

**U.S.-MEXICAN RELATIONS: THE UNFINISHED  
AGENDA**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE  
CORPS AND NARCOTICS AFFAIRS  
OF THE  
COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE  
ONE HUNDRED SEVENTH CONGRESS  
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## U.S.-MEXICAN RELATIONS: THE UNFINISHED AGENDA

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TUESDAY, APRIL 16, 2002

U.S. SENATE,  
SUBCOMMITTEE ON WESTERN HEMISPHERE,  
PEACE CORPS AND NARCOTICS AFFAIRS,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:30 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Christopher J. Dodd (chairman of the subcommittee), presiding.

Present: Senators Dodd, Bill Nelson, Helms, Chafee, and Enzi.

Senator DODD. The committee will come to order. Let me thank all of our witnesses for being here today and participating in what I hope will be a worthwhile hearing, and one of a series we hope to hold from time to time on the issues affecting the hemisphere.

I'm particularly pleased to have my colleague from the House, my good friend Silvestre Reyes, here with us today, who is the Chairman of the Congressional Hispanic Caucus. And it is an honor, Silvestre, to have you on this side of the building.

Mr. REYES. Good to be here, sir.

Senator DODD. I think I feel the hands of the former chairman here.

Senator HELMS. Good morning.

Senator DODD. Good morning. Thank you, sir. Thank you, Senator Helms.

Senator HELMS. That's the cutest baby you ever saw.

Senator DODD. Thank you, Senator Helms. I hope Grace heard that.

Let me take a few minutes and make some opening comments, if I could, about this hearing. But also I want to make some brief comments as well about events over the past number of days in Venezuela that I think would be warranted.

First of all, today the Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs will hold the first in a series of hearings whose purpose is to assess the challenges to economic growth, democracy and the rule of law facing countries in the Western Hemisphere, challenges in some cases so daunting that they threaten fundamental institutions of democracy throughout the hemisphere.

Among the questions that these hearings will focus on are whether existing U.S. policies are fully responsive to current circumstances that exist in the Americas, or whether those policies

should be altered in order to better serve U.S. economic, political and national security interests throughout the Americas.

In recent years the instability in the Balkans, the Middle East and South Asia, there has been a tendency for U.S. policymakers to neglect, in my view, some of our closest friends and closest neighbors, to be complacent that all is well in the Americas. How many times in recent years have we heard U.S. policymakers, both in Congress and elsewhere, at some point in the presentation about the state of this hemisphere, proudly announce that all but one of the nations in the region have democratically elected governments? It may sound like a cliché but my response to that observation has been that democracy is critically important, as is free markets, but that democracy is more than simply having a periodic election.

We will not have sustainable democracy, in my view, in this hemisphere in the coming decade unless we do more to support and nurture serious governmental and civic institutions capable of protecting the rights of citizens and meeting their needs and aspirations. Events over the past few days in Caracas, Venezuela have no doubt called into question that complacency, at least temporarily. While all the details of the attempted coup in Venezuela are not yet known, what is clear is that the vast majority of governments in the hemisphere lived up to their responsibilities under the Inter-American Democratic Charter, and denounced the unconstitutional efforts to take power from a government which had been freely elected.

I am extremely disappointed that rather than leading the effort to reaffirm the region's commitment to democratic principles outlined in the OAS charter, only belatedly did the United States join the OAS members to respond to the Venezuelan crisis. I would be the last one to defend all of the decisions, or even any of the decisions for that matter, and policies of President Hugo Chavez and his administration in Venezuela. But to stand silent while the illegal ouster of a government is occurring is deeply troubling.

To take the similar statements—I may disagree vehemently with what you say, but I will defend with my life your right to say it. And that comes to democratically elected governments. I may disagree profoundly with the decisions those governments are making, but I think it's incumbent upon the greatest democracy in the world to defend democratically elected governments. And that is something that I'm terribly disappointed in, that we did not do in this case.

Now I know that Secretary Powell obviously is extremely preoccupied with events in the Middle East, as he should be. But I would hope that in the future there would be more adult supervision of the policy formulation as it related to our hemisphere. And to President Chavez I would say simply this: You've been given a second chance, don't waste it. Live up to the responsibilities you assumed as the President of your country.

It is not just Venezuelan democracy that stands at risk at this moment. Colombian institutions are under siege, both by drug traffickers and irregular para-military forces on the left and right of the political spectrum. Argentina's current crisis may be rooted in the near economic collapse of the country, but the impact on demo-

cratic institutions and the Argentine people's faith in their government institutions has been devastating.

Central America is suffering as well from a decade of neglect. It is a region that we have allowed to slip quietly into despair. The nations of Central America have faced an astounding array of natural disasters, fever outbreaks and climatic misfortunes over the past several years. The nations of the Caribbean are also at risk, particularly in the country of Haiti where human misery is more pervasive than anywhere else throughout the Americas. Yet Haitian political leaders are unable to resolve their differences so that the Haitian people, the millions of them, can have a functioning government focused on their pressing needs of security, basic public health services, education, jobs, shelter and even something as simple as decent food.

While many of the subjects that I've just mentioned could be the focus of today's first hearing on the state of the hemisphere, it seemed to me that it would be most appropriate to begin our review by focusing on the most important and promising of our hemispheric relationships, our relationship with Mexico and the administration of President Fox.

It is no accident that President Bush made relations with the Fox administration a first priority of his new administration, and I commend him for it. The two leaders have met four times since President Bush assumed office last year, and both appear determined to make progress on a bilateral agenda.

We share so much in common with our neighbor to the South. Many Americans have roots in Mexico. Our economies are interdependent. Mexico is the second largest trading partner, with bilateral trade flows exceeding \$250 billion annually. Our borders are a beehive of activity, with more than 800,000 individuals and 250,000 vehicles crossing the U.S.-Mexico border daily.

More important than even our economic ties are our shared values, which allow us to remain close partners even when issues arise between us that are difficult to resolve. The U.S.-Mexico bilateral relationship is an extremely important cornerstone in fashioning a successful partnership with countries throughout the Americas. It is so important that we work at the relationship until we get it right, in my view.

We all know that the U.S.-Mexican agenda is an ambitious, and a challenging one: migration, border security, drugs, trade, investment, energy and economic development and there are many others. But it is achievable and our success or failure to get it right will have direct bearing on our prosperity both in this country and in Mexico, especially in border communities whose lives, security and economic well-being are inextricably linked.

We are honored today to have with us the Chairman of the Congressional Hispanic Caucus, Silvestre Reyes, who represents the 16th District in Texas, the El Paso area, who can speak with firsthand knowledge about the importance of the U.S.-Mexican relationship for border states, as well as the importance of finding the right solutions on issues to the bilateral agenda. President Bush and President Fox have established a strong relationship that should make resolution of even the thorniest of issues possible. It is my hope that the administration witnesses who are with us

today, this afternoon, will continue—or rather outline the administration's plans for making progress on that agenda, and a timetable for doing so.

At the core of that agenda is clearly the issue of immigration. With more than three million undocumented Mexicans living and working in communities throughout the United States, it is an issue that is just not going to go away. It is an issue that has implications for other topics on the bilateral agenda, not the least of those being U.S. security interests.

Our public witnesses, representing organized labor and the business community, are but one more concrete demonstration that the U.S.-Mexican relationship is an important one, one where there is more commonality of opinion than disagreement. Making progress on the U.S.-Mexican bilateral agenda is extremely important at large. U.S. cooperation and assistance in consolidating Mexico's economic and political reforms will be an extremely important signal to other governments in the Americas. It will also enhance President Fox's authority as a regional leader and better enable him to work in partnership with the United States in confronting issues such as corruption, drug trafficking and terrorism, which threaten the integrity of governments throughout the region and undermine popular support for democratic institutions and values. One more reason, in my view, for placing Mexico first on this subcommittee's agenda.

I look forward to hearing from all of our witnesses today, but first let me turn to my colleagues who are here, and I thank them for coming. Senator Chafee, who is my ranking member on this subcommittee and has been a valued member of it; Senator Helms, my former chairman and good friend with whom we have our disagreements, but always has a deep interest in the Americas and I've always appreciated it very, very well; and Senator Mike Enzi of Wyoming, who is here as well. So with that, Senator Chafee, we'll begin with you.

Senator CHAFEE. Thank you, Mr. Chairman, it's a pleasure to be here and welcome the Congressman, also.

Mr. REYES. Thank you, sir.

Senator CHAFEE. I know we have an aggressive agenda and I commend the chairman for, certainly with all the events around the world, looking south to our good neighbor Mexico, and then continuing down, as he said, in subsequent hearings to Central America and throughout the hemisphere, and foster good relations which more than ever are important to our country. So with that, I'll conclude my remarks and look forward to the testimony from our witnesses this afternoon.

Senator DODD. Thank you, Senator. Senator Helms.

Senator HELMS. Mr. Chairman, thank you very much. I feel obliged to suggest that the threats to Venezuelan democracy and to its constitution began long before the events of this past weekend. I personally would urge Mr. Chavez to make good use of his second chance and embrace a little more strongly the principles of democracy than he has in the past. I further suggest that one way for Mr. Chavez to demonstrate a new outlook would be to sever his very, very close relationship with Castro's Cuba. He may be surprised how fast things could improve if he would do that.



Beyond that, Mr. Chairman, I just want to thank you for scheduling this meeting today. In my judgment it's one of the most important we'll have because what happens in Mexico directly impacts America, which makes our policy toward our neighbor to the south of the greatest importance. Members of this committee who traveled formally as a committee earlier to Mexico learned about that firsthand. And you may recall that we met jointly with the Foreign Relations Committee of Mexico, and we are now working on a return visit from them where they could have lunch with us. Thank you, Mr. Chairman, for calling this meeting.

Senator DODD. Thank you, Mr. Chairman, you made a good point. You did do something unprecedented by taking this committee down and we look forward to the Mexican delegation coming here. In the middle of May or thereabouts we'll have yet another inter-parliamentary meeting as we have had now—the oldest inter-parliamentary, continuous inter-parliamentary meeting with any other country in the world. And I'll be chairing it this time with the Senate side chairs when the meetings are in Mexico. And I extend an invitation to all members who are interested in participating. There have been a lot of important ones, but I think this could be one of the most important ones.

Senator HELMS. I agree with you, sir.

Senator DODD. Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman. I appreciate your holding this hearing and I would ask that my entire statement be included in the record.

