is the alternative? The answer lies in placing greater emphasis on developing the means to enhance "domain awareness" and the capacity to perform "anomaly detection."

In the computer industry, "anomaly detection" represents the most promising means for detecting hackers intent on stealing data or transmitting computer viruses.¹⁷ The process involves monitoring the cascading flows of computer traffic with an eye towards discerning what is "normal" traffic; i.e., that which moves by way of the most technologically rational route. Once this baseline is established, software is written to detect that which is aberrant. A good computer hacker will try to look as close as possible to a legitimate user. But, since he is not, he inevi-

tably must do some things differently and good cyber-security software will detect that variation, and deny access. For those hackers who manage to get through, their breach is identified and shared so that this abnormal behavior can be removed from the guidance of what is "normal" and acceptable.

In much the same way, the overwhelming majority of the vehicles, people, and cargo that move across the U.S. borders move in predictable patterns. If inspectors have the means to analyze and keep track of these flows, they will have the means to detect "aberrant" behavior. In short, "anomaly detection" of cross-border flows is possible, if the regulatory and enforcement agencies whose daily tasks is to police those flows: (1) are given access to intelligence about real or suspected threats, and (2) are provided the means to gather, share, and mine private sector data that provides a comprehensive picture of "normal" cross border traffic so as to enhance their odds of detecting threats when they materialize.

If the public sector undertakes these changes, the private-sector must also change its attitude about engaging in self-policing and sharing anything but the minimum amounts of relevant data with government agencies. Border control agencies have important and legitimate jobs to perform. The general public wants restrictions on the flows of contraband such as weapons, drugs, and child pornography. Immigration policies require that who enters and who leaves their jurisdictions be monitored and controlled. Many public-health strategies aimed at managing the spread of disease require the identification and isolation of people, livestock, and agricultural products that could place the general population at risk. Safety and environmental threats connected with unsafe shipping and trucking mandate that the transportation sector be monitored. And trade rules must be enforced for trade agreements to be sustainable.

BARRIERS TO CONTINENTAL PROGRESS

The approach to border management outlined above has started to gain some currency with respect to the U.S.-Canada border. Just prior to the first anniversary of the tragic attacks on New York and Washington, President George W. Bush and Prime Minister Jean Chretien met on the Detroit-side of the Ambassador Bridge to launch an initiative dubbed "the Free and Secure Trade (FAST)" program whose purpose is to move pre-approved goods across the border quickly. The two leaders also announced the expansion of program designed to speed the flow of pre-screened "low-risk" travelers across the border known as NEXUS along with a number of actions they are taking in support of the Ridge-Manley Smart Border agreement.¹⁸ Against the backdrop of the world's busiest commercial border crossing, President Bush declared:

With these two initiatives, we'll ensure faster movement of legal, low-risk goods, and faster travel for people cross our borders, and we'll be able to better enhance security. Our inspectors will spend less time inspecting law-abiding citizens and more time inspecting those who may harm us.¹⁹

For his part, the former Prime Minister Chretien asserted:

We recognized that we could create a "smart border"—one that was not only more secure, but more efficient for trade, to permit our businesses to get back to business, to allow our nurses, engineers and computer technicians to provide their services, and our students to attend classes. To let our communities continue planning a shared future together, secure in the knowledge that the border welcomes legitimate trade and travelers.²⁰

While ample challenges remain with regard to adequate staffing, infrastructure, data management, and intelligence issues to make this "risk management" approach more capable and credible, there is clearly a consensus that measures that would have the net effect of hardening the border between Canada and the United States would be counterproductive. Meanwhile, the situation on U.S.-Mexican border stands in marked contrast. This is not for the want of any willingness on Mexico's part. President Vincente Fox has repeatedly offered to have a no-holds bar conversation on the future of its shared border with the United States. But, there has been little enthusiasm in the post 9-11 Washington to reciprocate.

While the new homeland security imperative is cited as the rationale for change to the north, to the south it is being proffered up to explain why the U.S.-Mexican border reform agenda has moved from the political fast track to the breakdown lane. The persistent incidence of crime, narcotics and migrant trafficking, and corruption are rallying points for advocates of "tightening-up" border enforcement. The generally unchallenged assumption is that, now more than ever, the United States needs to be committed to vigilance along the southern border.

But, the case for fundamental reform should be even more compelling. Presumably, the combination of the new high security stakes and the acknowledgement in the Ridge-Manley agreement that hardening the 49th parallel is self-defeating, should create fertile ground for a thoughtful reexamination of the prevailing approach to managing the southern border. So why hasn't this logic been the prevailing one? The answer lies with the fact that the southern border is imprisoned in a legacy of immigration and drug enforcement efforts. Despite two decades of evidence to the contrary, Washington continues to see interdiction at the border as the key to successfully combating the northbound flow of illicit drugs and migrants.

To adopt the "smart border" agenda throughout North America will require that Washington countenance an alternative approach to dealing with the issues of illicit drugs and immigration. It will require the federal agencies for whom border enforcement has been a growth business to acknowledge the unintended consequence of their collective effort has been to actually make the border region more difficult to police and secure. And it will require those within the U.S. Congress who oppose NAFTA to stop exploiting America's newfound homeland security imperative as a means for advancing their protectionist agenda.

CONCLUSION

The most important reason to get border management right is to satisfy what is arguably the most critical homeland security imperative of our time: to reduce the risk that hemispheric and global trade lanes will be exploited to smuggle a weapons of mass destruction into the United States. Without a committed effort to advance a bilateral approach to border management, terrorists will continue to have ample opportunity to bring their battles to American streets. It is in the collective interest of the United States and Mexico to work together to mitigate that risk.

But the impetus for challenging conventional notions of border control owes its source not just to a transformed post-9/11 threat environment. It is also a long overdue response to the evolution of commercial and social patterns of interaction throughout North America that have made continental relationships more dynamic, organic, and integrated. As such, the case against traditional border management practices such as those pursued along the southwest border had been already made by the close of the last century for anyone willing to look objectively at the yawning gap between enforcement rhetoric and reality. Stepped-up efforts to harden the border are a flawed, even counterproductive, approach to advancing important security and public policy interests.

By contrast, the kind of "smart border" initiatives being embraced on the northern border hold out real promise. The outline for transformed border management is clear. It requires a risk management approach to policing cross-border flows which includes the close collaboration of the major beneficiaries of an increasingly open North American continent—the United States—neighbors to the North and the South, and the private sector. The stakes of getting this right are also clear. Transforming how the border is managed is an essential step towards assuring the long-term sustainability of hemispheric economic integration within the context of the transformed security environment of the post-9/11 world.

Thank you Mr. Chairman. I look forward to responding to your questions.

FOOTNOTES

¹ Peter Andreas, *Border Games: Policing the U.S.-Mexico Divide* (Ithaca: Cornell University Press, 2000).

² Keith Philips and Carlos Manzanares, "Transportation Infrastructure and the Border Economy," in *The Border Economy* (Dallas: Federal Reserve Bank of Dallas, June 2001), 11.

³ Field visit by the author to Laredo, Texas Aug 20-21, 2001.

⁴ Office of National Drug Control Policy, *National Drug Control Strategy: 2001 Annual Report, Shielding U.S. Borders from the Drug Threat* (Washington: USGPO, 2001).

⁵ U.S. Customs Service, "About U.S. Customs," accessed on September 6, 2002 at <http://www.customs.gov/about/about.htm>.

⁶ U.S. Customs Service, Border Wait Times at major northern and southern border crossings. Current border wait-times information is available at <http://www.customs.gov/travel/travel.htm>.

⁷ Steve Erwin, "Automakers forced to shut down: Parts shortage suspends production," *Edmonton Journal*, September 14, 2001, F4.

⁸ "Parts Shortages Cause Ford Shutdown," *Associated Press*, September 14, 2001.

⁹The Committee is informally known as the "Leene Committee," named for its founder, James Leene, a former policeman who serve's in the U.S. Attorney's office in Burlington, VT.

¹⁰6th Annual Canada-U.S. Cross-Border Crime Forum Press Release, July 6, 2002, accessed on September 6, 2002 at <http://www.sgc.gc.ca/Releases/e20020722.htm>

¹¹George Haynal, "Interdependence, Globalization, and North American Borders," in *Governance and Public Security* (Syracuse: Maxwell School, 2002), 55.

¹²Authors calculations based on statistics available at Statistics Canada, www.statcan.ca

¹³The Whitehouse Office of Homeland Security, "Action Plan for Creating a Secure and Smart Border," Dec. 12, 2001, accessed on September 5, 2002 at <http://www.whitehouse.gov/news/releases/2001/12/20011212-6.html>

¹⁴Office of the Inspector General, "Interim Report on Status of Implementing the North American Free Trade Agreement's Cross Border Trucking Provisions," Federal Motor Carrier Safety Administration, MH2001-059, (May 8, 2001), 7. Also, Statement of the Honorable Kenneth M. Mead, Inspector General, USDOT, "Motor Carrier Safety at the U.S.-Mexican Border," July 18, 2001 before the Committee on Commerce, Science and Transportation, United States Senate.

¹⁵TEA-21 [1119(a)].

¹⁶Robert C. Bonner, "Pushing Borders Outwards: Rethinking Customs Border Enforcement," A speech presented at the Center for Strategic and International Studies, Washington, D.C., Jan. 17, 2002.

¹⁷Intrusion Detection Resources, accessed on September 6, 2002 at <http://www.cerias.purdue.edu/coast/ids/ids-bodu.html>.

¹⁸"Summary of Smart Border Action Plan Status," Press Release, Office of the Press Secretary, The White House, September 9, 2002, <http://www.whitehouse.gov/news/releases/2002/09/20020909.html>

¹⁹Transcript of remarks by President George W. Bush and Canadian Prime Minister Jean Chretien at Detroit Customs Station, Monday, September 9, 2002, <http://www.whitehouse.gov/news/releases/2002/09/20020909-4.html>

²⁰Ibid.

The CHAIRMAN. Thank you very much, Dr. Flynn, for citing three very, very important issues which we will try to continue to address in our discussion, and which we hope that you will discuss further in the rest of your paper.

Dr. Papademetriou.

STATEMENT OF DR. DEMETRIOS G. PAPADEMETRIOU, PRESIDENT, MIGRATION POLICY INSTITUTE

Dr. PAPADEMETRIOU. Thank you very much, Mr. Chairman. I thank you for the opportunity to appear before your committee.

I will talk a little bit about the U.S.-Mexico relationship initially in the context of migration. Then I will say something about thinking outside of the box with regard to NAFTA and what it is that perhaps we can expect from that relationship beyond the standards of trade and economic relationships. Then I will say a few things about how one conceptualizes and goes about putting together, piecing together, comprehensive immigration reform. And in the context of doing so, I will also say a couple of things about the Craig-Kennedy legislation, the AgJOBS legislation, that you heard referenced. Finally, I will return to Mexico and suggest a few things we might do there, if you do not mind.

Mexico and the United States, with regard to migration and many other things, are completely intertwined, in fact, indivisible, inseparable. The relationship goes back more than 100 years. About a third of all of the foreign-born people in the United States are, indeed, Mexicans. About one-sixth of the annual legal immigration flow to the United States comes from Mexico. According to the best estimates that we have of illegal immigration, about three-

fifths, 60 percent, of unauthorized immigrants are coming from Mexico. Incidentally about an additional 23 percent comes from Central America and South America.

Entire economic sectors in the United States are now dependent—I am not saying relying on—dependent on the kind of labor that hardworking Mexican workers and other Central Americans provide. Of course, no one relies more heavily on Mexican and Central American workers than U.S. agriculture with its perishable crops. There almost 100 percent of the work force is Latino, Hispanic, and at least 75 percent of it is undocumented, unauthorized.

So regardless of how we think about Mexico, regardless of what it is we do with regard to immigration, Mexico will always be the big elephant in the room that we cannot ignore.

Mexico is also a NAFTA partner, and I would like to help us think of NAFTA in larger terms, not just as an opportunity for greater trade with and greater investments in Mexico, or for that matter within the North American space, but as an opportunity for greater, deeper North American integration. I think reasonable people can really think through what that might mean.

NAFTA is also a vehicle for addressing issues of common concern, but more importantly, for taking joint responsibility for fixing these issues, for positive outcomes with regard to these issues. Border issues and terrorism, but also migration, are a natural fit for this kind of understanding of NAFTA. Together with Mexico and Canada, perhaps we can start thinking of NAFTA as a vehicle toward a safer North America, a more competitive and more prosperous North America, a more democratic and rule of law-based North America, and a North America that is better socially developed.

How should we conceptualize comprehensive immigration reform? If you will allow me, I think of it as a three-legged stool. The beauty and the problem with putting together three-legged stools is that you have to be very accurate about the length and everything else of each of the legs. I suggest that if we want to have stable immigration reform, perhaps putting it differently, immigration reform that will last each element must be carefully balanced. The alternative is that we can have quick and dirty or, for that matter, very lengthy and not particularly well-conceived, immigration reform legislation that is going to bring us back to the Congress 2 or 3 or 4 years down the road seeking to fix it again.

So I tried to think, with the experience of the last 10, 20, 30 years, what it might take to come up with something that perhaps has an opportunity to last awhile. I thought that three things would be required.

The first one would be to give an opportunity to people here who are in an unauthorized, undocumented, illegally resident status, whatever your preferred term is, but essentially those people who are here illegally, to actually earn their new legal status. Reasonable people can sit around the table and try to figure out what those criteria might be. They should be tougher rather than easier and should give people an opportunity to work hard toward achieving that new status in the future, 2 or 3 years later, rather than on the basis of what they may have done in the past 2 or 3 years.

The second one is that we have to enforce our immigration and related laws better. This is not about putting more money there, although money will also be required, or perhaps deploying forces more intelligently, in methodological terms, though that will also be required. I am actually asking for nothing less than a from-the-ground-up rethinking of what laws we are being asked to implement because my fundamental conclusion from looking at these issues over a long time now is that some of the ideas that we introduced in the mid-1980s may have looked fine at the time, but 20 years later it is time for us to rethink them. I am asking for a zero-based policy review of these ideas.

The third element of reform is taking into account future demand for immigrants, for individuals, to reunify with their close family members and for employers to have employees that they value. We are going to have to do something about truly expanding immigration numbers in all sorts of different ways, temporary, permanent, work visas, family visas.

Finally, I wanted to plug AgJOBS. I have been listening to the government witnesses. This is the third time I have testified in the past month on this. I am always stunned by the fact that really they are not saying anything much different than what is included in AgJOBS. But I have yet to hear a government witness basically saying we will support AgJOBS.

AgJOBS may not be the model that we will ultimately follow in immigration reform, but it is certainly a model that makes sense. It has been negotiated in a painstaking way, and it makes sense considering the exceptionality of the U.S. agricultural sector.

Finally, back to Mexico. Anything we do with regard to all of these people who are here will have a disproportionate effect on people from Mexico. As I noted, Mexicans account for 60 percent of unauthorized immigrants and probably more. We have been surprised before in our estimates.

Also, most of the things that we try to accomplish in terms of our security, in terms of keeping the wrong kinds of things from coming into our country, et cetera, can be achieved much better when we work with our contiguous countries in the NAFTA partnership than by ourselves.

Second, anything with regard to any future worker scheme—temporary workers or whatever you want to call it—inevitably the lion's share of those visas will go to Mexico. Mexicans have the employer relationships. They have the networks, et cetera. Why not begin to think together with Mexico about that part of it?

Finally, since Mexico inevitably is going to be the principal partner directly or indirectly in whatever it is that we do on immigration, why not start to talk to them in a systematic way immediately?

Thank you, Mr. Chairman.

[The prepared statement of Dr. Papademetriou follows:]

PREPARED STATEMENT OF DR. DEMETRIOS G. PAPADEMETRIOU

INTRODUCTION

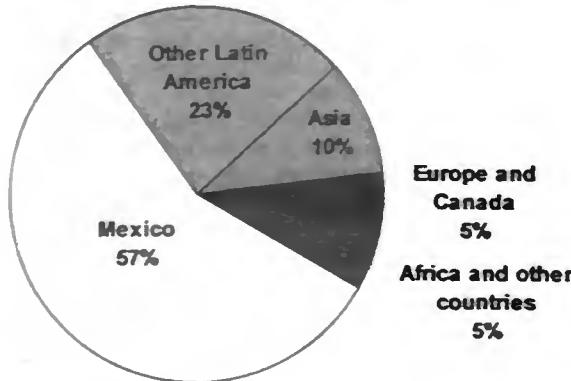
Mr. Chairman, Ranking Member, Members of the Committee on Foreign Relations.

Thank you for the invitation to comment on the President's immigration reform proposals in the context of the broader U.S./Mexico relationship.

In his far-reaching statement of January 7, 2004, President Bush returned to one of the earliest themes of his Presidency and to one of the country's most intractable policy and political dilemmas: how to manage better the U.S. immigration system. Echoing the refrain of "safe, orderly, and legal" immigration of his first meeting with Mexico's President Vincente Fox in February, 2001, Mr. Bush acknowledged again that while the U.S. "values" and "depends on" immigrants, our broken immigration system "condemns . . . millions of hardworking men and women" to working in a "massive, undocumented economy . . . [albeit in] jobs American citizens are not filling." Mr. Bush's prescription? A massive and apparently rolling temporary worker program both for currently unauthorized and new immigrants matching "willing workers" with "willing employers."

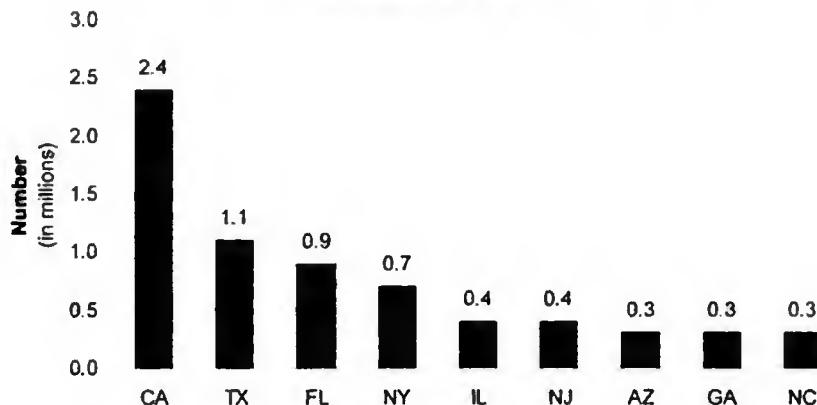
In doing so, the President jump-started a stalled national conversation on the role of immigrants in U.S. society and on the way forward on U.S. immigration reform. His acknowledgment that the immigration system is broken is fully consistent with the facts. There are currently as many as 10 million unauthorized immigrants in the United States; about three-fifths of them are Mexicans, while Central and South Americans provide another quarter of that total (see Chart 1). More than half of this illegally-resident population is found in just four states—California, with more than a quarter of the total, followed by Texas, Florida, and New York (see Chart 2). Furthermore, nearly half-a-million new unauthorized immigrants (mostly Mexicans) are added to our economy and society each year.

CHART 1
**Illegally-Resident Immigrants in the United States by
Country and Region of Origin, 2002**



Number of illegally-resident immigrants in the United States: 9.3 million. Source: Urban Institute, 2004.

CHART 2
**States With the Largest Number of Illegally-Resident
 Immigrants, 2002**



Number of illegally-resident immigrants in the United States: 9.3 million. Source: Urban Institute, 2004.

While Asians and the rest of the world are estimated to provide about one-in-five of the foreigners who are illegally-resident in the U.S., the U.S. unauthorized immigration problem is decidedly a hemispheric one. More precisely, it is a Northern Hemisphere one, and more precisely yet, a Mexican problem. Numbers and geography, as a result, mean that any attempt to manage unauthorized immigration to the United States must keep Mexico and Mexicans close in mind.

THE MEXICO FACTOR IN U.S. IMMIGRATION POLICY

Nor is this somehow a new phenomenon. In the last regularization of unauthorized immigrants, conducted under the 1986 Immigration Reform and Control Act (IRCA), about two million Mexicans received permanent lawful resident (LPR or "green-card") status—about 75 percent of the successful applicants. Since then, and in the largest part because of IRCA, legal migration from Mexico has come to comprise about one-sixth of total annual U.S. intakes. Illegal Mexican migration has also gained considerable momentum, as the social and labor recruitment networks that help Mexican migrants come northward have become even more efficient and U.S. employers have become even more accustomed to recruiting and employing Mexican workers. As a result, Mexicans already living in the United States have become even more embedded in U.S. society and Mexicans of all legal statuses have come to comprise increasingly large pluralities of workers in low-skill, low value-added economic sectors—and even to dominate many of them throughout the United States.

Beyond the numbers, however, many of the assumptions that are now driving U.S. thinking about immigration reform are directly informed by migration from Mexico. For example, every major immigration reform proposal introduced in the last year or so emphasizes, more or less directly, restoring the "circularity" of earlier migration patterns as a key goal of immigration reform. To be sure, immigrants from all countries often return to their home country and, increasingly, they may make this two-way trip repeatedly. However, Mexico's geographic proximity to and historically complicated migration relationship with the United States has shaped a tradition of circular migration that, until recently, had been far longer and stronger than any other nation's.

Furthermore, it is Mexico's (and, to a much lesser extent, Central America's) tradition of circular migration that can be most accurately described as having been most directly "disrupted" by the U.S. border enforcement policies of the past ten or so years. Stepped-up enforcement on the United States' southern border has both preceded and, until the last two years or so, has been more intense than changes in controlling access by air and sea. This, in turn, has contributed to longer stays by unauthorized Mexican immigrants and has made the tendency toward longer—

and essentially permanent—stays the key to understanding the Mexico-to-U.S. migration of the last decade or so. Not surprisingly, then, the success of any U.S. immigration reform effort will ultimately rest on the accuracy of our assumptions about the nature of Mexican migration and its place in the U.S. economy and society.

Yet, so far, every major immigration reform proposal—including the President's—has been decidedly unilateral in expression. A combination of factors makes Mexico the most natural partner—a true *primus inter pares*—in a more realistic approach to our efforts to manage migration more effectively.

- First, since Mexico contributes a significant majority of the U.S.'s total unauthorized population, it is a logical major partner in a bilateral approach to resolving the illegal immigration puzzle.
- Under the same logic, Central America must also remain within our proximate policy thinking on immigration reform, making “thinking regionally” on this issue simply compelling.
- Secondly, the United States and Mexico (as well as Canada) already have a well established relationship—they are partners in the North American Free Trade Agreement (NAFTA) and jointly manage many critical issues that relate to our border security and to law enforcement priorities for both countries.
- The United States and Mexico have also launched a modest joint program to promote economic development in Mexico called the “Partnership for Prosperity”—a program that acknowledges the importance of Mexican economic development in promoting the NAFTA region's long-term economic and social well-being. So far, however, the program is mostly “aspirational” in nature but, with the help of this Committee, it can be moved off the political back-burner.
- Third, political and economic imperatives in both countries make thinking bilaterally (and, again, regionally) about migration and related issues particularly attractive: in few other countries is migration as potent a domestic political issue as in Mexico, Spanish-speakers power our labor intensive economic sectors, and Hispanics (and particularly Mexican-Americans) make up an already large and fast increasing part of the electorate in the United States.