Senator DODD. All the statements will be included.

Senator ENZI. I am anxious to hear about the Immigration and Naturalization Service as well as border security and NAFTA, which are all of critical importance to Wyoming.

I appreciate that Mr. Jim Ziglar is here today. He is an old college friend of mine, and I watched him from the time that he got the appointment until he'd been confirmed, and then shortly after that, watched the drastic changes in the world that had to change his priorities.

We knew of a lot of paperwork problems that needed to be solved, that I told him about. I saw him chomping at the bit after doing extensive research in the southern United States, in Australia, in other countries around the world to be sure that he understood the job that he was going to have. And of course, September 11 changed the job that he got. And I appreciate the shift in priorities that he's done and all that he's been able to find out that many of us found to be quite a surprise.

We do rely on people coming into the country to help out. In Wyoming we kind of have the three H's, the hoeing beets, the herding sheep and the helping at restaurants and lodging. Without help in those we don't have those industries.

So, in connection with that though, we are concerned about those being allowed to cross our border and enter this country, and fear as to not only whether immigrants might take away U.S. jobs and drain health care and other programs, but also doing harm to us. So it is very important that we understand what is happening there, that we have enough agents, that the agency is allowed to work in a way that will be beneficial.

On the controversy on whether to split up INS, I think that Mr. Ziglar and the administration are headed in a better direction with the original recommendation that the agency be left intact but divided into two separate divisions, and that its technology, reporting and enforcement systems be updated.

I think we've learned a lot about that recently and know that there are some programs out there that will allow the interaction between all of the agencies that are necessary to do a good job on that.

Finally, I need to comment just a little bit on NAFTA, because that's of prime concern to an agricultural state like Wyoming, particularly in the area of sugar beets. I've already mentioned the hoeing, but the sugar that results from them is a huge issue.

One of the reasons that NAFTA passed is because some of the western Senators who had an interest in sugar beets voted for it based on a side letter that restricted some of the exports coming in from Mexico on that. Since that time, somehow, that side letter has been lost. I thought all of those things were preserved in the National Archives, but if it is it must be buried under the Constitution there. And with the loss of that sugar side letter U.S. producers are now trading on a playing field that has no referee. And that cannot be allowed to continue.

We also have some difficulties with shipping meat. In the United States, unless you meet very strict constraints that only major packers can meet, you can't ship meat from one state to another. But Mexico and Canada are allowed to ship meat into the United States and across state lines just by filing a plan. That's not a fair and level playing field and we need to have that taken care of.

So there are a lot of issues that we need to address and I thank you for having this hearing so we can address them.

[The prepared statement of Senator Enzi follows:]

PREPARED STATEMENT OF SENATOR MIKE ENZI

Mr. Chairman, I am grateful for the opportunity today to welcome the distinguished panel of witnesses before this committee and hear them speak on our country's relationship with Mexico.

I know we will be discussing many issues today, but I want to focus my remarks on the Immigration and Naturalization Service, some issues pertaining to immigration and border security, as well as NAFTA.

With respect to the INS, the President knew reform was needed even before September 11. He picked the right man, Jim Ziglar, to accomplish the daunting task of reorganizing and updating the INS. I am pleased to see that Mr. Ziglar is one of the witnesses appearing before this committee.

Today, one of the overwhelming tasks Mr. Ziglar faces is immigration and border security issues with Mexico. While we all want to continue friendly relations to the South, these issues are a large component of the Administration's discussions with President Fox. He is asking President Bush for some certainty for undocumented Mexican workers in the United States. At the same time, the President and Mr. Ziglar are facing even greater demands to protect our borders following the events of September 11.

Folks in Wyoming as well as elsewhere are concerned about how to deal with this issue. In Wyoming, we have many immigrant workers who are hired mostly for agricultural jobs that others do not want. These include hoeing beets and herding sheep. In addition, those in the Wyoming tourism industry—in the lodging or restaurant industry—also hire immigrant workers. On the other hand, people in Wyoming are concerned about who is being allowed to cross our borders and enter this country. Now, the fear is not only whether immigrants might take away U.S. jobs and drain healthcare and other programs, but whether they are entering this country to harm us.

It is important to understand that the problems we face with Mexico and Mexican immigration are just the tip of the iceberg. Before we can even begin to address Mexico specifically, we need a solution to the overall immigration and border security problems our nation faces.

The INS has not been able to keep up. It has too few agents—only 2,000 agents to deal with over 8 million illegal immigrants. The Director faces personnel limits, and he does not have the ability to fire employees. We all learned this in March when a Florida flight school received approved student visas for two of the dead hijackers. The Director was unable to fire those responsible for this fiasco.

I am convinced, and I believe it is well documented, that the biggest underlying, problem facing the INS is its outmoded computers, and its overall, antiquated tracking system. One of the most egregious examples of the computer problems in the INS is the fact that its computer software and system in some parts of the agency are unable to communicate within other parts of the agency. Not only are the INS computer systems unable to communicate with each other, but they also cannot communicate with other law enforcement, Customs, and State Department systems. For instance, the INS and FBI fingerprint systems can't cross-reference fingerprints. Basically, the INS needs to be brought into the 21st century.

But some members of Congress think the answer is to totally dismantle the INS and place its functions in two separate agencies overseen, by the Justice Department. Dismantling the INS is not going to provide any real solution.

I think Mr. Ziglar and the Administration are headed in a better direction with the original recommendation that the agency be left intact, but divided into two separate divisions, and that its technology, reporting and enforcement systems, be updated.

A part of the solution is passage of the Enhanced Border Security and Visa Entry Reform Act which is before the Senate today. This Act provides for the hiring of needed INS agents to track down unwanted aliens. It attempts to close the vast loopholes in the student-visa program. It allocates \$150 million to modernize computer and information-sharing systems at the INS. With that technology, the INS fingerprint system could be designed to cross-reference fingerprints with other law enforcement agencies.

The Act also requires the INS to fully integrate its data bases and systems with law enforcement and intelligence data systems. Under the Act, the Justice and State Departments would be required to issue travel documents, such as visas that are machine readable, tamper resistant, and have biometric identifiers. In addition, it requires INS and State Department to install equipment and software to allow biometric comparisons of travel documents at all U.S. ports of entry. It directs the INS to adequately staff ports of entry and mandates that all commercial flights and vessels coming into the U.S. provide manifest information prior to arrival. It would require border policing agencies to coordinate their activities. Finally, one of the things it does is direct the President to study the feasibility of establishing a North American National Security Program for the United States, Canada, and Mexico.

While this Act is the first step in assisting the INS with Mexican immigration and border security issues, we also need to make sure that the delicate trade issues we have with Mexico are properly addressed. The North American Free Trade Agreement provides for the framework under which three member countries aim to coordinate improved access to fair and open trade opportunities. While the member countries have made attempts to open their borders to a free flow of goods, the NAFTA has provisions that have adversely effected Wyoming producers. Namely, Wyoming sugar beet producers view the NAFTA as a serious problem in Wyoming.

In discussing the issue of sugar, Mexico argues that it is entitled to ship its net sugar surplus to the United States duty free under NAFTA, while the United States argues that a sugar side letter negotiated along with NAFTA limits Mexican shipments of sugar into the U.S. With the loss of the sugar side letter, U.S. producers are now trading on a playing field with no referee.

If we are going to be a common market, we have to establish fair and documented guidelines, underwhich Mexico should decrease its subsidization of its sugar industry. The U.S. is ready to negotiate a new deal because the situation has changed in both countries since NAFTA was signed.

Another NAFTA issue that has hit close to home is the allowance of beef shipments from Mexico and Canada, despite the fact that we currently prohibit the interstate shipment of state-inspected meat.

I abhor the hypocrisy of preventing our own states—our domestic producers—from shipping meat to other Americans, while accepting meat products from other countries. Our American producers abide by and uphold their own state standards, which are comparable to the safety standards of the federal government. Often

times, the beef imported from Canada and Mexico does not always meet our rigorous standards.

Senator DODD. Not at all, we appreciate your points very much Senator, and we thank you. Our first witness I've already referred to, my good friend Silvestre Reyes. And I mentioned not only is he a very fine Member of Congress representing the El Paso area of Texas, but my colleagues should know that the Congressman spent the good part of his adult life working directly on the Border Patrol of the U.S. Government for many years. He knows about these issues in a very, very direct way. And so he brings a great deal of knowledge as a Member of Congress, but his life experiences, having worked on the border as a patrol officer, really—it's worth listening to him. And we thank you immensely for being here, Silvestre, and look forward to your testimony.

**STATEMENT OF HON. SILVESTRE REYES, U.S. REPRESENTATIVE IN CONGRESS FROM THE 16TH DISTRICT OF TEXAS**

Mr. REYES. Thank you, Mr. Chairman. It's my pleasure to be here and thank you for inviting me, and ranking member Chafee as well and members of the committee. This is an important issue and the events of the weekend show how quickly things can change in Latin America.

First and foremost, our Nation's relationship with Mexico has matured and progressed in the past few years, and I am glad that this subcommittee is focusing on the unfinished agenda between our two great nations. Just a few short years ago any hearing on Capitol Hill that focused on Mexico was sure to be a session filled with finger pointing and accusations focused on drug trafficking, money laundering and illegal immigration. Times have changed. The issues are still important and still require our attention, but we are working closely together.

As I have said time and time again, our nations must work in an environment of cooperation rather than confrontation if we are going to succeed. Unfortunately, there are still many in Congress who would like to build a wall on our southern border. They believe that the best way to deal with the problems associated with migration, drugs and a host of border issues, is to put up a wall and pretend that the other side simply does not exist.

The reality is that Mexico is our second largest trading partner, and we must engage our neighbors to the south if we are going to resolve many of our mutual problems. An example of what we have done to engage our partners can be seen in the area of drug certification. As you know, Chairman Dodd, you and I both introduced legislation last year to revamp the annual drug certification process. We both agreed that the annual process placed a terrible strain on our relationship with Mexico and was very counter-productive.

As you know, the fiscal year 2002 Foreign Operations bill provided a 1-year waiver of the drug certification procedure on a global basis for all major drug transit and drug producing countries, and has required the President to designate only those countries that have failed during the previous 12 months to make substantial efforts to adhere to obligations under international counter-narcotics agreements. This is a positive step forward in my opinion,

and I look forward to working with the members of this subcommittee to find a permanent replacement solution for the flawed certification process.