These and many other factors like them make Mexico (and the region) the natural starting point for an open-ended conversation on migration. It is also the place where whatever immigration legislation emerges will be tested first, and most tellingly. Put differently, while Mexican cooperation may not guarantee the full and immediate success in whatever immigration reform objectives we set for ourselves, the failure to enlist Mexico's *fullest* cooperation will make progress toward meeting those objectives much more expensive, much more difficult, and far less certain.

THE THREE-LEGGED STOOL OF SMART AND STABLE IMMIGRATION REFORM

Almost regardless of the level of bilateral (and regional) coordination, any immigration reform package that aims for long-term success must deal with three very difficult issues more or less simultaneously: (a) accounting for and offering the opportunity to the currently illegally-resident immigrant population to earn green cards; (b) preventing future unauthorized immigration to the fullest extent possible through thoughtful policies and smart enforcement; and (c) providing adequate legal means for needed immigrants to enter the United States by expanding the number of visas of all types—permanent and temporary, for families and for workers.

These three policy goals must be understood as being fundamentally *indivisible*, at least if the policy aim is *stability* in, rather than simply another bite at, reform. A fully integrated approach to reform might thus be conceptualized best as a “three-legged stool” that will be by definition wobbly if any of its legs are significantly uneven and will simply topple if any one leg is removed. I will discuss each of these three “E’s” of comprehensive reform—earning legal permanent status, enforcing the immigration laws better, and expanding visas in sequence below.

Leg One: Earning green cards must become an opportunity available to all illegally-resident immigrants

The domestic security agenda established after September 11 has cast the long-standing and growing unauthorized population in the U.S. in a new light—as a potential hiding place for terrorists. Analysts talk about the challenges of finding the “needle in the haystack” and hotly debate the appropriate and constitutionally sound ways to make that haystack significantly smaller. Ideas have included registration, deportation (focusing initially on criminal immigrants), increased enforcement measures internally and at the border, and attrition (as a collective result of these efforts).

As noted earlier, today's "haystack" is composed of nearly 10 million people who are living and working in American communities. Even the most "back-of-the-envelope" calculation shows that, even under the most favorable assumptions, a strategy designed to reduce the unauthorized population to publicly acceptable levels (if we knew what those might be) that utilized only enforcement and deportation methods would require tens of billions of dollars, decades of time, and significant damage to the nation's concept of civil and other rights. It would also require even more heroic assumptions about the United States' ability to keep new would-be illegal entrants and illegal stayers out.

It is in this context that we must evaluate the plan proposed by President Bush. According to that plan, the permission to stay legally would be contingent upon employment and initially last for three years, with the possibility of one (or more?) renewals. In order for that plan to succeed in its principal objective of "breaking the back" of illegal immigration, such an offer must be combined with a meaningful opportunity for unauthorized immigrants to remain in our country by "earning" their green cards. The White House is reported to be more open to this idea than the President's statement may have indicated at first.

The domestic security argument for following this, more expansive, course is as simple as it is compelling: the utility of the overall effort depends greatly on the level of participation. An effort that leaves millions of people unregistered (and hence un-vetted in security terms) still leaves a considerable security problem. In fact, a program that allows only temporary stays is not likely to prove a sufficient inducement to come forward either for those immigrants who have developed deep social and economic roots in our communities or who fear that registration could be used against them in other ways.

The level of participation in the regularization program will also influence the success of broader efforts to control illegal immigration. When Congress enacted IRCA in 1986, it thought of regularization only in classic amnesty terms, and extended its pardon to anyone "continuously" in the U.S. since before January 1, 1982. When the law was finally implemented in November, 1986, the previous five years of illegal arrivals did not qualify for regularization. At the same time, however, they had little incentive to leave.

These three million still-unauthorized immigrants simply burrowed into U.S. communities, continuing to do essential work, but in an even more unprotected legal environment. They continued to reunify with their families legally or illegally, build new families, and have American children. With millions of unauthorized residents continuing to live and work in the U.S., the IRCA legalization program never established a "clean slate" from which to launch its enforcement provisions, and the unauthorized immigrants left behind by the law formed the nucleus for the even more spectacular growth of the unauthorized population in the 1990s.

Many unauthorized immigrants have spent years in the country, are working at permanent jobs, and are parents of citizen children. At the end of the last fiscal year, the Department of Homeland Security had more than 1.2 million pending green card applications and naturalization waiting times in the largest metropolitan areas are approaching four years. For most of these people, and many more, "restoring circularity" may not be a goal that will move them to register in a program like that proposed by the White House; they will need a real opportunity to obtain legal permanent residency instead. If offered regularization without the prospect of permanent residency, and even if they take that offer up front, many may simply choose to remain in the United States at the end of their allotted time, rather than return home after a decade or more of absence.

Leg Two: Enforcing our immigration laws better

Offering the currently illegally-resident population an opportunity to earn "green cards" will not amount to much of a reform if unauthorized immigration is not controlled more effectively during and following the regularization process. Effective enforcement, however, will not only require greater enforcement resources; it will demand a rethinking of enforcement strategies.

The U.S.-Mexico border provides an important example. Beginning in the mid-1990s, spending on border enforcement was increased dramatically and the Border Patrol adopted a new strategy of "control-through-deterrence" that initially focused enforcement resources on regaining control over one sector at a time—starting with the sectors most in need of attention. In many ways, these efforts paid off: crossing successfully became gradually more difficult and the fees charged by smugglers rose accordingly. Yet, border-crossers shifted their efforts to other, less well-secured (but also more dangerous) areas and once over the line, unauthorized immigrants found jobs easily and faced little threat of apprehension and removal. As a result, many migrants continued to cross, but their passage became costlier and riskier—and

deaths along the border mounted. Migrants who successfully ran the gauntlet of crossing the ever more heavily patrolled border started to defer trips back home, turning the enhanced border enforcement strategy into one that effectively "locked people in," rather than keeping them out.

Part of the lesson from this experience is that although border enforcement remains a necessary part of the strategy for controlling unauthorized immigration, it must be supplemented by a smart interior enforcement strategy. Until recently, this strategy has been based almost exclusively on penalizing employers for hiring illegal workers—an approach that has never developed roots and, as a result, it has never received adequate resources or worked particularly well even when resources were made available. A renewed commitment to manage migration much better will require more resources, a review of employer sanctions that re-examines U.S. enforcement methods from the ground up, and serious consideration of alternatives. As we move toward a temporary work visa program, enforcement of labor standards and other workplace protections will also have to be rethought and become essential parts of the enforcement agenda.

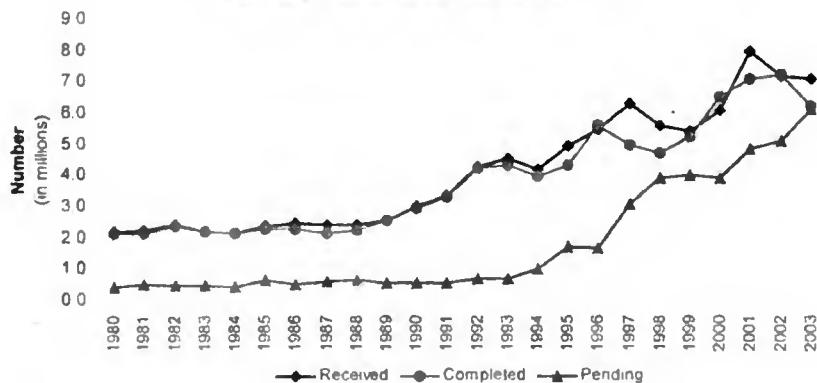
Leg Three: Expanding visa numbers must become a co-principal in the new policy architecture for recapturing control over unauthorized immigration

However generous the earned regularization provisions of a comprehensive U.S. response to immigration is, and however well-conceived and properly funded enforcement efforts come to be, *they will be for naught unless the number of available visas also expands*. Expanding visas will give American employers access to legal foreign workers while allowing would-be migrants a more realistic opportunity to migrate legally to work, to join family members, or both. Unauthorized immigrants, and the overwhelming majority of Mexicans and Central Americans in particular, are largely employed in low-wage, low value-added jobs, mostly but not exclusively in the service sector, making these positions a priority for additional visas. Temporary work visas will be an appropriate solution for some of these entries. For any large-scale visa program to maintain its integrity, however, it must be accompanied by tough but fair enforcement as well as by imaginative financial incentives to return. At the same time, we must also be clear that neither enforcement nor return incentives will work in every case; some workers will still want to stay and some employers will still want to keep their most reliable employees. Creating a clear, if demanding, path to permanent residency is the only way to address this policy challenge.

While more work visas are thus an essential migration management tool, family reunification will remain a core value in the U.S. immigration system (and it will continue to play a crucial role in fostering immigrant integration). As such, it must receive its share of attention in any serious effort at immigration reform. Our administrative failings in this regard are legion. As Chart 3 makes clear, the backlogs in our immigration adjudications' system are massive and contribute unnecessarily to unauthorized immigration.

Part of the reason for the backlog is legitimate. Delivering immigration benefits must be accurate, security considerations must be satisfied to virtual certainty, and the service must be professional, courteous and above reproach. *But immigration benefits must also be delivered in a timely fashion*. The cost of failure in that last regard is not just longer waiting lines and the likely (but largely unnecessary and avoidable) swelling in the unauthorized population; it is the breeding of disrespect, if not disregard, for the rules, a phenomenon that has an hugely corrosive effect on the rule of law. That effect is not unlike that which offends so many law-abiding Americans when they see unauthorized immigrants come and/or stay in our country illegally.

CHART 3
Total Applications Received, Completed, and
Pending, Fiscal Years 1980 to 2003



Source: Office of Immigration Statistics, Department of Homeland Security G-22.2 Adjudication Summary Report and G-22.3 Naturalization Summary Report. Total completed is the sum of approved and denied. Data are current as of February 3, 2004. Note that counts of the last three years may fluctuate upwards or downwards due to revisions.

A look at Chart 3, which tracks the total benefit applications received, completed (a number that reflects approvals *plus* denials), and pending since 1980, makes clear that until the early 1990s, pending applications were holding fairly steady both in absolute numbers (in the low hundreds of thousands) and relative to completion rates. So were the numbers of received *and completed* applications. Demand began to grow as those who received lawful permanent status under the Immigration Reform and Control Act of 1986 became eligible for benefits, primarily as petitioners for their immediate family members. Yet, for a period, the immigration service was more or less able to keep up with most of the additional demand.

Things started to fall apart, however, by the mid-1990s, when the IRCA-fueled demand for adjudications combined with the surge in naturalization petitions that resulted from what some analysts have characterized as that period's "assault on immigrants." That "assault" culminated in three pieces of legislation in 1996: The "Anti-Terrorism and Effective Death Penalty Act," the "Personal Responsibility and Work Opportunity Reconciliation Act," and the "Illegal Immigration Reform and Immigration Responsibility Act."

Surges in demand, however, are not the only variable responsible for what happened to adjudications after 1996. The naturalization re-engineering that followed the political debacle of the Clinton Administration's efforts to promote naturalizations in 1995 and 1996, created a sharp completion trough that lasted until 1998. Following the reengineering, completion rates increased again until FY 2002, when, in the painstaking review of all immigration procedures that 9/11 made necessary, they dropped precipitously once more—a drop from which they have shown no signs of recovering so far. In fact, at this time, the immigration benefits' overall adjudication backlog is *well over six million* (it stood at 6.2 million at the end of FY 2003, with more than 1.2 million pending "green card" adjudications and multiyear naturalization delays).

Creating a system in which immigrants will "wait for their turn" requires renewed commitment on our part to adjudicate petitions for immigration benefits in a much more timely fashion. This includes the commitment to appropriate the requisite public resources to clear these backlogs.

ENACTING THE AGJOBS AS A DOWNPAYMENT TOWARD COMPREHENSIVE IMMIGRATION REFORM

The three "E's of reform set standards for judging not only the "completeness" of any reform proposal but especially the likelihood that we would control illegal immigration while promoting U.S. social goals and economic priorities. Viewed through the lenses of both human rights and economics, the three-legged stool of reforms proposed here will bring millions of hard working, law-abiding people "out of the

shadows" with absolutely no disruption to the economy—and do so while building a deep reservoir of good will in the region whose returns will be counted in terms of increased security, greater stability, improved prosperity, *and good will*.

Do these lofty goals mean, then, there is nothing that can be achieved in this legislative session that is a downpayment for, rather than an excuse not to, undertake comprehensive reform? Put differently, are there no legislative "baby steps" that can be taken *now* that can set the table for more comprehensive reform after the elections? There is in fact one such well thought out piece of bipartisan legislation that is pending already before the Congress: The Agricultural Job Opportunity, Benefits, and Security Act, or "AgJOBS." The President chose not to mention this bill in his statement on immigration but the White House has apparently indicated to the Bill's authors that if the legislation is enacted, the President will sign it.

In essence, AgJOBS would stabilize the agricultural workforce in perishable crops—a workforce that is almost entirely Latino and three-quarters or more unauthorized—while protecting better *in fact* all of that sector's workers. It would do so by allowing unauthorized workers to work legally and begin to earn lawful permanent residence if they have worked in U.S. perishable crop fields for 100 work days in 12 consecutive months during the 18 months prior to the legislation's enactment (thus targeting the more experienced workers). These newly legal temporary workers would be able to remain in the U.S. for up to three years and take any job. However, they would have to perform a minimum of 360 work days of agricultural work in the subsequent six years (and required minimums in the first three of these six years) before they can obtain lawful permanent residence.

New workers would also be able to gain legal access to this economic sector with fewer procedural requirements—thus guaranteeing growers more predictable access to the legal and stable workforce they seek. In return, work-related benefits, legal protections, and labor standards throughout the sector (such as wages, housing/housing allowances, collective bargaining rights, and, most notably from a worker protection perspective, a federal private right to action and the ability of third parties to bring complaints to the U.S. Department of Labor) would also be enhanced, in many instances dramatically so.

Agjobs has been painstakingly negotiated, has made its peace with American agriculture's long "exceptionalism" with regard to immigration rules, and, most importantly, it is a vast improvement over the status quo. It thus meets most criteria of what reform legislation on immigration must come to terms with—while its single sector focus tackles smartly and removes one of the toughest issues on which comprehensive immigration reform efforts have always stumbled.

RETURNING TO MEXICO: BEING SMART ABOUT AND BUILDING UPON THE BILATERAL COOPERATION OPPORTUNITIES THE NAFTA HAS CREATED

At the moment, debate in the United States is largely focused on unilateral approaches to immigration control, including much-needed changes designed to "putting our own house in order." While some of the dimensions of a new approach to immigration must involve nationals of all countries—earning green cards, for instance—cooperation with Mexico (and Central America) continues to have distinct advantages.

A phenomenon as complex as migration, and in which so many sectors of American society—including "government at all levels"—are so deeply "implicated" (in the January 2001 words of former Texas Republican Senator Phil Gramm), cannot be managed as well unilaterally as it can with the cooperation of our neighbors. Pragmatism, even humility, is no weakness if the focus is on the right prize, an insight that is being reinforced everyday in our "war on terror" and one referred to explicitly in the President's 2004 Budget Statement regarding the Department of Homeland Security.

Furthermore, the North American Free Trade Agreement (NAFTA) has created a framework for cooperation on and, consequently, ample opportunities for joint action in the region that the U.S. Congress, most analysts, and key stakeholders on this issue did not have in their field of vision in the drafting and deliberations of the 1986 attempt at large-scale immigration reform. Nor were Mexico's or most notable Mexicans' public comments at the time particularly helpful or cooperation-inspiring. As a result, reaching out to Mexico (or Canada) 20 years ago was not a realistic option and few actors gave it serious consideration.

Today, ten years after NAFTA and two-plus years after the September 11, 2001, attacks on our homeland, there is a far greater appreciation of the fact that homeland security does not start at our borders. Border controls are in fact more effective the further away they begin from our physical borders, while the fight against human and other trafficking stands a much better chance at success when under-

taken in cooperation with like-minded countries. Mexico and Canada are thus essential assets in our homeland security arsenal.

In this perspective, one of NAFTA's principal contributions to the U.S. is creating an environment in which deeper and broader bilateral relationships between the United States and Mexico (and the United States and Canada) on matters that go well beyond trade has become possible—and in some ways, even routine. This reality has set the stage for far greater cooperation on security, migration and other difficult issues. Whether we are able to draw out of these relationships what we need in terms of our security and our migration management aims is almost a direct function of how much capital of all types we are willing to invest and where we are willing to make these investments.

Specifically, working with the Mexican Government in the political context created, even if inadvertently, by NAFTA, can pay crucial security dividends for us. For instance, it can lead to agreements whereby Mexico can take an ever more active role in disrupting people-smuggling networks, the same networks that are often thought to be responsible for the smuggling of other illicit materials, and in controlling access to its territory by those seeking to use Mexico as a transit or staging area for people and goods seeking entry into the United States illegally.

Defeating these networks and disrupting illegal entry and passage routes—domains in which the Mexican Government is making substantial progress but receives little public credit in the U.S. (while simultaneously paying a significant political price in Mexico)—is not just a U.S. priority. The Fox Administration has an increasingly finely-tuned appreciation of the fact that, by undermining the rule of law and undercutting his government's credibility, smuggling syndicates and criminal networks make Mexico's own good governance aims more distant. Furthermore, Mexico's limited policing resources will be able to cover less ground if more people attempt to use it as a transit country into the United States. Hence the coincidence of bilateral policy interests—a reality that Mexican leaders at times seem to appreciate more than their U.S. counterparts do, especially those in the U.S. Congress.

The most obvious way in which true, organic cooperation with Mexico can help the United States is with the management of our common border. Significant efforts to cooperate in border management are already underway, but can be expanded and deepened. Tying this cooperation to reforms in U.S. immigration policy may be the best way to give the Mexican government the political ammunition it needs to make full and active cooperation at the border even more possible.

The possibilities for mutually useful cooperation do not stop at the border. In the three-legged stool approach to immigration reform I have outlined, Mexico has much to offer. Its public records can be a valuable resource for verifying the backgrounds and eligibility of candidates both for legalization and temporary work program participants. The Mexican Government's cooperation in conceiving of and implementing a large scale temporary worker program must also not be underestimated.

Cooperation on all these fronts will require both the United States and Mexico to come to view stability and predictability in their bilateral migration relationship as a goal that brings enormous benefits to both countries. There is indeed evidence that this idea is beginning to take hold. In the United States, the language used to discuss the issue in some mainstream political circles has shifted from "illegal aliens" to "willing workers." Mexico, for its part, appears to understand better that policies that may appear to offer it the most immediate economic and domestic political rewards (such as arguing only for a temporary worker program or taking its part of the joint responsibility for managing the common border lightly) may prove to be shortsighted—and that working with the United States to build a common pillar of security and prosperity is indeed in the best interests of its citizens.

As the discussion over immigration reform moves forward in the United States, Mexico will continue to hold a prominent place both in the debates and the solutions. The extensive and complex migration relationship that has evolved between the two countries in the last 100 years may be the greatest obstacle facing immigration reform in the United States; their deepening and broadening political and economic relationship, however, may offer the best chance of surmounting this obstacle.

The CHAIRMAN. Thank you very much, sir.

Let me now introduce Dr. Valenzuela. I have mentioned the Aspen Institute conferences. He has been a tremendous resource to Members of Congress. I very much appreciate your testimony at the Aspen Institute. We look forward to your testimony here this morning. Would you please proceed.

**STATEMENT OF DR. ARTURO A. VALENZUELA, DIRECTOR,
CENTER FOR LATIN AMERICAN STUDIES, GEORGETOWN
UNIVERSITY**

Dr. VALENZUELA. Thank you very much, Mr. Chairman. I appreciate this opportunity, Mr. Chairman, to appear before the committee and I want to commend you for this hearing today.

As you know, Mr. Chairman, over the last two decades, the relationship between the United States and Mexico has grown in visibility, scope, complexity, becoming one of the most important bilateral relationships that the United States has in the world.

Mexico's growing importance for the United States is the reflection of fundamental changes that have taken place in Mexico and in the world economy, changes that have accentuated the integration of both countries. In 1950, Mexico was a semi-authoritarian, largely rural country of 25.8 million people with a life expectancy of 49 years and only half of its population literate. Today Mexico is an overwhelmingly urban, competitive democracy with close to 100 million inhabitants, a life expectancy of 69 years, and a literacy rate of 87 percent. It is the 11th most populous country in the world with an economy that ranks among the 15th largest.

With the approval of the North American Free Trade Agreement, Mexico became the third largest export market for the United States and an important destination for U.S. direct investment. U.S.-Mexico trade is now \$232 billion, three times what it was before NAFTA. And of course, we know that the long 2,000-mile border, the busiest in the world, has over 340 million legal crossings a year, suggesting the growing integration of border communities.

Mexico accounts also for 25 percent of the significant increase in foreign-born residents of the United States, the largest share of that category that any country has had since 1890 when Germans accounted for 30 percent of all residents born abroad. In turn, Mexican migration is a driving force behind the surge of the Latino population in the United States, which at 37.4 million has become the largest minority in the country, over 60 percent of whom are natives of the United States. It is estimated that about 66 percent of the total Latino population, that is, about 25 million, are of Mexican origin. Mexicans also constitute the largest number of immigrants who entered the country illegally, perhaps as many as 5 million of an estimated 7 million to 8 million undocumented workers.

Employment in the United States has been an important outlet for Mexico's population whose per capita income is a fifth of that of its neighbor to the north and has 40 million citizens living in poverty. Mexico, in turn, has supplied labor in critical areas of the U.S. economy, at a time when the population is aging and the United States faces the imminent retirement of the baby boom generation. But growing integration also poses numerous challenges including illegal immigration, unfair trade and labor practices, law enforcement problems, narcotics trafficking, environmental, health and security concerns, and many others.

It is important to stress that while Mexico commands far greater attention, it is not central today to U.S. foreign policy priorities and imperatives. Rather, policy toward Mexico is driven in fits and starts by a myriad of domestic factors. It is a policy that is often

diffuse, fragmented, and contradictory, spread across numerous government agencies with little overall coordination and focus. The very institutionalization of the relationship, which helps to routinize it and manage more fully its complexity, has also the unintended consequence of Balkanizing Mexico policy, losing sight of the overall national security and foreign policy priorities of the United States.

With the overall engagement with Mexico being largely positive, it is also true that United States policymakers have not fully assimilated the implications for the United States of the profound changes taking place in Mexico and their relevance to fundamental U.S. interests. In an uncertain and dangerous world, Mexico also needs to be conceptualized first and foremost in security and strategic terms. This means taking seriously the implications of the ongoing political, economic, and social transformations taking place south of the Rio Grande.

It is important to remember, Mr. Chairman, that not too long ago, in 1988, the election in Mexico was deeply flawed and in 1994 we saw several assassination attempts. Political institutions have lagged behind in Mexico the rapid changes that have taken place in the Mexican economy and society and account in part for some of the failures of Fox administration to advance needed economic, social, and political reforms, including critical reforms in tax policy, energy, education, justice, and broader reforms of the state. It is not an exaggeration, Mr. Chairman, that Mexican politics today is facing a serious stalemate.