We cannot speak of the U.S.-Mexico relationship without addressing the issue of migration. As you know, I spent more than 26 years with the Immigration and Naturalization Service, and I believe I have some real world practical solutions to the many migration challenges that we face. First and foremost, we must do a better job of deploying resources to our borders.

We need additional Border Patrol agents on both borders. We need more inspectors to facilitate the flow of commerce while enforcing our laws. We need additional technology, like the Integrated Surveillance Information System [ISIS], which is capable of monitoring the border region.

We must plug the holes along our borders and keep people from illegally entering the United States. I know that Commissioner Ziglar is seated here behind me this afternoon, and I know that he agrees with me on this very important and vital issue for the security of our country. The issue of legalization, or as some would call it, amnesty, has been in the news quite a bit lately. The word amnesty is used as a weapon by some and is thrown out to warn the country of what we are trying to do.

Let me tell you, Mr. Chairman and members of the committee, what we are trying to do, we are trying to keep families together. We as a Nation must realize that there are millions of undocumented people living in this Nation. We failed to keep them out and now we must deal with them. They are members of our society and contribute to our economy. They pick our food. They wash our clothes and care for our children. These long-time, tax-paying, law-abiding immigrants should be given some type of legal status.

It is in the national security interests of this Nation to deal with this underground society that currently exists within our borders. We should provide these immigrants with some type of legal status, but do so only after a complete background check. No one that I know of who is advocating for legalization wants to legalize criminals and/or terrorists. We must find these people and they must be deported.

This process of legalization will benefit both our economy, our national security, and most importantly will keep families together. President Bush and President Fox have been working on an agreement to ensure the safe, legal and orderly flow of migrants between our two respective nations. While most of us have been excluded from the discussions, it is our understanding that they are working on a guest worker program. I strongly believe that it is irresponsible and premature to develop a new guest worker program before we deal with the millions of hard working immigrants that are already present in our country. President Bush should focus on the immigrant families here in this Nation who need his help before he develops a new program to accommodate foreign workers.

Immigration and trade are closely connected, especially along our border. As the members of this subcommittee know, the challenges along our Nation's border are very complex. Since first arriving in Congress I have advocated for a consolidated border inspection agency. Today, each port of entry has conflicting mandates. What

we need is one person in charge with one set of operating priorities and one set of operating procedures.

After working on the border for more than 26½ years, I believe that in order to effectively enforce our laws, while still facilitating trade, we must consolidate the United States Border Patrol, the INS inspections, the Customs Service, parts of USDA and the Coast Guard. Only then will we eliminate the jurisdictional spats that plague our current port management, and only then will we be successful in interdicting narcotics and other contraband, while working toward fulfilling the promises of NAFTA for the border region and for the rest of the Nation.

There have been a number of proposals put forth in the Senate and the House, some of which exclude vital components of the very important system of port management. If we move a bill with only INS Inspections, the Customs Service and FEMA, we will do a disservice to this Nation and conceivably make things much worse. The last thing I would like to mention this afternoon on the issue of U.S.-Mexico relations is the INS.

I won't spend too much time on this issue, but I would like to say that next week the House will vote on a bill modeled after my initial INS restructuring proposal first introduced 5 years ago. I expect it to pass overwhelmingly and I urge all of you to move a similar bill on this side of the Capitol. Everything that I mention to you today, from legalization to guest workers to border management will require more from INS. Today, we know that they can't handle any more. In fact, they can't handle what they have on their plate currently.

Commissioner Ziglar, despite his best efforts, I believe will fail with the internal reorganization plan that he is proposing. I have seen more reorganization plans in my 30 some years of dealing both in and out of INS, currently as a Member of Congress, than I can remember. The INS will only be restructured when Congress intervenes, and we will do so next week.

Mr. Chairman, that is a start but it's important to note that this is an important issue for this country and our national security. So in conclusion, Chairman Dodd and Ranking Member Chafee, thank you for giving me this opportunity to be here this afternoon to share some of my thoughts with you. I look forward to answering any questions that you might have and again I thank you for this opportunity.

[The prepared statement of Mr. Reyes follows:]

PREPARED STATEMENT OF REPRESENTATIVE SILVESTRE REYES (D-TX)

Thank you Chairman Dodd and Ranking Member Chafee for inviting me to be here this afternoon. Our nation's relationship with Mexico has matured and progressed in the past few years and I am glad that this subcommittee is focusing on the unfinished agenda between our two nations. Just a few short years ago, any hearing on the Hill that focused on Mexico was sure to be a session filled with finger pointing and accusations focused on drug trafficking, money laundering, and illegal immigration. Times have changed. The issues are still important and still require our attention, but we are working together. As I have said time and time again, our two nations must work in an environment of cooperation rather than confrontation if we are going to succeed.

Unfortunately, there are many in Congress that would like to build a wall on our southern border. They believe that the best way to deal with the problems associated with migration, drugs, and a host of border issues is to put up a wall and pretend the other side doesn't exist. The reality is that Mexico is our second largest

trading partner and we must engage our neighbors to the south if we are going to resolve many of our problems. An example of what we have done to engage our partners can be seen in the area of drug certification. Chairman Dodd, you and I both introduced legislation last year to revamp the annual drug certification process. We both agree that the annual process placed a terrible strain on our relationship with Mexico and was very counterproductive. As you know, the FY2002 Foreign Operations bill provided a one-year waiver of the drug certification procedures on a global basis for all major drug-transit and drug producing countries and required the President to designate only the countries that have failed, during the previous 12 months, to make substantial efforts to adhere to obligations under international counter-narcotics agreements. This is a positive step forward and I look forward to working with the members of this subcommittee to find a permanent replacement for the flawed certification process.

We cannot speak of the U.S.-Mexican relationship without addressing the issue of migration. As you know, I spent more than 26 years with the Immigration and Naturalization Service and believe I have some real world, practical solutions to the many migration challenges we face. First and foremost, we must do a better job of deploying resources to our borders. We need additional Border Patrol agents on both borders. We need more inspectors to facilitate the flow of commerce while enforcing our laws. We need additional technology like ISIS to monitor the border. We must plug the holes along our borders and keep people from illegally entering the United States. I know that Commissioner Ziglar is here this afternoon and I know that he agrees with me on this issue.

The issue of legalization or "amnesty" has been in the news quite a bit lately. The word "amnesty" is used as a weapon by some and thrown out there to warn the country of what we are trying to do. Let me tell you what we are trying to do. We are trying to keep families together. We as a nation must realize that there are millions of undocumented people living in this nation. We failed to keep them out and now we must deal with them. They are members of our society and contribute to our economy. They pick our food, wash our clothes, and care for our children. These long-time, tax-paying, law-abiding immigrants should be given some type of legal status. It is in the national security interest of this nation to deal with the underground society that currently exists. We should provide these immigrants with some type of legal status and do so only after a complete background check. No one that is advocating for legalization wants to legalize criminals and terrorists. We must find these people and they must be deported. This process of legalization will benefit our economy, our national security, and most importantly, will keep families together. Mr. Chairman, I would like to insert for the record a copy of the Democratic Immigration Principles which outline the ideas of legalization and family reunification.

President Bush and President Fox have been working on an agreement to ensure the safe, legal, and orderly flow of migrants between our two nations. While most of us have been excluded from the discussions, it is our understanding that they are working on a guest-worker program. I strongly believe that it is irresponsible and premature to develop a new guest-worker program before we deal with the millions of hard-working immigrants already in this country. President Bush should focus on the immigrant families here in this nation that need his help before he develops a new program for foreign workers.

Immigration and trade are closely connected, especially along the border. As the members of this subcommittee know, the challenges along our nation's borders are complex. Since first arriving in Congress, I have advocated for a consolidated border inspection agency. Today, each port-of-entry has conflicting mandates. What we need is one person in charge with one set of operating priorities and procedures. After working on the border for 26½ years, I believe that in order to effectively enforce our laws while still facilitating trade, we must consolidate the U.S. Border Patrol, INS Inspections, the Customs Service, parts of USDA, and the Coast Guard. Only then will we eliminate the jurisdictional spats that plague our current port management and only then will we be successful in interdicting narcotics and other contraband while working towards fulfilling the promises of NAFTA for the border region and the rest of the nation. There have been a number of proposals put forth in the Senate and the House, some of which exclude vital components of port management. If we move a bill with only INS inspections, the Customs Service, and FEMA, we will do a disservice to the nation and conceivably make matters much worse.

The last thing I would like to mention this afternoon on the issue of U.S./Mexican relations is the INS. I won't spend too long on this issue but I would like to say that next week, the House will vote on a bill modeled after my INS restructuring

proposal first introduced 5 years ago. I expect it to pass overwhelmingly and I urge all of you to move a similar bill on this side of the Capitol.

Everything I mentioned to you today, from legalization to guest-workers to border management, will require more from the INS. Today, we know that they can't handle any more. In fact, they can't handle what they have on their plate. Commissioner Ziglar, despite his best efforts, will fail with the internal reorganization plan he is pushing. I have seen more reorganization plans in my more than 30 years of dealing with the INS than I can remember. The INS will only be restructured when Congress intervenes and we will do so next week.

Chairman Dodd, Ranking Member Chafee, thank you for the opportunity to be here this afternoon to share some of my thoughts with you. I look forward to answering any questions you may have for me.

Senator DODD. Well thank you very much, Congressman. Your ongoing interest in the subject matter is tremendously valuable. As you pointed out in your testimony, your experience of 26 years on the border brings a wonderful practical consideration to these issues, and we're grateful to you for them. Let me just ask you a couple of quick questions if I could and then I'll let you get going.

I think I heard you say, and I know you're testifying today both in your own capacity but also as Chairman of the Hispanic Caucus in the House, and so it's worthwhile for us to get a sense of how your colleagues from the Hispanic Caucus feel on these issues as well. But as I understand it when you're talking about the expanded guest worker program, that you or the Caucus would have a very difficult time accepting any guest worker program that did not include some mechanism, and there are a variety of suggestions here, but some mechanisms for legalization. Is that correct?

Mr. REYES. That is correct, Mr. Chairman. It is vitally important, as I mentioned in my testimony, that we recognize that there are millions of undocumented people living in our country. And it just makes sense that we have a mechanism that brings them, identifies them, gives them a legal status.