In particular, Mexico's inability to implement energy reform and fiscal reform in a country where tax revenues account for only 12 percent of the national product has severely hampered the country's ability to become fully competitive internationally.

Now, it is not hard to articulate why the relationship with Mexico is of such vital interest. A prosperous and stable Mexico is essential to the well-being of the United States. A failed Mexico, on the other hand, of course, would present enormous challenges to the United States.

Now, the relationship with Mexico needs to be based, it is absolutely clear, on trust but also on a mutuality of interests that are not held hostage to disagreements in other areas. The souring of the promising U.S.-Mexican dialog initiated by the Bush administration because Mexico did not go along with U.S. preferences in the U.N. Security Council regarding the war with Iraq is a case in point. It sent a message that U.S. views progress on bilateral issues with proposal as concessions that are subject to Mexico agreeing with U.S. foreign policy priorities, rather than essential steps that also advance U.S. interests.

Now, what should be the general thrust of U.S. policy toward Mexico? To the credit of Presidents Bush and Fox in the early conversations that they had, they identified two key neuralgic areas for both countries in the years ahead, issues that are both intimately related. The first is the vast asymmetries in the standard of living between the two countries, and the second is the problem of migration and labor mobility.

Now, the Partnership for Prosperity, which speaks to the issue of asymmetries, was signed by the two Presidents and did reflect

a new emphasis. It does respond to Mexico's urging that the U.S. and Canada take a leaf out of the European experience where large investments were made by the richer countries in the poorer countries of the European Union such as Spain and Portugal that were also primarily labor-exporting countries.

The problem, Mr. Chairman, to date is that the Partnership for Prosperity includes no real tangible commitment from the United States. Private investment, a central feature of the scheme, can only work with substantial public investment, and the Bush administration has been long on rhetoric and short on substance regarding real efforts to support Mexico.

On immigration, both Presidents signaled at the beginning of the Bush administration that they were prepared to break the mold and seek genuine immigration change. It is clear that the U.S. economy has benefited enormously from migrant labor, and yet U.S. immigration laws, rather than protecting American jobs, tolerates a two-tiered labor market, one with no labor rights, poor working conditions, insufficient wages, and no rights to organize.

At the beginning, high level conversations between both countries centered on accomplishing two objectives, instituting a temporary worker program that would permit large numbers of Mexicans to come to the United States to work on a short-term basis, permitting greater circulation of labor back and forth. And these programs would expand the very limited ones geared today to agricultural workers.

The second objective that was discussed at the beginning of both administrations was to find mechanisms to regularize the status of illegal workers in the United States with the option of placing them on a path toward citizenship.

Now, unfortunately, that fruitful conversation came to an end, and it is not true, Mr. Chairman, that immigration reform was set back by 9/11. Already before the terrorist attacks, opposition from conservative circles in the Republican Party had led the President's political advisors to caution against any real progress in this area.

Now, I am pleased that President Bush, in hosting President Fox at his ranch in Crawford earlier this month, seems to have signaled that he wants to get the administration's Mexico policy back on track. And the President's speech calling also for immigration reform is encouraging because it puts this issue at the center of the national debate.

Unfortunately, the President's speech indicates that the White House has backed away from the fundamental tenets of immigration reform that was discussed at the beginning of their conversations, tenets that pointed immigration reform in the right direction. Rather than seeking a two-track policy that would expand temporary worker programs on the one hand and provide for regularization of the status of immigrants already in the United States with a path to citizenship on the other, the administration has opted for an ill-defined temporary worker program that would include those seeking temporary employment in the United States and those already working in the country without proper documentation.

Mr. Chairman, such a program will simply not work because it is based on faulty assumptions. The most serious is that undocu-

mented immigrants in the United States, many of whom have worked here for many years and have families in this country, would be willing to sign up for a temporary worker program that might force them to return to their country of origin after a limited time period. And with no concrete guarantee that their status in the United States could be made permanent, there would be then few incentives for them to participate and to come out of the shadows.

A realistic reform would recognize the contributions these immigrants have made to the American economy and provide them with a legal path toward regularization of their status and citizenship should they choose to do so.

A temporary worker program with a clear time line and no specific limitations on size is also based on faulty premises because it assumes that workers will come to the United States for a finite period of time and then return to their homeland. If businesses are willing to hire in the United States, despite legal restrictions barring them from hiring undocumented migrants, and workers face the reality of unemployment back home, they will continue to pursue employment opportunities in this country. A mechanism for adjusting status is essential for any temporary worker program.

It is also critical that workers in temporary worker programs be fully covered by U.S. labor laws. In that sense, Mr. Chairman, I think that the bipartisan legislation along the lines that Senator Hagel has presented and discussed earlier is a far better and more sensibly conceived package than the ones that have been outlined by the President even though he has not spelled them out completely.

In concluding, let me return and finalize my remarks by simply going back to the thrust of what I said at the beginning. Even the best conceived immigration reform proposals will not solve the inexorable population and social pressures that stem from the reality of contiguous societies with vast differentials in living standards. Mexico will continue to export workers to the United States as long as U.S. wage levels are higher and jobs are available.

The United States can no longer take Mexico for granted. While managing the complex and broad agenda involving two nations with 400 million inhabitants, the United States must not lose sight of the fact that Mexico is an essential partner that must successfully meet the challenges of building democracy and creating a better life for its citizens. And this requires, Mr. Chairman, a U.S. foreign policy with vision and leadership that sees Mexico in broader strategic terms and is willing to expend the energy and resources to ensure that Mexico can become a full partner in the North American Continent.

Thank you very much.

[The prepared statement of Dr. Valenzuela follows:]

PREPARED STATEMENT OF DR. ARTURO A. VALENZUELA

My name is Arturo Valenzuela. I am a Professor of Government and Director of the Center for Latin American Studies in the Edmund A. Walsh School of Foreign Service at Georgetown University. In the first administration of President William Jefferson Clinton I served as Deputy Assistant Secretary in the U.S. Department of State where my primary responsibility was the formulation and implementation of U.S. policy towards Mexico. In President Clinton's second term I served as Special

Assistant to the President for National Security Affairs and Senior Director for Inter-American Affairs at the National Security Council where I also focused considerable attention on U.S. relations with Mexico at a time when that country moved through a political transition of historic dimensions.

Mr. Chairman, over the last two decades the relationship between the United States and Mexico has grown in visibility, scope and complexity, becoming one of the most important bilateral relationships for the United States in the world. In its 1999 polling of elite public opinion, the Chicago Council on Foreign Relations found that Mexico tied in third place with Russia, just below Japan and China, at the top of a list of countries with which the U.S. has "vital interests." President George W. Bush scheduled his first foreign trip to Mexico and proclaimed "the United States has no more important relationship in the world than our relationship with Mexico. . . . We are united by values and carried forward by common hopes."

Mexico's growing importance for the United States is a reflection of fundamental changes that have taken place in Mexico and the world economy, changes that have accentuated the integration of both countries. In 1950, Mexico was a semi-authoritarian largely rural country of 25.8 million people with a life expectancy of 49 years and only half its population literate. Today, Mexico is an overwhelmingly urban competitive democracy with close to 100 million inhabitants, a life expectancy of 69 years and a literacy rate of 87%. It is the eleventh most populous country in the world with an economy that ranks among the fifteen largest. Its relative standing vis-à-vis the United States can be appreciated by the fact that the U.S. population fell short of doubling since 1950 while Mexico's quadrupled. Although the Mexican birth rate has dropped substantially in recent years, it remains much higher than that of the United States. As Mexico moved from a closed to an open economy the United States has absorbed over 80% of Mexican exports. With the approval of the North American Free Trade Agreement, Mexico became the third largest export market for the United States and an important destination for U.S. direct investment. U.S. Mexico trade is now \$232 billion; three times what it was before NAFTA. The long 2000-mile border, the busiest in the world, has over three hundred and forty million legal crossings a year, suggesting the growing integration of border communities.

Mexico accounts for 25% of the significant increase in foreign-born residents of the United States, the largest share of that category that any country has had since 1890 when Germans accounted for 30% of all residents born abroad. In turn, Mexican migration is the driving force behind the surge of the Latino population in the United States, which at 37.4 million has become the largest "minority" in the country, over 60% of whom are natives of the United States. It is estimated that about 66% of the total Latino population (25 million) are of Mexican origin. Mexicans also constitute the largest number of immigrants who entered the country illegally, perhaps as many as 5 million of an estimated 7 million undocumented workers.

This increase in commerce, population movements and migration has been accompanied by economic and cultural changes that have brought benefits to both countries and are rapidly transforming both societies. Employment in the United States has been an important outlet for Mexico's population whose per-capita income is a fifth of that of its neighbor to the north and has 40 million citizens living in poverty. Mexico in turn has supplied labor in critical areas of the U.S. economy, at a time when the population is aging and the United States faces the imminent retirement of the baby boom generation. But growing integration also poses numerous challenges including illegal immigration, unfair trade and labor practices, law enforcement problems, narcotics trafficking and environmental, health and security concerns.

Mexico's greater visibility in recent years on the Washington public policy agenda debate is a fairly new phenomenon. And yet it is important to stress that while Mexico commands far greater attention it is not central to U.S. foreign policy priorities and imperatives. Rather, policy towards Mexico is driven in fits and starts by a myriad domestic factors. It is a policy that is often diffuse, fragmented and contradictory, spread across numerous government agencies with little overall coordination and focus. The growing density of the relationship has resulted in increased efforts to institutionalize it as exemplified by the 14 working groups of the Bi-National Commission that brings cabinet members from both countries together every year. The very institutionalization of the relationship, which helps to routinize it and manage more fully its complexity, has had the unintended consequence of further Balkanizing Mexico policy, losing sight of the overall national security and foreign policy priorities of the United States. To the fragmentation of U.S. policy at the federal level must be added a myriad of interactions at the state and local level particularly in the border region. More than with any other country in the world,

policy towards Mexico is driven not by security or foreign policy imperatives, but by domestic considerations.

While the overall of engagement with Mexico is largely positive, it is also true that United States policy makers have not fully assimilated the implications for the United States of the profound changes taking place in Mexico and their relevance to fundamental U.S. interests. In an uncertain and dangerous world Mexico also needs to be conceptualized first and foremost in security and strategic terms. This means taking seriously the implications of the ongoing political, economic and social transformations taking place south of the Rio Grande, transformations that raise serious concerns about the short and mid-term ability of Mexico to prosper and consolidate its democratic institutions.

Although Mexico's transition to democracy has been less daunting than those of Eastern and Central Europe, the country is still forging the key institutions and practices of a competitive democracy and has a significant way to go in establishing the full rule of law. It is important to remember that the 1988 election in Mexico was deeply flawed and that as recently as 1994 Mexico saw the assassination of prominent political leaders, a guerrilla uprising in the South and a genuine struggle to ensure the legitimacy of the presidential contest in that same year. Political institutions have lagged behind the rapid changes that have taken place in the Mexican economy and society and account in part for some of the failures of the Fox administration to advance needed economic, social and political reforms, including critical reforms in tax policy, energy, education, justice and broader reforms of the state. It is not an exaggeration to say that Mexican politics is facing a serious stalemate. A weak president without majorities in Congress and little control over his own party has had difficulty navigating a new political reality where opposition parties are also fragmented, authority is increasingly decentralized, and critical institutions such as the police and the judiciary are fragile and corrupt.

Policy paralysis and the absence of reforms threaten to undermine Mexico's economic progress. NAFTA and the fact that trade represents 40% of the Mexican GDP has helped to cushion the Mexican economy from the deeper economic crisis affecting other countries in the Western Hemisphere. Nonetheless, Mexico has not experienced sustained real per capita growth since 1980. The cycle of economic crises, which usually coincide with the end of presidential terms of office, may not have been broken with Zedillo's successful transfer of power to Fox. Fox, who promised 7% growth rates, has presided over a decline in real per-capita income as Mexican's fear that their export engine is being threatened by the booming Chinese economy. In particular, Mexico's inability to implement fiscal reform in a country where tax revenues account for only 12% of the national product has severely hampered the country's ability to become fully competitive internationally.

It is not hard to articulate why the relationship with Mexico is of such "vital interest" to the United States. A prosperous and stable Mexico is essential to the well-being and security of the United States. Should the Mexican political transition succeed and Mexico's economy prosper, the United States stands to gain from trade and economic integration while experiencing a reduction in the pressures for illegal migration. A prosperous Mexico can help improve living standards in Central America and the Caribbean and provide leadership to what is currently the most peaceful continent in the World. Should the Mexican political transition falter and the Mexican economy stagnate the costs to the United States could be enormous.

U.S. officials should not confuse the will of the Mexican authorities to undertake certain steps with their capacity to respond or cooperate. This is particularly true in the law enforcement and judicial areas. The will may very well be there but the capacity, in a context of archaic institutions and rapid social and political change, may be woefully lacking. Or, Mexican officials like their U.S. counterparts may simply not have the political and public opinion support to carry out an unpopular policy the U.S. wishes to implement. By pressuring Mexico because of poor performance in certain areas, the U.S. may unwittingly undermine those very elements in the Mexican government and broader political establishment, including the opposition, that have a commitment to improving institutional capacity and cooperation with the United States.

In cooperating with Mexico to help the country steer the right course, U.S. officials must be mindful not only of the fact that Mexico is going through a difficult transition where democratic institutions are not yet fully in place, but also that Mexico is a sovereign country acutely sensitive for historical reasons to an overbearing U.S. presence. Indeed, on certain issues, including the rights of migrants, the death penalty, or the role of international organizations and conventions, Mexico has and will differ with United States policy. That difference should not be interpreted as a betrayal on the mistaken presumption that U.S.-Mexican relations

should be based on an acceptance by the latter of U.S. policy in order to deserve U.S. friendship.

The relationship with Mexico needs to be based on trust, but also on a mutuality of interests that are not held hostage to disagreements in other areas. The souring of the promising U.S. Mexican dialogue initiated by the Bush administration because Mexico did not go along with U.S. preferences in the U.N. Security Council regarding the war with Iraq is a case in point. It sent a message that the U.S. views progress on bilateral issues with Mexico as concessions that are subject to Mexico agreeing with U.S. foreign policy priorities, rather than essential steps that also advance U.S. interests. Ironically, the effect of U.S. actions and the personal recriminations that were levied against Fox contributed to undermining Fox' standing in Mexico, weakening his capacity to press his reform agenda and jeopardizing U.S. interests. It is tragic that the Bush administration lost its footing on Mexico, and indeed on the broader interests the United States has in the Hemisphere.

What should be the general thrust of U.S. policy toward Mexico? To the credit of President's Bush and Fox in their early conversations they identified the two key neuralgic issues for both countries in the years ahead, issues that are intimately related: the vast asymmetry in the standard of living of the two countries and the problem of migration and labor mobility.

Like other Latin American countries Mexico followed an import substitution strategy of economic development, protecting infant and state sponsored enterprises from competition. The policy was successful in promoting growth and industrialization. Mexico grew on average of 6% per year from the 1940s through the 1970s and industrial growth rates were higher. That policy was not sustainable, however, as it spawned inefficient industries and over-bloated state institutions with widening deficits. Mexico was able to stave off the vulnerabilities of its economic model through increased oil production—but an over reliance on oil and international borrowing coupled with weak macro-economic discipline contributed to the economic crisis of the 1980s. As a response, Mexico set into place some bold new initiatives to open its economy and seek a trade agreement with the United States. U.S. policy also moved away from "aid" to "trade" as the key engine of growth that would parallel new policies aimed at assuring fiscal and monetary discipline and the downsizing of the state.

In the aftermath of the serious economic crises that have hit Latin America in the late 90s many observers are reassessing the reforms of the 90s. Growth has not occurred automatically despite significant economic reforms and privatizations. As a result, today far more attention is being paid to the quality of institutions and the transparency of rules and procedures. And, many observers of Mexico, which has gone farther than any other country in Latin America in encouraging trade, are beginning to question whether trade alone will suffice, if the domestic economy does not show stronger signs of growth. The serious downturn of 1995 exposed the weakness of the Mexican banking system and continuous problems of lack of transparency. At the same time it has highlighted the weakness of investment in infrastructure, in effective state institutions and in education as an essential element in promoting sustainable growth. Mexico's greatest challenge is not simply privatization and the opening of markets—it is in laying the foundations for competitiveness in an era of globalization.

The Partnership for Prosperity signed by the two presidents did reflect a new emphasis. It responds to Mexico's urging the U.S. and Canada to take a leaf out of the European experience where large investments were made by the richer countries in the poorer countries of the European Union, such as Spain and Portugal that were also primarily labor exporting countries. Massive transfers of resources helped to level the playing field in Europe bringing up the standards of living of the poorer countries and setting the groundwork for common economic and monetary policy. While not envisioning a similar process of integration, Mexico has underscored that the integration of North America will not be successful until the disparities in standards of living are reduced.

The problem to date is that the Partnership for Prosperity includes no real tangible commitment from the United States. Private investment, a central feature of the scheme, can only work with substantial public investment and the Bush administration has been long on rhetoric and short on substance regarding real efforts to support Mexico. The imaginative initiative embodied in the New Millennium challenges would simply not apply to a country such as Mexico. In short, U.S. policy must couple a push for reforms, trade and private initiative with greater attention to investment in infrastructure and education.

Although there is considerable controversy over the degree to which illegal immigrants in the United States generate wealth or are a public burden, both in terms of law enforcement and social service expenditures, the costs to the U.S. are likely

to increase if Mexicans can't find gainful employment at home. At the same time the opportunities for Americans to sell to 100 million Mexicans next door will be less if the purchasing power of the average Mexican does not increase. A genuine Partnership for Prosperity is needed with substantial and real commitments over the median term. At time when U.S. willing to spend 87 billion with little debate to secure Iraq, some thought needs to be given to the importance of ensuring the long term viability of a country with which the United States has "the most important" relationship in the world. Needless to say, any substantial commitment from the United States needs to be coupled by tangible reforms in Mexico particularly in energy and tax policy.

On immigration both president's signaled at the beginning of the Bush administration that they were prepared to break the mold and seek genuine immigration change. It is clear that the U.S. economy has benefited enormously from migrant labor. And yet, U.S. immigration laws, rather than protecting American jobs, tolerates a two-tiered labor market, one with no labor rights, poor working conditions, insufficient wages and no rights to organize. High level conversations between both countries centered on accomplishing two objectives: instituting a temporary worker program that would permit larger numbers of Mexican to come to the United States to work on a short term basis, permitting a greater "circulation" of labor back and forth. These programs would expand the very limited ones geared to agricultural workers by including other job categories. The second objective was to find mechanisms to "regularize" the status of illegal workers in the United States with the option of placing them on a path towards citizenship.

Although these same issues affect workers of other nationalities, moving ahead with Mexico was justified in the bilateral conversations by Mexico's inclusion in the North American Free Trade Association and its unique status as a country sharing a long frontier with the United States, a status shared only by Canada also a NAFTA member.

It is not true that immigration reform was set back by 9/11. Already before the terrorist attacks opposition from conservative circles in the Republican Party had led the president's political advisers to caution against any real progress, particularly on "regularization." Despite the increasing importance of Hispanic voters of Mexican descent in American politics, the administration was not willing to "go to immigration" as Bill Clinton went to "Nafta," bucking opposition from his own party. On immigration the position of both parties has shifted, as the labor movement more closely allied with the Democrats now appears to be more receptive to immigrant workers and sees them as future members.

President Bush's hosting of President Fox at his ranch in Crawford early this month is a welcome step that suggests that the administration may be moving to place U.S.-Mexican relations back on track after a long hiatus. The president's speech calling for immigration reform is also encouraging because it once again places an issue that is central not only to the relations between both countries, but to the Latino community in the United States, at the forefront of the national policy debate. The president should be commended for underscoring that the United States is a nation of immigrants and immigrants continue to make a substantial contribution to the nation's progress. He also is correct in noting that immigrants are subject to abuse and discrimination and laws affecting immigrants must be changed.

Unfortunately, the President's speech indicates that the White House has backed away from the fundamental tenets of immigration reform that was discussed by the two governments in the early months of the administration, tenets that pointed immigration reform in the right direction. Rather than seeking a two track policy that would expand temporary worker programs, on the one hand, and provide for regularization of the status of immigrants already in the United States with a path to citizenship, on the other, the administration has opted for an ill defined temporary worker program that would include those seeking temporary employment in the United States and those already working in the country without proper documentation.

Such a program will simply not work because it is based on faulty assumptions: The most serious is that undocumented immigrants in the United States, many of whom have worked here for many years and have families in this country, would be willing to sign-up for a temporary worker program that might force them to return to their country of origin after a limited time period. With no concrete guarantee that their status in the United States will be made permanent, there would be few incentives for these workers to come out of the shadows. Indeed, many would fear that taking such a step would jeopardize their ability to continue to work in the United States, with the risk of being separated from their families and livelihoods.

**STATEMENT OF DR. ARTURO A. VALENZUELA, DIRECTOR,
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Dr. VALENZUELA. Thank you very much, Mr. Chairman. I appreciate this opportunity, Mr. Chairman, to appear before the committee and I want to commend you for this hearing today.

As you know, Mr. Chairman, over the last two decades, the relationship between the United States and Mexico has grown in visibility, scope, complexity, becoming one of the most important bilateral relationships that the United States has in the world.

Mexico's growing importance for the United States is the reflection of fundamental changes that have taken place in Mexico and in the world economy, changes that have accentuated the integration of both countries. In 1950, Mexico was a semi-authoritarian, largely rural country of 25.8 million people with a life expectancy of 49 years and only half of its population literate. Today Mexico is an overwhelmingly urban, competitive democracy with close to 100 million inhabitants, a life expectancy of 69 years, and a literacy rate of 87 percent. It is the 11th most populous country in the world with an economy that ranks among the 15th largest.

With the approval of the North American Free Trade Agreement, Mexico became the third largest export market for the United States and an important destination for U.S. direct investment. U.S.-Mexico trade is now \$232 billion, three times what it was before NAFTA. And of course, we know that the long 2,000-mile border, the busiest in the world, has over 340 million legal crossings a year, suggesting the growing integration of border communities.

Mexico accounts also for 25 percent of the significant increase in foreign-born residents of the United States, the largest share of that category that any country has had since 1890 when Germans accounted for 30 percent of all residents born abroad. In turn, Mexican migration is a driving force behind the surge of the Latino population in the United States, which at 37.4 million has become the largest minority in the country, over 60 percent of whom are natives of the United States. It is estimated that about 66 percent of the total Latino population, that is, about 25 million, are of Mexican origin. Mexicans also constitute the largest number of immigrants who entered the country illegally, perhaps as many as 5 million of an estimated 7 million to 8 million undocumented workers.

Employment in the United States has been an important outlet for Mexico's population whose per capita income is a fifth of that of its neighbor to the north and has 40 million citizens living in poverty. Mexico, in turn, has supplied labor in critical areas of the U.S. economy, at a time when the population is aging and the United States faces the imminent retirement of the baby boom generation. But growing integration also poses numerous challenges including illegal immigration, unfair trade and labor practices, law enforcement problems, narcotics trafficking, environmental, health and security concerns, and many others.