It is important to note that these are people that are living in our neighborhoods, living in our communities, that are sending their kids to school, that are paying their taxes, and that are in every sense of the word part of our community. If we're going to move forward with a proposal to have some kind of program for guest workers, first and foremost the position of our Caucus is that we address a legalization program. Whether you call it legalization, regularization or in order to not get amnesty, it's important that we make that very careful distinction and take that very important first step toward what I think is a prudent issue of national security.

Senator DODD. And I agree with you. I think we all do. Second, you mentioned the certification issue and I am grateful to the administration for the position they took on this question of trying something new, suspending this—we're now going to try a different approach.

I think most people have come to the conclusion, as you point out in your testimony, that this was not having the kind of productive results that we wanted to in seeking cooperation. So, we're looking for a more cooperative approach on this. But I wonder if you might comment what the suspension—there were many who said you suspend this stuff it's going to be an invitation to some of these drug traffickers to increase their activities. And it's been a brief amount of time since we've suspended the certification process, but I won-



der, through the connections you have in your work, what the impact has been on the U.S.-Mexican bilateral counter-narcotics efforts since the suspension?

Mr. REYES. I think it's important that we recognize the efforts that President Fox and the Mexican Government are making to address some of these cartels. If anyone has been paying attention to the news they have seen that there has been, over the course of the last year, an increased activity in addressing the issue. Most recently, in the area of Tijuana, the Mexican Government conducted a sting where they arrested a significant number of—even members of the law enforcement community—and removed them to Mexico City and they're currently undergoing interrogation. But that's just the latest effort.

We have seen a dramatic change in the policy that the Mexican Government has in addressing the issue of drug trafficking. It's a tough issue. Like our law enforcement agencies, drug trafficking organizations and cartels have a heck of a lot more money, don't have to worry about putting out bids for equipment, for night vision, for guns and for all of the trades. Plus, the corruptive influence that they have on both sides of the border is well documented.

But I think it's important that we recognize the efforts that, in particular, the Mexican Government has made over the course of the last year since we suspended the certification process.

Senator DODD. I appreciate that, and we pointed out over and over again, of course, we talk about this issue in dealing with Colombia as well. I always find it somewhat ironic in the case of Colombia we may end up financing both sides of that conflict. We finance one, obviously, through our tax dollars and appropriations to assist a government trying to survive. And then, of course, through those who consume narcotics illegally, they end up funding the other side of the conflict.

And if we could—we've been tough on a lot of these countries in seeking cooperation, but we're reminded painfully that if we didn't have the consumption levels we do here these operations would have no place to sell the stuff. So I'm pleased to hear you say that and I hope that continues. We need to work at this but my impression has been that the Fox administration has made a significant effort and with some success in dealing with this issue.

With that, let me turn to my colleagues for any questions they may have for the Congressman.

Senator CHAFEE. Yes, thank you, Mr. Chairman. Thank you, Congressman Reyes. I was wondering—talking about legalization, regularization, amnesty, whatever you want to call it, President Bush was outspoken on this issue last year—might have floated it as a trial balloon. We haven't heard too much about it since. What are the dynamics in the House? Any prospect of a favorable consideration if that were to come forward for some kind of a vote?

Mr. REYES. I think since the events of 9/11, obviously the priority that we had seen this issue take with the relationship between Presidents Bush and Fox, obviously took a back burner position to our national security and the fight against terrorism and all of those kinds of issues. But nonetheless, on the House side we continued to work and dialog with members of our inter-parliamentary group. Today there's a tremendous concern on the part of our Mexi-

can counterparts, Senators and Members of their House, that the issue not be forgotten, that it be brought back to second tier or back burner status.

We have some basic principles that we would propose on the House side, that we would make available to the subcommittee for your consideration, that deal with the things that I mentioned in my testimony: family reunification, a component to recognize the fact that if we're going to have a guest worker provision, then we have to address those who are already here. And it makes prudent sense from a national security perspective.

But I think that if given the interest of the President and members of his administration, as well as the Mexican administration, I think we would have a good opportunity on the House side to pass a piece of legislation that we could, perhaps if not similar legislation on the Senate side, take to conference to again put this issue at the forefront of the relations between the United States and Mexico. It's the right thing to do. The climate is right for it.

The Mexican Government and Congress have been very forthright in the dealings with us, in the fact that they want to be an integral part of any effort that deals with national security. Because, our national security is there interest as well. They want to be helpful. And I believe that doing—prioritizing this issue and doing this kind of legislation on a priority basis, would certainly send that kind of message not just to Mexico, but to the rest of Latin America as well.

Senator CHAFEE. Well, thank you very much. Keep up the good work you're doing in the Hispanic Caucus.

Mr. REYES. Thank you.

Senator DODD. Senator Helms.

Senator HELMS. Mr. Reyes, you made what is the best common sense argument I've heard. I've heard a lot of words since I've been in the Senate, particularly about what to do about the Mexican flood coming across the borders, et cetera.

Down in North Carolina we have a man who is very successful. He is very much interested in our government's handling of this in a proper method so as to encourage friendship with Mexico, but not to be victimized by a flood of people who are unregistered and so forth. And I talked with him at some length. He served on the board of trustees at the University of North Carolina for many, many years and that sort of thing. He first says that it's absolutely essential for those who have come over the border to be registered as seeking citizenship in this country. They don't have to follow through with it, but they have to carry that identification card. Do you agree with that?

Mr. REYES. Well, you know, a lot of times citizenship and lawfully admitted permanent residency gets confused. I think you'll find that most—if we're talking about Mexicans—most Mexicans that are in this country want to get permanent legal status here, permanent residency. As you probably know, after you've been a permanent legal resident it takes 5 years to be eligible to become a U.S. citizen. We are seeing more—since the Mexican Congress changed the law that now protects their citizens abroad and they can own property in Mexico and all those things—

Senator HELMS. I'm aware of that.

Mr. REYES [continuing]. I think you'll see overwhelmingly more Mexican citizens wanting to become U.S. citizens. I agree that that would be something that would be, I think, commonsensical in addressing this issue.

Senator HELMS. I don't need to tell you, nor Commissioner Ziglar, that many employers in the United States welcome these people, but they're not treating them fairly. Now my friends says that there ought to be something in the law requiring a minimum wage and that they must be paid by check so that the payment can be a matter of record. And that those who have applied for citizenship or received their registration card, live in this country 3 years without any blemish on their record in terms of a violation of law, that they would be automatically considered for citizenship. But if they have trouble with the law then that's a different story. Do you agree with him so far with what I said?

Mr. REYES. I think it's important that when we talk about a legalization program there—and I mentioned it in my testimony—there be a way, concrete review process, and that there be a record check process. Because, we're trying to do two things. We're trying to accommodate a whole population that's here, and in most cases Senator, as you probably know, may have citizen children that are here. But yes, there should be a record and they should have a clean bill of health in terms of any legal activity or anything else. That is fair and I think most people will abide by that.

Senator HELMS. But they should, in your judgment, also be required to have that registration card or whatever, so that they are in the mix for becoming citizens of this country?

Mr. REYES. The law requires that. The law requires that an individual be a lawfully admitted permanent resident for 5 years before they can apply, before they are eligible.

Senator HELMS. I understand that, but how do you—do they have identification cards?

Mr. REYES. Yes, they have what is commonly referred to as a green card. That's their proof that they've received an immigrant visa, that they've been legalized, regularized, or given amnesty, whichever the term may be that we deal with.

Senator HELMS. My friend is also, he's tremendously concerned about certain nefarious employers cheating these people. He said that ought not be permitted. Now what safeguards do we have allotted?

Mr. REYES. Well, in the law already are aspects of employer sanctions that were passed in 1986. And I think the only thing that has kept that from working has been lack of resources to INS and the fact that INS has not had adequate funding and adequate personnel to assign them in the interior of the United States. So absolutely we have to be clear that there is a role to play by the Department of Labor in making sure and ensuring that those that hire people, whether they're permanent residents or guest workers or whatever category, that they treat them fairly, that they comply with the law, and that they give them the kinds of benefits that are provided for in law.

Senator HELMS. But also that the employers must keep adequate records about how much they paid, they can demonstrate that they have, in fact, paid that much.

Mr. REYES. Absolutely.

Senator HELMS. That's already being done?

Mr. REYES. That's already provided in the law. You know, as often happens, any law is successful if you've got the people to force its compliance. We haven't had that up to now. In INS, most of the INS resources have been dedicated to the border regions. And we haven't had a priority in the interior and therefore you have these issues that crop up about employers that are unscrupulous, that they mistreat, that they don't pay adequate wages, don't give them housing, those kinds of issues. Those should all be addressed comprehensively in any piece of legislation. But in most cases, that already exists in the law.

Senator HELMS. You have given me great comfort. Let me ask you, and Mr. Ziglar can nod if he agrees. If I can persuade this gentleman to fly to Washington, would you and Mr. Ziglar meet with him and make sure the conditions that he believes are essential are being met? Would you agree to meet with him?

Mr. REYES. Senator, I will meet with whoever you ask me to because I appreciate the efforts you are making.

Senator HELMS. I think you will find it worthwhile. Mr. Chairman, thank you again for this hearing. This is most interesting and I'm encouraged by it.

Senator DODD. Thank you, Senator. Congressman, I thank you immensely. You're more than welcome to stay if you like and hear the rest of us. I know you've got a busy schedule.

Mr. REYES. Actually I'm in an Intelligence Committee hearing, so I will excuse myself.

Senator DODD. Very good, thank you once again, Congressman for being with us.

I want to invite the next witnesses to come up as a panel if they would. I'll introduce them as they're taking their seats.

The Honorable Alan Larson, who is Under Secretary for Economic, Business and Agricultural Affairs, Department of State; the Honorable John Taylor, Under Secretary of International Affairs, Department of the Treasury; and the Honorable James Ziglar, Commissioner of the Immigration and Naturalization Service. We thank you for being with us.

Welcome, all three of you. I appreciate your presence here today. And a special welcome to the Commissioner, who when he was here in the Senate we almost had—we've been accused, the Democrats have been accused of delaying certain nominations from going forward. And I won't dwell on that point here today. Obviously we take issue with that charge, except with the case of one nominee, and that was the case of Jim Ziglar.

There was actually a concerted effort here to deny a confirmation hearing to Jim Ziglar so we could keep him in the U.S. Senate. The affection for Mr. Ziglar is felt very strongly by all of us up here regardless of party. There's a deep affection of the Senate, the institution of the Senate, and the administration was truly fortunate to convince you to join them.

I know you must have some second thoughts about whether or not you should have left the Senate, given the events of the last couple of months, but I'll tell you we think you're doing a great job. I know there's been a lot of accusations of various kinds, but I

know Jim Ziglar and I think the administration is fortunate to have you in their service, and serving all of us in this country for that matter. So, you're always welcome here. I want you to know that.

And I know Mr. Larson very well. I have a high regard for you as well, sir, and your work. Mr. Taylor, we thank you for being here.

I'm going to turn these timer lights on. I want to have as much of your testimony as we can get, but you all know from previous experience these hearings can wander off and take more time than would be the case. So, I'll put them on and give about 6 minutes apiece or so and I don't—just as a warning to you to sort of wrap up if you can. Obviously your full statements will be included as part of the record. Any documentation you think we should have that would help us in this committee complete a full report on U.S.-Mexican relations would be most appreciated. So we'll begin in the order I introduced you, and Alan we thank you for being here.

**STATEMENT OF HON. ALAN P. LARSON, UNDER SECRETARY OF STATE FOR ECONOMIC, BUSINESS AND AGRICULTURAL AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC**

Mr. LARSON. Thank you very much, Mr. Chairman. I do have a statement for the record. Mr. Chairman and Senator Chafee, I really welcome the opportunity to testify today on our economic relationships with Mexico. Last September when President Fox visited, President Bush said, and I'm quoting, "The United States has no more important relationship in the world than our relationship with Mexico. Each of our countries is proud of our independence, our freedom and our democracy. We are united by values and carried forward by common hopes."

Six years after NAFTA was signed Mexico held a landmark election that confirmed its democratic aspirations, resulted in a peaceful change from one party to another, and reaffirmed the commitment of Mexico to the rule of law. The mandate that President Fox has to lead Mexico has brought a break with some patterns of the past and has brought some new opportunities to build strong cooperative relations between Mexico and the United States.

When Congress approved NAFTA in 1993 bilateral trade totaled about \$81 billion. Just 8 years later two-way trade reached \$233 billion. Mexico is now our second largest trading partner in the world, and we are Mexico's largest trading partner. There are some 2,600 American companies that operate in Mexico and the stock of U.S. foreign direct investment in Mexico stands at \$35 billion.

Since September 11 we've sought to develop a border infrastructure that fully provides for our security while permitting the rapid flow of legitimate goods and people. To this end, Presidents Bush and Fox announced last month in Monterrey a border partnership agreement that sets forth integrated infrastructure investment plans. Freer trade with Mexico has helped fuel growth in both countries. It has spurred productivity, stimulated higher paying jobs and has reduced the prices of consumer goods. And our close integration with Mexico has made each of us more competitive in the global economy.

Mexico has been an active participant in negotiations to establish a Free Trade Agreement for the Americas. And in fact, the FTAA negotiations were moved to Puebla, Mexico in 2003. Mexico also adopted a leadership position within the World Trade Organization, and it will actually host the next WTO ministerial meeting. Mexico is playing a leading role in the Asia Pacific Economic Conference, and it will host this year's leaders meeting. And last month Mexico successfully hosted the U.N. Conference on Financing for Development.

During the recent meeting in Monterrey, Presidents Bush and Fox unveiled a plan for Partnership for Prosperity. The partnership aims to attract private resources and expertise to support economic development in Mexico's less developed regions. I had the privilege of working on this initiative with Deputy Secretary of the Treasury Kenneth Dam, and with our Mexican counterparts. We put to work some of the best minds in Mexico and in the United States, business leaders, government officials, academics and key public sector agencies. And our objective is to forge a public-private alliance to harness the power of free markets in order to foster an environment in which no Mexican will feel compelled to leave his home for lack of a job or lack of opportunity. We're not seeking appropriations for this initiative. We will be monitoring results carefully to track whether the Partnership is fulfilling its goals, and we're going to report back to the two Presidents in 6 months.

The interconnectedness of our economies extends to our work forces. Recently, the President of the AFL-CIO, John Sweeney, and the President of the U.S. Chamber of Commerce, Tom Donahue, spoke to the key role of immigrant workers in our economy, and they advocated regularization of illegal migrant workers. President Bush shares their appreciation of the value of migrant labor.

The Fox administration, while keenly interested in the migration accord, also fully recognizes Mexico's strong interest in promoting job creation and domestic economic growth. Mexico has encouraged Mexican-Americans to return and to invest in Mexico. President Fox has also declared that trans-national crime and corruption are among the major threats affecting Mexico's national interests. Mexico is actively engaged with us on these issues. President Fox recognizes that as Mexico moves into the globalized world it must offer visitors and investors reasonable guarantees of security, of protection of their legitimate interests, and of recourse to a judicial system that honors the rule of law.

Mr. Chairman, Mexico and the United States share a common economic destiny. We both live in a world that is still quite turbulent and quite dangerous. And that is why an effective foreign policy really begins in our own neighborhood, and in particular it begins with having strong relations with Mexico. Thank you.

[The prepared statement of Mr. Larson follows:]

PREPARED STATEMENT OF HON. ALAN P. LARSON, UNDER SECRETARY OF STATE FOR  
ECONOMICS, BUSINESS AND AGRICULTURAL AFFAIRS

U.S.-MEXICO BILATERAL ECONOMIC RELATIONS

I would like to thank Chairman Dodd, Senator Chafee and other subcommittee members for inviting me to testify today on a subject vital to U.S. interests—economic relations with our immediate neighbor to the south, Mexico. I also would like to make a special personal expression of my appreciation to the members of this

committee for their support of the men and women of the State Department, Foreign Service, Civil Service, and Foreign Service Nationals.

President Bush in September of last year told President Fox and the world that “The United States has no more important relationship in the world than our relationship with Mexico. Each of our countries is proud of our independence, our freedom, and our democracy. We are united by values and carried forward by common hopes.”

Although the world changed soon after those words were spoken, one thing did not change: our two countries’ friendship and commitment to bolstering bilateral cooperation across the wide spectrum of our ties.

Indeed, it is a remarkable neighborhood that we live in alongside Canada and Mexico. Our relations with Mexico and Canada—our North American neighbors and partners—are integral to our well-being and security as a nation. These relationships are grounded, in increasing measure, in shared values and perspectives on the world. We share a faith in democracy and the rule of law as twin pillars of sustainable governance, and a faith in open markets as the proven route to sustainable economic growth and development for our peoples and nations.

Seven years after we signed the North American Free Trade Agreement, Mexico held landmark elections—elections which saw Vicente Fox, a businessman turned politician dedicated to the advancement of democracy, the rule of law and human rights in Mexico, win the presidency fair and square. Fox’s mandate to lead Mexico into a new century has meant a break with its past and a new activism in its foreign policy which is reflected in a close, cooperative relationship with the United States.

#### *NAFTA’s Legacy*

When the Congress passed NAFTA in 1993, trade between the United States and Mexico totaled \$81 billion. Our two-way trade hit \$233 billion in 2001. U.S. exports to our NAFTA partners have almost doubled since 1993. Mexico is now our second largest trading partner. Today, we export more to Mexico than to Britain, France, Germany, and Italy combined.

With \$638 million in goods crossing the border each day, our biggest challenge in the wake of September 11 remains to develop a border security infrastructure which keeps pace with the demands of travel and commerce. When Presidents Bush and Fox met in Monterrey in March they signed a Border Partnership agreement which highlights the need to develop integrated infrastructure investment plans to ensure the economic competitiveness of the border region is not impaired as the volume of trade increases. Our “smart border” plan will speed the legitimate flow of people and commerce while it filters out threats to our safety and prosperity.

Given the volume of trade between the U.S. and Mexico, it is not surprising that we have some lingering trade disputes. I know you hear about them from your constituents. Fortunately, we now have the mechanisms to deal with those disputes through NAFTA and WTO international arbitration. We continue to vigorously defend our interests in these organizations. I believe that over time all of those disputes can be resolved through negotiation.

Free trade between our countries and the resulting dramatic increase in trade helped fuel an extended period of economic growth in both the United States and Mexico. It spurred productivity, stimulated creation of higher paying jobs on both sides of the border and reduced prices for consumer goods. Close economic integration between Mexico and the United States has made each of us more competitive in the global economy.

Investors have looked much more favorably at Mexico since NAFTA. Some 2,600 American companies have operations in Mexico. The stock of U.S. foreign direct investment in Mexico grew to \$35.4 billion in 2000, an increase of 92 percent from 1993. U.S. investment in Mexico is now concentrated in the manufacturing and financial services sectors. American investors are anxious to expand to other sectors such as information technology, energy and agribusiness as those opportunities become available.

I am particularly intrigued by the opportunities for growth and the expanding linkages of our economies that information technology offers. I have had the opportunity to speak with many Mexican and American businessmen about these prospects and all agree that as more Mexicans gain access to computers and the internet, e-commerce could be a tremendous boon to our cross-border relations.

Most Mexicans, unfortunately, are currently on the far side of the digital divide. President Fox and his administration have launched several initiatives to close that gap including e-Mexico, a Telecommunications Social Fund and efforts to expand internet connectivity through the Gulf Horseshoe Project. I will be encouraging American firms to look at this growth market for the future.

### *The Global Economy*

I am pleased to report that Mexico has been a constructive participant in the negotiations to create an integrated hemispheric market through the Free Trade Area of the Americas (FTAA). The headquarters for FTAA negotiations will move to Mexico in 2003. We expect that in the years ahead Mexico will be the focal point of critical trade talks which will do much to shape the future of this hemisphere.

At the same time as Mexico has strengthened ties with the United States, it also has reached out to new markets in the global economy. Following the success of NAFTA, Mexico has signed free trade agreements with 32 countries including an agreement with the European Union.

Mexico has adopted a progressive leadership position within the World Trade Organization, helping to encourage other developing nations to embrace the benefits of trade liberalization. We worked closely with Mexican Economic Secretary Derbez in the crucial period leading up to Doha and we look forward to working together during the Doha round. Mexico will host the next Ministerial meeting of the WTO.

Mexico also is playing a dynamic leadership role in the Asia-Pacific Economic Conference (APEC). This year it will be the host nation for the APEC Summit, putting a special focus on development of small- and medium-sized enterprises.