It is important to stress that while Mexico commands far greater attention, it is not central today to U.S. foreign policy priorities and imperatives. Rather, policy toward Mexico is driven in fits and starts by a myriad of domestic factors. It is a policy that is often

diffuse, fragmented, and contradictory, spread across numerous government agencies with little overall coordination and focus. The very institutionalization of the relationship, which helps to routinize it and manage more fully its complexity, has also the unintended consequence of Balkanizing Mexico policy, losing sight of the overall national security and foreign policy priorities of the United States.

With the overall engagement with Mexico being largely positive, it is also true that United States policymakers have not fully assimilated the implications for the United States of the profound changes taking place in Mexico and their relevance to fundamental U.S. interests. In an uncertain and dangerous world, Mexico also needs to be conceptualized first and foremost in security and strategic terms. This means taking seriously the implications of the ongoing political, economic, and social transformations taking place south of the Rio Grande.

It is important to remember, Mr. Chairman, that not too long ago, in 1988, the election in Mexico was deeply flawed and in 1994 we saw several assassination attempts. Political institutions have lagged behind in Mexico the rapid changes that have taken place in the Mexican economy and society and account in part for some of the failures of Fox administration to advance needed economic, social, and political reforms, including critical reforms in tax policy, energy, education, justice, and broader reforms of the state. It is not an exaggeration, Mr. Chairman, that Mexican politics today is facing a serious stalemate.

In particular, Mexico's inability to implement energy reform and fiscal reform in a country where tax revenues account for only 12 percent of the national product has severely hampered the country's ability to become fully competitive internationally.

Now, it is not hard to articulate why the relationship with Mexico is of such vital interest. A prosperous and stable Mexico is essential to the well-being of the United States. A failed Mexico, on the other hand, of course, would present enormous challenges to the United States.

Now, the relationship with Mexico needs to be based, it is absolutely clear, on trust but also on a mutuality of interests that are not held hostage to disagreements in other areas. The souring of the promising U.S.-Mexican dialog initiated by the Bush administration because Mexico did not go along with U.S. preferences in the U.N. Security Council regarding the war with Iraq is a case in point. It sent a message that U.S. views progress on bilateral issues with proposal as concessions that are subject to Mexico agreeing with U.S. foreign policy priorities, rather than essential steps that also advance U.S. interests.

Now, what should be the general thrust of U.S. policy toward Mexico? To the credit of Presidents Bush and Fox in the early conversations that they had, they identified two key neuralgic areas for both countries in the years ahead, issues that are both intimately related. The first is the vast asymmetries in the standard of living between the two countries, and the second is the problem of migration and labor mobility.

Now, the Partnership for Prosperity, which speaks to the issue of asymmetries, was signed by the two Presidents and did reflect

The fact is that these students are learning English. They are learning to read. A lot of good things are happening in their lives. From a humanitarian standpoint, you are delighted that that is the case, but you also see that the public school system lacks money. The State of Indiana is running a \$1 billion deficit. I suppose Connecticut does not have one that big, but it may be bordering on this in terms of State support. The situation in Indiana is not unusual for an innercity public school system. Suddenly, there are many more young people who are in the schools or in institutions.

One thing we have talked about today is, well, what can we do with the prosperity for Mexico program that we talked about? The comment was made, that, well, it is there but there is not much emphasis by our government, quite apart from private industry. From the Mexican side, there is sometimes great suspicion. I deliberately mentioned PEMEX because I know that this creates great vibes of difficulty. Mexico needs revenue for their government to offer services, to have things that they want to do.

If the United States and Mexico are such big friends, we have to be in a position to be able to advise each other on how to achieve better democratic institutions, and better economic prosperity, if we are serious about changing the gap and addressing the pressures that this puts upon immigration. Otherwise, I suspect Senators will be having a hearing very similar to this a decade from now, with a different group of people, but with many of the same problems, which might indeed by then be exacerbated by everything that has happened in the previous 10 years.

In terms of a macropolicy, what advice can you give? Maybe all of the above? That is, you do the prosperity project; you try to be humane in immigration; you try to identify who is in the country. Within the broad scope of this hearing, please give us some more good counsel.

Dr. VALENZUELA. Should I start?

The CHAIRMAN. Yes.

Dr. VALENZUELA. Well, I tried to stress, Mr. Chairman, that the key for us is to understand that the United States has fundamental interests with Mexico, but we need to look at Mexico from a strategic point of view and not just simply get lost in the multiplicity of the issues of the bilateral relationship.

What do I mean by look at it in a strategic way? We need to understand that Mexico is going through a very complex transition. It is a political transition that is not fully complete. There are still a lot of questions about how Mexico is going to address that. The first government in a long time that has been fully democratically elected is now facing significant difficulties. So Mexico is a country that is right on our border, 100 million people. It is going through a difficult process of transition. The United States cannot ignore that.

Now, I happen to believe that the glass is half full not half empty. I think that the progress that has been made in Mexico is extraordinary. If you compare it with many other places in eastern Europe and others that went from a one-party state to a competitive democracy, it is really on the right track. But it is in our fundamental interest to address the two prongs I think of the relation-

ship. One is the immigration issue and the other one is the question of the asymmetries between the two countries.

On the asymmetries between the two countries, the Mexicans are correct when they point to the fact—how did the Europeans handle this sort of thing? When they looked at the whole process of European integration, they realized that there were some countries that were significantly poorer than the other countries and that it was in the interest of the Germans and the French and the other countries in fact to bring the others up. It is extraordinary what has happened to Spain and what has happened to Portugal and what has happened to the other countries.

I believe that Mexico really can become more competitive. It has got huge challenges. Competition is the critical challenge for Mexico. It has to become more competitive in the international global environment of today. This means more resources in infrastructure. It means resources in education. It means more resources across the board.

And where are we with those sorts of things? With all due respect, Mr. Chairman, if we can spend \$87 billion on a project of reconstruction in one part of the world, let us pay some attention to our own hemisphere and the challenges that we face in our own hemisphere.

The CHAIRMAN. Dr. Flynn.

Dr. FLYNN. Mr. Chairman, I may point out one of the unintended consequences of our struggle with our immigration policy in terms of how it works and how our enforcement efforts have sort of confounded it is that issue that you raised about the illegal population putting pressure on these institutions. What we know now, from watching this over time, is the case that Senator Craig made. What we did in terms of 9/11 is we did not just try to lock people out, we locked people in.

As the border has become harder and became harder throughout the late 1980s and throughout the 1990s, instead of having seasonal labor, young men basically or middle-aged men coming up, working a time, going home with their remittances and basically that is where they want to live, that is where they want to bring their fortune back, that the costs of getting across the border got too high. So they had to bring in their family because they could not go home. And then we put the pressure on the social institutions that flow from that.

So it is not to say given the overall demographic trends, given the paucity of economic opportunities, that this trend of whole families moving across the border will not continue, but it is clearly an outgrowth of our effort to harden the enforcement here that has created the demand for bringing dependents into the country and keeping them here even in many cases when they prefer to go home, at least for portions of the year. So that issue is intertwined. It is sort of narrower.

At a more macro level, I would raise this sort of basic notion of moving beyond the border and the investment we are making along the border is really the issue of transportation infrastructure. There is little question that Mexico is woefully behind in building the kind of transportation systems it needs to have a fully inte-

grated marketplace to make sure those jobs can stay there and people can stay there and work.

There is an opportunity, I would suggest, under the notion of security. If we build a big development in the transportation areas we call intelligent transportation systems, knowing where trucks are—we do this in our EZ Pass designs and so forth. One of the opportunities is the 21st Century Transportation Equity Act talks about building the whole ports to plane corridor, the I-69 NAFTA highway. We basically often stop at our own edge of our own border, and then you get into very rugged sides on the other side. We can imagine I think advancing an improvement of that infrastructure, building a single inspection station. It does not have to be at the border. Put it someplace where it makes more sense, not at the base of a bridge or in a busy area, have Canadian, Americans, and Mexicans working side by side, the kind of thing you have at the base of the Chunnel on both sides of the English Channel. You declare sovereignty where each country can enforce their laws in one place. Then you start getting out of sort of the small truck and other kinds of industries that cause a lot of environmental damage, that are not registered and so forth.

We can think more imaginatively if we are willing to do the kinds of things of really putting a blank sheet on integration and the opportunity that presents. We built our transportation systems to go west, young man. They are east-west, both on the Canadian and the U.S. side particularly. Now, our economic relationships are increasingly pivoting on a north-south, but none of the infrastructure has been adapting for that. That has to happen even if we did not have security issues because of the nature of where our economies are going, but when we build new infrastructure, just like it makes a lot more sense to build a home, handicap accessible, in its design instead of trying to do it afterwards, we can basically begin to think about how we can integrate these concepts of management within those developments.

But we have to get out of this very narrow, prescriptive and Balkanized approach to dealing with these issues within our government and see these connections. I get frustrated seeing the Department of Transportation efforts to improve this here with no security link and then have now the new Department of Homeland Security weigh in and introduced new requirements and protocols that can upset the whole queuing and everything else that is associated with the transportation side. It becomes almost impossible. You get a 10-year environmental impact statement process to develop upgraded facilities on the border, but when the border is congested, you get mass pollution. We need to take a fresh slate at really looking at the way in which these zones are managed and look at how they are integrated in the broader context and we need to do it now because the stakes transcend even our security concerns. They are really about this vital relationship that we should be trying to advance.

The CHAIRMAN. Those are excellent suggestions.

Dr. Papademetriou.

Dr. PAPADEMETRIOU. Thank you, Mr. Chairman. I would like to respond to your question in three different ways: the things that Mexico can best do primarily on its own, the things that we can

do and we should do primarily on our own, and then the things that we need to do together.

We know the things that Mexico can do. They fall under the overall rubric of good governance and that includes improvements in terms of political governance. Arturo Valenzuela has told us about some of the improvements that have been made there and they are, indeed, phenomenal. There have also been great improvements in terms of economic governance. They are not "there" yet, but they are on the right path. And then the third one is social governance. Here is where the Mexican Government has an extraordinary difficult path and a way to go yet.

The thing that we have to do better by ourselves is to really think about our laws, whether they are immigration laws or labor laws. How good are they? What are we trying to protect? Are they really accomplishing the things that we think that they are, and should be, accomplishing? At no point in any immigration reform proposal are we going to just sit back and let immigration just happen. I do not think that even the extremists often associated in a derisive way with the Wall Street Journal viewpoint about open borders would at any point suggest that we should just sit back and enjoy it. But we have to have regulations that make sense and we have to implement whatever it is that we write on the books. So if we need to rewrite what we have on the books, let us do so.

Finally, there are things that the United States and Mexico must do together. The Partnership for Prosperity is one of them. But it will require significant investments on the part of our government. Somebody has to lead. The private sector will follow, and perhaps will be responsible for the lion's share of investments over time. However, in the startup phase, we are going to have to commit some money.

On migration, what we have to change is the expectations that poor Mexicans have about opportunities in the United States and, the calculation that they will make. The calculation has to change from, my God, there is absolutely no other alternative. I will take whatever chances are necessary, including dying—and there are several hundreds of them dying every year. I will pay "coyotes" or organized syndicates any amount of money because I have got to make it to the other side. The calculation only needs to change to something that says, you know what? I hear that there are some opportunities about to become available: a new factory is going up, the educational system is getting better, and something is being done with all of these remittances that we do not pay too much attention to. That is \$13 billion, \$14 billion, \$15 billion, possibly \$20 billion in remittances annually that goes back to Mexico. We can also think perhaps of multiplying the affects of those funds through smart kinds of investments. So, we have to change the calculus at the level where decisions are made, and the entire literature on migration tell us the decisions are made at the level of the family or the household.