Mexico hosted last month the successful United Nations Financing for Development conference in March in Monterrey. Through its leadership, Mexico helped to ensure that a new consensus on development policy would emerge. This policy puts great emphasis on American values, including linking good governance to development assistance and emphasizing the vital role of trade and investment as engines of development.

### *The Partnership for Prosperity*

We took the opportunity of the U.N. conference in Monterrey to present to President Fox and President Bush a plan for "Creating Prosperity through Partnership." Echoing the theme of the Monterrey conference, the plan is a prime example of how we are seeking to leverage private resources and expertise to achieve economic development.

I have had the privilege of working on this innovative presidential initiative, along with Deputy Treasury Secretary Kenneth Dam and our Mexico colleagues. We were able to put some of the best minds in Mexico and the United States to work on this project. It was a very collegial effort, and we worked intensively with our Mexican counterparts. We collaborated with more than 100 U.S. and Mexican business leaders, government officials, academics and key U.S. government agencies, including the Overseas Private Investment Corporation (OPIC), Export-Import Bank (EXIM), U.S. Agency for International Development (USAID), the U.S. Trade and Development Agency (TDA), and the U.S. Department of Agriculture (USDA) and their Mexican counterparts.

In the Partnership, we have forged a public-private alliance to harness the power of free markets to foster an environment so that no Mexican feels compelled to leave his home for lack of jobs or opportunity. Will the Partnership effort stop the flow of undocumented migrants from Mexico? Of course not, nor is that its aim. Our Presidents do agree however, that we need to take urgent steps to foster growth, opportunity and job creation in regions where economic growth has lagged and where opportunities are so limited that migration is the only attractive alternative for an enterprising individual.

The "Partnership for Prosperity" includes no new requests for appropriation of funds. We have mobilized the U.S. government resources already devoted to Mexico and linked up with private sector and non-governmental organizations in the small business, housing, agriculture, information technology and infrastructure sectors. Some specific examples of the concrete steps we are taking include:

*Increasing investment in housing:* The U.S. Treasury Department will coordinate provision of technical assistance to Mexico to encourage securitization of mortgages and creation of a secondary mortgage market in Mexico. Treasury will draw upon experts with experience in housing finance from private financial institutions, government-sponsored enterprises (like Fannie Mae and Freddie Mac and Ginnie Mae) and the U.S. Department of Housing and Urban Development (Office of Federal Housing Enterprise and Oversight and Ginnie Mae).

*Investing in infrastructure to boost commerce:* The U.S. Trade and Development Agency will lead efforts to spur participation of U.S. companies in the development of Mexican infrastructure projects including ports, an air cargo facility and an expansion of Mexico's internet connectivity. The Trade and Development Agency signed a Master Grant with Nacional Financiera (NAFIN), Mexico's largest development finance institution, at the time of the bilateral meetings in Mexico last month. A similar grant is ready for signing with Banco Nacional De Obras y Servicios



Publicos (BANOBRAS), Mexico's largest civil works loan agency. A grant also is ready for signing for the modernization of the Puebla Airport.

*Supporting small business development:* The U.S. Small Business Administration and other U.S. financing agencies will work with their Mexican counterparts to generate small business development centers in Mexico. The agencies will work to broaden access to Mexicans interested in U.S. franchise opportunities.

Lowering the cost of sending money home: Recognizing the important role Mexican workers play in the American economy, U.S. Treasurer Rosario Mann will work to highlight awareness of competitive products by promoting financial literacy and expanded use of the banking system by American Hispanics. Last year Mexicans and Mexican-Americans in the U.S. sent nearly \$9 billion home to family and friends in Mexico, often at a high cost.

These are only a few of the highlights. The Partnership includes many other activities. I will leave copies of the plan for the Committee to review.

The Partnership recognizes that its goals will not be achieved overnight, but we believe these initial steps will build a strong foundation for long-term progress. To ensure that the Partnership continues to be dynamic and productive, we will monitor results using a management scorecard that will track how well the Partnership is fulfilling the vision and meeting its goals. We will report back to the Presidents in six months.

#### *Outlook for the Mexican Economy*

The outlook for the Mexican economy is good. Despite a recession in 2001, Mexico is expected to return to positive growth in 2002. Mexico continues to be distinguished as a "safehaven" among other emerging markets. Mexico in February 2002 received an investment grade rating from Standard & Poor's and now has an investment grade rating from all three major ratings agencies. Investors are seeing the benefits of Mexican integration into the North America regional economy.

#### *A New Spirit*

The NAFTA legacy extends beyond a trade agreement. NAFTA represents a commitment by Mexico to modernize politically and economically and a commitment by the United States and Canada to support this great change. President Fox ushered in a new, more open economic environment in Mexico. The prevailing spirit is one of free enterprise and equal opportunity, in which entrepreneurship is rewarded and graft is punished. Mexico's closer ties to the U.S. economy mean that prospects for our futures are increasingly linked. As our business cycles have converged, predictions for an upswing in the Mexican economy this year depend on our own economic recovery.

#### *Willing Workers and Willing Employers*

This growing interconnectedness carries over into our respective workforces. During NAFTA's first seven years, employment in Mexico grew by 25 percent, generating 2.7 million jobs while employment in the United States grew by 16 percent, generating 21.5 million jobs. Last week AFL-CIO President John Sweeney and U.S. Chamber of Commerce President Tom Donahue—two men who do not always see eye-to-eye—spoke out about the key role immigrant workers play in the U.S. economy and advocated the regularization of illegal migrant workers. President Bush recognizes the contribution made to our nation's economy by migrant workers and embraces the idea of matching willing workers with willing employers; but this needs to happen in a safe and legal framework.

When Presidents Bush and Fox met in February 2001 in Mexico, they agreed to place the historically contentious issue of migration at the center of the bilateral agenda. They instructed their governments to begin high-level discussions to attempt to resolve the more difficult facets of migration. Secretary Powell, Attorney General Ashcroft, and Secretary Chao are the co-chairs of the U.S. side of the U.S.-Mexico High-Level Working Group on Migration (HLWGM). The first meeting of the HLWGM took place in April 2001. Since that time we have continually engaged the Mexicans on all aspects of the bilateral migration agenda. The administration has also consulted widely with Members of Congress and with representatives of Non-Governmental Organizations.

The conversations about migration are on-going, both with the Government of Mexico and domestically within the U.S. There is no timetable for resolving the outstanding issues. The Mexicans are not simply interested in sending workers to the U.S. The Fox administration recognizes that the best way to resolve the issue of the outflow of workers is to promote growth and create well-paying jobs in Mexico. It has encouraged successful Mexican-Americans to invest in the Mexican economy and would tend to build "circularity" into any temporary worker programs.

*The Battle Against Crime and Corruption*

In the 18 months since President Fox's inauguration, we have seen the Government of Mexico dedicate itself as never before to combating crime. Fox has declared transnational crime and corruption to be among the major threats affecting Mexican national security interests. He has mounted a serious campaign against drug trafficking interests and worked to root out corrupt elements from government, including judicial and law enforcement agencies. He faces an uphill struggle, given entrenched narcotrafficking interests and pervasive corruption, but has registered significant victories. Accomplishments include the firing of nearly 50 Tijuana-based customs officers on evidence, grounds of corruption, the arrest of drug baron Benjamin Arellano Felix, the arrest of several high-level members of the Gulf Cartel, and the arrest in early April 2002 of some 40 Baja California police officers, including the Tijuana Chief of Police.

The U.S. and Mexico face a host of trans-border criminal threats that can only be addressed through close cooperation. Unlike previous Mexican administrations, Fox's has welcomed a higher level of cooperation with U.S. officials. Collaborative efforts on interdiction of drugs have been unprecedented, including a major joint effort that led in late 2001 to a multi-ton seizure of cocaine from a fishing vessel in international waters off the Pacific coast of Mexico.

Mexico has taken these steps because it sees these scourges for what they are—threats to Mexico's own national interests. President Fox recognizes that as Mexico moves into the globalized world, it must offer its neighbors and investors a reasonable guarantee of security, protection of their interests and recourse in a judicial system which affords them the protection of the rule of law.

*Conclusion*

Mexico and the United States share a common destiny. NAFTA has shown that free trade with our southern neighbor can create better jobs on both sides of the border, while putting both countries on a stronger competitive footing in the global economic arena.

Deeper economic cooperation, such as the recently announced Partnership for Prosperity, offers additional means to strengthen each economy. At the same time, by working with President Fox to extend the benefits of economic development throughout Mexico, we can address some of the underlying conditions that tend to promote illegal immigration and crime.

We live in a world that is still turbulent and dangerous. That is why an effective foreign policy begins with strong relations in our own neighborhood.

Our relations with Mexico have never been better. We have the opportunity to deepen our cooperation in trade, investment, border security, law enforcement and immigration. In doing so both countries will become more prosperous and secure.

Thank you very much.

Senator DODD. Very good. Thank you very much, Mr. Secretary. I guess we're going to go to—do I introduce you next. I'm going to go to John Taylor. I'll come back to you, Jim. Mr. Taylor.

**STATEMENT OF HON. JOHN B. TAYLOR, UNDER SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. TAYLOR. Thank you, Mr. Chairman and Senator Chafee for inviting me to this hearing on United States-Mexican relations. As you requested in your invitation letter, Mr. Chairman, I will focus my testimony on reform of the North American Development Bank [NADBank] and the Border Environment Cooperation Commission [BECC].

Last month in Monterrey President Bush and President Fox announced a set of reforms to these institutions, and I'd like to just provide some details about those reforms and enter my testimony into the record. As you know, NADBank and BECC were set up back in 1993 with the purpose of providing for better infrastructure in the environment, especially in areas such as wastewater treat-

ment. These two institutions have separate but quite related functions.

NADBank's role is primarily to arrange for financing of projects, and BECC's role is to develop projects and to certify these projects. There have been accomplishments in the years since these institutions were set up. BECC has certified 57 projects. NADBank has committed \$353 million in EPA grant funds for many of these projects.

Notwithstanding this activity, however, the performance has been inadequate and unsatisfactory in several dimensions. First of all, NADBank has approved only \$23.5 million and disbursed only \$11 million in loans to projects, despite having \$405 million in authorized paid-in capital. Second, the structure within which NADBank and BECC operate is not working efficiently. Work that is closely related is conducted by two separate organizations under the governance of two separate executive boards. Clearly this has related to duplication of effort, increased costs, and I think frequent misunderstandings.

President Bush has recognized the need for serious reform in this area. He and President Fox, who also has recognized the need for reform or proposed reforms, discussed the subject on several occasions. And in September 2001 they agreed, and I'll quote, "That immediate measures were needed to strengthen the performance of the North American Development Bank and its sister Border Environment Cooperation Commission to identify and fund environmental infrastructure projects on the border."

The result of this agreement was a set of recommendations which I would like to describe. First of all, one recommendation is to increase the amount of low interest loans that NADBank can provide, actually doubling from \$50 million to \$100 million. Second is to expand the geographic scope of NADBank on the Mexican side of the border from 100 kilometers to 300 kilometers. The geographic limit in the United States will remain, under these recommendations, 100 kilometers.

Third, a more concerted effort will be made to certify and finance private sector environmental projects. And fourth, the two boards of these organizations will be replaced by a single board. The new board will have representation from the Federal Government, the border states and the public.

As also part of this reform process, there will be a comprehensive business process review. That's going to be initiated in order to identify other ways to improve the performance of these institutions. I think with these reforms we can expect substantial improvement.

First of all, the financial reforms will make NADBank financing more affordable and thus increase the supply of that financing. Second, the geographic expansion will give NADBank more opportunities to use its resources. Third, with the merging of the boards NADBank and BECC will be able to work more effectively together. And fourth, the private sector projects will enable a more efficient use of resources in many cases.

To be sure, implementing these reforms is going to require a great deal of commitment by both of our governments. I am pleased that implementation efforts are already underway. The Environ-

mental Protection Agency, the Department of State and the Department of the Treasury have already begun a planning process. I've seen implementation discussions begin myself, and we've initiated discussions with our Mexican counterparts to this end.

We do intend to submit legislation to make some of these reforms happen, and I look forward to working with you and other Members of the Congress as we do this. I welcome your views, your suggestions and your questions about these ideas. Thank you very much.

[The prepared statement of Mr. Taylor follows:]

PREPARED STATEMENT OF JOHN B. TAYLOR, UNDER SECRETARY OF THE TREASURY  
FOR INTERNATIONAL AFFAIRS

Chairman Dodd, Ranking Member Chafee, members of the subcommittee, thank you for the opportunity to testify on relations between the United States and Mexico. As you requested I will focus on the Bush Administration's efforts to improve the performance and effectiveness of the North American Development Bank (NADBank) and its sister institution, the Border Environment Cooperation Commission (BECC).

In Monterrey, Mexico, last month, Presidents Bush and Fox announced a set of reforms to strengthen these institutions' ability to serve the people of the United States-Mexico border region. Today, I would like to discuss these reforms in some detail and elaborate on why they will make these institutions more effective.

I would note at the outset that these reforms should be viewed in the context of the Administration's broader initiative to improve the effectiveness of the international financial institutions and to increase the value they deliver for the U.S. taxpayer. I look forward to working with the Congress on our broader international financial institution reform agenda, as well as on the reform proposals I will discuss with you today.

NADBANK AND BECC: ORIGINS AND EXPERIENCE

The United States and Mexico established NADBank and BECC in 1993 for the purpose of helping border communities cope with the existing shortfall of environmental infrastructure and potential environmental pressures relating to the North American Free Trade Agreement in the U.S.-Mexico border region. The two institutions perform separate, but related functions in furtherance of their common mission. NADBank's role is to arrange financing for environmental infrastructure projects certified by BECC. BECC works with states and local communities to develop such projects for certification.

During its seven years of operation, BECC has certified 57 projects, with a total construction cost of \$1.2 billion. During this same period, NADBank has committed \$353 million in Environmental Protection Agency (EPA) grant funds for 37 of these projects.

Notwithstanding this activity, the institutions' overall performance has been inadequate and unsatisfactory. NADBank to date has approved only \$23.5 million and disbursed only \$11 million in loans to projects, despite having \$405 million in authorized paid-in capital and a total lending capacity of \$2.7 billion.

Experience has demonstrated that the NADBank-BECC structure does not work efficiently. Closely related work is conducted by two separate organizations under the governance of two separate executive boards. The results of this arrangement have included duplication of effort, increased transaction costs, and frequent misunderstandings. Many project sponsors and other stakeholders claim that the BECC-NADBank project approval process is overly complex, too time-consuming and duplicative, particularly (but not only) for small projects and those with private-sector sponsors. Especially frustrating for border state governments has been the overlap among federal, state, local and NADBank/BECC regulatory and environmental review requirements.

THE REFORM INITIATIVE

President Bush has recognized the need for serious reform. He and President Fox of Mexico, who had also proposed reforms, discussed the subject on several occasions and, in September 2001, they agreed that "immediate measures were needed to strengthen the performance of the North American Development Bank (NADBank), and its sister Border Environment Cooperation Commission (BECC), to identify and

fund environmental infrastructure projects on the border.” They called for a binational working group to consult with key stakeholders and to develop joint recommendations on strengthening the institutions.

Members of the binational working group undertook broad consultations with state governments, local governments, national legislatures, non-governmental organizations and the public in the region. In the United States, the Treasury Department, the Environmental Protection Agency, and the State Department led the outreach efforts. An issues paper was distributed, including via internet, to Congressional staff, state and local governments, and the general public. Public hearings and meetings were held with state and local officials and Congressional staff.

Comments received were seriously considered in developing the recommendations that were eventually endorsed by Presidents Bush and Fox in Monterrey last month.

The key recommendations are as follows:

*Financial Instruments:* To provide a greater level of financial flexibility so that its capital can be used more effectively, the governments have agreed to increase NADBank’s ability to extend affordable financing. This will include doubling the size of NADBank’s Low Interest Rate Lending Facility, from the \$50 million level set in November 2000 to \$100 million, and making \$50 million of the Bank’s paid-in capital available for grant financing.

*Geographic Scope and Financial Differentiation:* To expand the capacity of both institutions to address important binational environmental needs, the geographic scope for BECC/NADBank operations in Mexico will be expanded from 100 km to 300 km from the border. The geographic limit in the United States will remain unchanged at 100 km from the border.

To ensure that both institutions continue to focus on the priority environmental needs of the immediate border region, this geographic expansion will be coupled with a system of financial differentiation. Specifically, grant financing will be provided to the poorest communities located within the current border region of 100 km in both countries, and up to 25% of low interest rate lending may be made available for projects located between 100 km and 200 km in Mexico. Projects located between 200 km and 300 km in Mexico would be allowed to borrow at standard NADBank interest rates and receive normal technical assistance.

*Private Sector:* To expand the tools available for financing projects that, among other things, prevent and mitigate industrial pollution, conserve water, improve air quality, and recycle and reuse wastes, a more concerted effort will be made to certify and finance private sector environmental projects.

*Organizational Structure and Process:* To improve functional coordination and operational efficiency between BECC and NADBank, the two boards of directors will be replaced by a single board. The new board will have representation from the federal governments, the border states, and the public. In addition, a comprehensive “business process review” will be initiated to identify ways to improve the overall project design, certification and implementation process.

*Support for Sectoral Reforms:* Sectoral reforms aimed at enhancing the bankability of environmental infrastructure projects will be leveraged and supported both through technical assistance and policy reform conditionalities attached to project financing.

It is also important to note that the Presidents agreed that BECC and NADBank will remain focused on addressing environmental needs in the border region. The institutions will also continue to implement the agreement reached in November 2000 to expand the institutions’ environmental mandate into areas including water conservation, air quality, and renewable energy, in addition to the original focus on clean water, the treatment of wastewater, and the handling of solid waste.

#### IMPROVED PERFORMANCE WITH THE REFORM INITIATIVE

We believe that these reforms will improve the performance of both institutions in several ways:

First, the financial reforms will make NADBank financing more affordable and thus promote an increase in the Bank’s project financing activities. The NADBank experience has demonstrated that its original financial framework is unsuited to the financing of environmental infrastructure in a region characterized by high rates of poverty and fundamental structural problems in the utility sector.

Second, the geographic expansion will give NADBank more opportunities to use its capital resources and thus address a greater scope of important environmental issues that affect communities on both sides of the border. For instance, NADBank will now be in a better position to undertake projects in Mexico that improve water

use efficiency over a broader geographic area, thereby increasing water supply in shared rivers.

Third, NADBank and BECC should be able to work more effectively with the private sector on projects that will make economic development in the region more environmentally sustainable, which is a win-win proposition for both the environment and economic growth.

Fourth, a single Board of Directors should improve coordination and accountability in NADBank and BECC and will provide unified, consistent policy guidance to the management of both institutions. The Board will have the capacity to enforce the imperative that the management and staff of the two organizations must work together as a team if their common mission is to be achieved. Membership on the Board will reflect a broad range of interests and, for the first time, non-Federal board members will have a role in the decision-making processes of both institutions.

#### IMPLEMENTATION OF THE REFORMS

Implementing the agreed reforms will require great commitment by both governments. I am pleased that implementation efforts are already underway. EPA, State and Treasury have begun planning a time line for implementation, and have initiated discussions with their Mexican counterparts to this end. Important steps include the launching of the business process review, drafting amendments to the BECC-NADBank Charter, and submitting the necessary legislation to the two countries' respective legislatures.

As we proceed, we will continue to consult widely with stakeholders and interested parties. As these implementation efforts get underway, we will emphasize that management at both institutions continue to work hard to process new and existing project proposals to serve the urgent environmental needs of border communities. We will urge them, in the spirit of the reforms, to intensify their efforts to work together in a cooperative and collaborative manner.

Before I conclude, let me note one extremely important point. It is imperative that the Senate act on President Bush's call to begin consideration of Trade Promotion Authority (TPA) by April 22. TPA will help complete both the Free Trade Area of the Americas and our broader multilateral trade agenda. Of particular importance to this Subcommittee is the renewal and expansion of the Andean Trade Preference Act (ATPA) that will likely be joined with TPA. A critical fact that is not well understood is that after ATPA expired, duties on products that would have qualified if not for the expiration of the program were deferred for ninety days. That deferral expires on May 16, at which time all of the duties deferred over those 90 days will be due. The Treasury Department estimates that duties were deferred on 50 percent of the trade that would have been duty-free under the program. It will bring serious duress to U.S. businesses and our Andean partners if all of those duties have to be paid on May 16. And without question, TPA will be a great confidence-builder for the U.S. and the global economy. For all of these reasons I urge the Senate to expeditiously consider TPA.