With regard to the security issue, we are fixated on the border. If this was a budget hearing, you would have heard that the President is asking for another half a billion dollars for border-related security improvements. It is difficult to take border and immigration spending out of the overall Department of Homeland Security

budget, but together, this part of the Homeland Security budget is going to be over \$10 billion.

I wonder often what would \$300 million in strategic, smart investments in Mexico per year might do and whether in the long term—and I do not mean after we are all dead, but in the next 5 or 10 years—this kind of sustained investment might, indeed, begin to make a difference in people's lives to the point where the calculus at the individual and family level may change.

Thank you, sir.

The CHAIRMAN. Very helpful.

Senator Dodd.

Senator DODD. Thanks very much, Mr. Chairman, again for the hearing.

As I am sitting here, I kind of regret we did not have you come on first because I think invariably what happens with second panels is the administration witnesses and others leave the room. I think not only have we benefited from your testimony, but I think the administration could have benefited tremendously from hearing all three of you talk in ways in which I think this hearing could be most instructive and helpful. So I thank all three of you very, very much for your ideas and thoughts.

Just a couple of my own as I was listening to you. I think, Arturo, one statistic I do not think you shared with us is the age of the Mexican population today. The number of people of that 100 million who are under the age of 18. Do you recall what that is? I know it is staggeringly high.

Dr. VALENZUELA. That is correct. When you look at the demographics of both countries, our concern over Social Security and what is going to happen to the baby boomers and who is going to pay for our retirement, who is going to be working to cover that, it is being answered as we speak right now by the movement of a younger labor force into the United States.

Your comment also reminds me of the comment that Senator Lugar made about school kids. There are a lot of immigrants who come into the United States who may not have had much education but who got their education also in Mexico. We are benefiting from the fact that even if it was very, very poor or maybe very inadequate, nevertheless, we have people who are bricklayers and others who have substantial amount of training that they have gotten elsewhere and we benefit from that as well.

Senator DODD. Well, it is very important to note that obviously. And the demographic explosion and the urbanization of Mexico I think are too very important. We have a tendency to look at this from a two-dimensional perspective, that is, United States versus Mexico. Within Mexico itself, you are watching the same phenomenon, that same calculus that a family has made about taking the risk of crossing a border with all the dangers inherent in that, have earlier made the decision to leave Chiapas and these other areas and to move into the greater Mexico City area, which I think has a population of some 25 million, some number like that. It is a staggering number. I think it is the largest city in the world or certainly near the largest. So they are demonstrating already their concerns about the ability to have much hope where they are.

Getting beyond even just the immigration issue, we are still unfortunately trapped in this—less so, but still trapped with a paternalistic notion, the concessional idea that you mentioned, Arturo. We fail yet to understand the critical importance to us of the well-being of Mexico from both an economic, political, and social standpoint. We have yet to break through that, unfortunately. It is not just this administration. It seems to be an inherent problem that goes on year after year after year. Until you break that mentality to some degree, it is awfully difficult to start talking about the concepts that all three of you have raised here. Maybe we are doing some of that here today.

I was a supporter of creating the Homeland Security office and so forth. But I had great hesitations in my own mind—I may have expressed them. I am not sure I did, but I wish I had if I did not—about lumping all these agencies together. The very fact that we have taken the INS and thrown it into a Homeland Security office says volumes about where our heads are when it comes to this issue. Instead of understanding immigration as being a far more broad-based subject matter than the issue of security—and I do not minimize the importance of security, but putting it under that umbrella, then you look at this issue through that prism. As you do, then your judgments are colored in terms of how we deal with these larger questions. It ought to be a basis of a bilateral relationship here.

I think certainly the asymmetrical points you make about Europe. You mentioned Portugal. You mentioned Greece, Ireland certainly. Look at what happened in Ireland. Today the most expensive country in Europe and certainly the fastest growing economically until recently was the Irish economy, the “Celtic Tiger,” that just took off because there was an investment made by the European community to do what? Exactly what Dr. Flynn talked about, infrastructure, roads, transportation networks and so forth, the Internet highway that made it attractive for foreign investment to come in. They made themselves appealing and thus are now making a contribution.

Ten years ago, 40,000 young people left Ireland every year to come to the United States, or to go to England, to go to France for their economic prosperity and future. That was their calculus. Today Ireland has the problem of immigration coming in. And it did not take long. It turned very quickly. Now, there are differences obviously in a country of 4 million and a country of 100 million with all the other issues. But nonetheless, it is an example of what can happen when you change the calculus and how things are looked at.

So I find myself sort of here we are, we are talking remittances, which is a great thing. But it is as if somehow the continuation of the remittance program was really the ultimate answer here. Registering people and so forth. The costs associated with that. Someone brought up the issue of budgets. No one raised the issue and it is hard to do it here, but just the cost of registering people and so forth instead of going at the issue of how do you create economic growth to such a degree that the calculus that the individual family makes is going to be at least tempered by the fact that there may be other opportunities.

I am tremendously grateful. I am glad I could stay around and listen to the three of you share your thoughts. I would like to figure out some way to make them available to people in our own committee here. I know they are loaded with paper and so forth. I know you look around. You do not see the number of people here. But you have made a significant contribution to this debate, and I am once again very grateful to the chairman for elevating this debate and discussion.

I do not really have any questions unless you have any final comments the three of you want to make. But I think you have all brought very, very solid ideas to the table. I for one am very, very grateful to hear them.

I want to invite you to our interparliamentary meeting. We are going to be meeting in Mexico this year. I may be back in touch with the three of you and see if there is not some opportunity maybe for you to come and address this interparliamentary group as well on some of these ideas.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you very much, Senator Dodd. Apropos of your comment, it might be useful for us to circulate to our members the statements of our witnesses so that they might have the benefit of those. Their staffs may already have made those available to members, but let's take an additional precaution and re-distribute them, so that there may be an opportunity to emphasize the remarks you have made. There will be a full record of the dialog with the Senators who were present at this committee hearing, and who were raising questions or making comments to you.

We did have, at one point or another, by my count, 10 Senators in the hearing this morning.

Senator DODD. Good.

The CHAIRMAN. That is significant. Ten percent of the whole Senate at least was involved in this issue today. Perhaps they appeared for only short periods of time, but nevertheless they are sensitized to the important issues that we raised. I am sure that we will raise these issues again.

We thank each one of you for the special care that you gave in statements, as well as in your additional responses and thoughts. They have been helpful to us, hopefully to our administration, and to the dialog of the American people, who have heard this hearing by other means. We thank you for coming, and we look forward to inviting you again.

With that, the hearing is adjourned.

[Whereupon, at 12:28 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD

RESPONSES OF HON. ROGER F. NORIEGA TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR NORM COLEMAN

Question 1a. Would you comment on the regularity with which the U.S. raises concerns about the murders, particularly the Kiecker case, and the apparent lack of adequate law enforcement at the local and state level in Chihuahua?

Answer. Our Embassy in Mexico City and our Consulate General in Ciudad Juarez have formally protested the treatment of Cynthia Kiecker and raise her case at every opportunity. Senior officials of the Department have also raised the matter with their Mexican counterparts and will continue to do so.

With respect to the situation in Chihuahua, and particularly Ciudad Juarez, involving the murders of women, we follow this issue closely and have discussed the matter with officials of the Mexican Government, including in conversations between Secretary Powell and Mexican Foreign Secretary Derbez. The U.S. Government has provided training and technical assistance in the past and stands ready to provide further assistance.

Question 1b. President Fox has developed a federal response to this crisis. Can you tell me what has been the result of this federal attention and whether the U.S. is assisting in this effort?

Answer. President Fox has ordered the Federal Attorney General's Office (PGR) to assist local authorities in bringing to justice those responsible for these crimes. In June of last year, units of the Federal Preventive Police were sent to Ciudad Juarez to reinforce the local authorities. In August, a joint task force was created between the PGR and the State Attorney General's office. In October President Fox appointed a commissioner to coordinate the Mexican Federal Government's participation in the case, and in January of this year the PGR named a special prosecutor on the matter.

The Mexican Government claims that all this appears to have reduced the incidence of murders of women in the city. The Mexican Government has also advised that, while overall the investigations are still not advancing as fast as they wish, of 328 cases involving murders of women, 103 convictions have been obtained and arrest warrants have been issued in another 27 cases.

We note that Mexico has been open to outside expert evaluation of the problem and has invited numerous entities, including the United Nations Office on Drugs and Crime and the Inter-American Commission on Human Rights Rapporteur on the Rights of Women, to visit Ciudad Juarez to examine the situation.

Offers of technical assistance and training have been made to Mexican law enforcement authorities by U.S. law enforcement authorities and a working group has been formed with the Mexicans to facilitate the provision of assistance. The U.S. Government funds and coordinates a broad range of training, material, and technical assistance to Mexican federal law enforcement agencies to increase their crime-fighting capacities, including their ability to render assistance to Mexican state and local law enforcement. We have offered to tailor technical or other assistance to the PGR or to state and local police, if desired by the appropriate Mexican authorities, to help them address the crimes in the Ciudad Juarez area.

Question 2a. Can you please detail for me the types of law assistance the U.S. provides to Mexico and any measurable results for this aid?

Answer. In FY 2003, the United States Government, through the United States Agency for International Development, provided assistance related to rule of law and judicial reform in several key areas:

- Served as the key advisor to the Mexican Presidency on the development of the Justice Reform Package that President Fox presented to the Mexican Congress on March 29, 2004;
- Drafted a modern code of criminal procedures that serves as a model and guide for the conversion of the Mexican criminal justice system from a written to oral adversarial system; and
- Advised on the creation of court-annexed mediation programs in 10 states and provided training to over 150 mediators. (Hundreds of civil cases ranging from commercial law to family law were successfully mediated and demand is on the rise in Mexico for this method of increasing access to justice.)

USAID support for the rule of law in FY 2004 will include continuing to work with the Mexican Presidency, as well as federal and state judiciary, public defense, and prosecutors, especially in the Mexican states along the border, to carry out President Fox's planned comprehensive overhaul of Mexico's criminal justice system. USAID is assisting in this process, much as it did with the Civil Service Law, by providing state of the art technical assistance to identify key issues, exposing reform leaders and opponents to these issues and how they are resolved in other countries, and sponsoring venues for constructive dialogue among interested parties in Mexico, implementing agencies from other countries, and international experts.

In FY 2004, USAID will also help seven more states set up court-sponsored mediation centers to increase access to justice for disadvantaged sectors of the population, support and advise human rights NGOs that run treatment and legal aid

centers for victims of torture and human rights abuses, and advise on the creation of certification standards, here-to-fore non-existent, for law schools and lawyers.

Question 2b. What priority do we place on the rule of law program in our overall assistance to Mexico?

Answer. We place a very high priority on rule of law programs in Mexico and the Fox administration itself places a priority on key structural reforms that will institutionalize the democratic change of 2000. On March 29 President Fox submitted a judicial reform package to the Congress, a wide-ranging proposal to transform Mexico's legal culture and judicial system.

At the Mexican Government's request, USAID helped develop this judicial reform package, and USAID's highest priority democracy activity is to assist with its passage and thereafter with implementation at both the Federal and state levels.

The United States Government is the principal international donor and key advisor supporting criminal justice reform. USAID assistance is a key element of the U.S. Mission's law enforcement program closely coordinated with other U.S. agency efforts in Mexico. Other USG agencies (the Department of State's Bureau of International Narcotics and Law Enforcement Affairs, the Department of Homeland Security, and the Department of Justice) are providing assistance to police and anti-narcotics efforts.