To sum up, I appreciate the opportunity to discuss NADBank reform and the U.S.-Mexico relationship with you today. We intend to submit a legislative proposal to Congress soon and look forward to working closely with you as we proceed to make these reforms a reality. I welcome your views, suggestions, and your questions. Thank you very much.

Senator DODD. Thank you very much, Mr. Taylor. We have been joined by our colleague from Florida. It's a pleasure to have you with us, Senator Nelson. And when appropriate, let me know if you care to make any comments. In the meantime, we'll turn to Jim Ziglar.

#### **STATEMENT OF HON. JAMES W. ZIGLAR, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, WASHINGTON, DC**

Mr. ZIGLAR. Mr. Chairman, Senator Chafee, Senator Nelson, thank you for that very warm introduction and welcome. Needless to say, I'm happy to be here. I have very fond memories of my days working up here in the Senate as your Sergeant-at-Arms, and given the events of the last 6 months they grow fonder every day.

I also made some very close friendships that I forged during that time, and I will treasure those forever. So, it is nice to be back.

I'm also very pleased to be here to talk to you about U.S.-Mexico relations. Since I started this job now 8 months ago, I've visited about a dozen times with high-level Mexican officials, as has been the case with many others in the administration. And I can tell you from my perspective, I think the relationship with Mexico is excellent.

In February 2001, as you know, President Fox and President Bush undertook in the Declaration of Guanajuato to work for the economic and social development of our border communities, to fight crime and to strive to create an orderly and safe environment at the border.

The President charged the Attorney General, the Secretary of State, and later the Secretary of Labor, with co-chairing a high-level working group with their counterparts on the Mexican side. Since then, working through that mechanism, we've had very frank, comprehensive talks, and I think productive talks, between the folks on both sides on these very important subjects.

In fact, the high-level working group met several times last spring and summer and made substantial progress. Obviously, what happened on September 11 altered the priorities of that working group, placing border security issues at the top of the list. However, I want to make the point that this is not to say that work has ceased on the migration issue. It has not.

In fact, on November 20, the INS and the Department of State co-hosted a meeting of major folks from Mexico to restart or at least to continue these issues and to get them back up on the table in a very important way. And we've been doing that ever since. For example, at that meeting we agreed to work on streamlining the current temporary worker programs that we have, looking at the Department of Labor function, our function on the domestic side, and the Department of State function at the visa area out in the Consular offices.

By the way, just as an aside, when Mike Enzi talked about the three H's, we have decided back here we're going to have a new visa. It's going to be called the H3E. That's the H3 Enzi, for the three H's in Wyoming.

We have also in the course of our working with the Mexicans created conditions for a safer border. We have great interest in working with the Mexican Government to ensure that our common borders are safe and secure for people on both sides of that border. Both governments recognize that protecting the border includes protecting lives, particularly the lives of those people who are put in harms way by alien smugglers, whose interest is not protecting life but making a profit on alien smuggling. And our commitment to fulfilling this obligation is unwavering and it's shared by everybody, everybody from the top of our government here and the top of the government in Mexico out to our officers in the field.

Our border safety efforts have been enhanced, frankly, through cooperative law enforcement efforts all the way across the border. A good example is the fact that the INS, working with Mexican officials out of our Mexico City district office, have put together an anti-alien trafficking task force that has been extremely effective in

terms of breaking up anti-smuggling rings and prosecuting these people who engage in human cargo. Although our efforts in the law enforcement area are very positive, a lot more can be done in this particular area.

One of the key objectives of a recent U.S.-Mexico trip before the President's trip to Mexico—and it was a trip on which I accompanied Governor Ridge—was to, in fact, work with the Mexicans to create a liaison mechanism on both sides of the border so that we could, in fact, have a safer and more secure border. The long border that America has with Mexico is a whole lot more than just a line drawn on the map. It's a way of life. If you've ever been down there, it's really a way of life for our populations and for the populations on the Mexican side.

But, it is also a gateway to expanded opportunities, tourism, markets and education. Together the United States and Mexico can and will attempt to resolve the problem that we have with respect to bottlenecks at the border, and also those who chose to put themselves in harm's way by trying to come over the border in other than the regular way.

President Bush and President Fox, as you know, met in Monterrey on March 22. On that trip the two Presidents agreed to a number of things, some of which have been mentioned here. But one of the things that they did do is to agree to some specific actions that are intended to serve our common human security and economic interests in the years to come.

And these measures are designed to create a smart border for the 21st century, one that embraces technology and bilateral cooperation for humane, efficient and modernized management of our border. The action plan has three elements to it. First, is to create a border infrastructure that keeps pace with the growth and travel and commerce across that border. Second, it's a border that will provide for a secure flow of people. And third, it's a border that will provide for a secure flow of goods.

We have been working quite intensely with our Mexican friends since that March 22 meeting. In fact, I've had four meetings with them and spent most of yesterday with the folks from Mexico working on the details of this 22 point plan. I won't go into the details of it, Mr. Chairman, I think you're aware of it. But I would say that it sets the stage for us to have a much more secure border that facilitates commerce and also facilitates security.

Obviously we have a great interest in working together with the Mexican Government to ensure that our border is safe and secure and that commerce is facilitated. I think even a few years ago people would have been very surprised at the level of cooperation and the spirit of cooperation that exists today between our two governments on a lot of very sensitive and important issues. Our bilateral cooperation is at an all time high in many areas in this relationship. And under the direction of the President, the Attorney General and in my capacity as Commissioner of the INS, I can tell you that I am working very hard and will continue to work very hard in trying to achieve a safer, more secure border, a more humane border and one that recognizes the realities of our two cultures.

Mr. Chairman, again, it's a real pleasure to be here. I look forward to your questions.



[The prepared statement of Commissioner Ziglar follows:]

PREPARED STATEMENT OF HON. JAMES W. ZIGLAR, COMMISSIONER, IMMIGRATION AND  
NATURALIZATION SERVICE

Mr. Chairman, members of the Committee, thank you for this opportunity to address the topic of U.S.-Mexico relations. Mr. Chairman, since I started this job a little over 8 months ago, I have met with high-ranking officials from Mexico more than a dozen times, as is the case for many other policy makers in the Administration. This is a vibrant relationship that has reached new levels under the leadership of President Bush.

In February 2001, President Bush, along with Mexican President Vicente Fox, undertook in the declaration of Guanajuato to "work for the economic and social development of our border communities, fight violence and strive to create a safe and orderly environment." President Bush charged the Attorney General, the Secretary of State and, later, the Secretary of Labor to co-chair a High-Level Working Group on Migration with their Mexican counterparts. Since then we have had likely the frankest, most comprehensive, and most productive talks ever between our two countries on this important subject. The High-Level Working Group met several times last year during the spring and summer, making steady progress in these deliberations. Understanding the importance and industriousness of Mexican nationals whose contributions have helped fuel our economic prosperity over the past years, President Bush is looking to new ways to link willing workers with willing employers.

The terrorist attacks of September altered the priorities of the High-Level Working Group, placing border security issues at the top of our migration agenda. This is not to say that work has ceased on the other agenda issues. It has not. On November 20, the Department of State and the INS co-hosted a High-Level Working Group meeting at which both countries acknowledged the need to re-order priorities while continuing with our work. We agreed to examine ways to streamline and improve existing temporary worker programs under U.S. immigration law, taking a close look at the current procedures of the Department of Labor and the INS that administer these programs domestically and those of the Department of State at the consulates where visas are issued. These programs, known by their alphabetic visa classification designations, are the H-2 programs. The H-2A program is for temporary agricultural workers while the H-2B program is designed for other, non-agricultural workers. Currently, Mexican nationals receive more than 50% of the H-2 visas issued by the Department of State each year.

Similarly, we have pushed to create conditions for a safer border. We have a great interest in working together with the Mexican government to ensure that our common borders—and border communities—are safe and secure.

The Border Safety Initiative, first started by INS and our Mexican counterparts in 1998, has expanded significantly in the past year and is truly a binational effort. Both governments recognize that protecting the border includes an obligation to protect lives, particularly those of people put in harm's way by smugglers, who view money, not people's lives, as their chief concern. Our commitment to fulfilling this obligation is unwavering, and it is shared by everyone, from the top officials in Washington and Mexico City to agents in the field. Presidents Bush and Fox demonstrated their commitment at their first meeting last February in Guanajuato, when they pledged to increase the amount of resources devoted to border safety.

Our border safety efforts have been enhanced through increased cooperative law enforcement efforts. Alien smugglers routinely expose migrants to risk by leading them into dangerous terrain and abandoning them when difficulties arise. The INS, through its district office in Mexico City, is working at an unprecedented level of cooperation with Mexican officials to dismantle smuggling operations and prosecute those who deal in human cargo.

Though current cooperative law enforcement efforts are extremely positive, much more can be done in this area. A key objective for the recent U.S.-Mexico meetings in March, held prior to President Bush's trip to Mexico, was, in fact, to enhance cooperation with Mexico by enabling the United States to work with an established Mexican federal law enforcement presence across the border.

We also recognize that Mexico is a transit country for many long-distance migrants who seek to enter the United States and request asylum. As Mexico is signatory to the United Nations Convention on Refugees, the U.S. welcomes closer cooperation with Mexico on asylum issues. Together, the United States and Mexico must ensure that each migrant is afforded protection from persecution.

Following the events of September 11, there has been concerted effort to build a regime of security cooperation between the U.S. and its southern and northern

neighbors. This involves not only protection for our respective populations, but also the free, cross-border flow of legitimate goods and travel that helps drive our shared prosperity.

We share a long border with Mexico and it is more than a line drawn on a map. It is a way of life for our populations residing in border communities. It is a gateway to expanded markets, tourism, and educational opportunities. Together the United States and Mexico can and will combine our efforts to avoid bottlenecks and congestion at legal crossings and discourage those who now choose to cross in dangerous areas. We must ensure a border that works.

#### PRESIDENT BUSH'S TRIP TO MONTERREY

On March 22, Presidents Bush and Fox met in Monterrey, Mexico. On that trip, the two Presidents agreed to strengthen U.S.-Mexican cooperation by endorsing a series of specific actions intended to serve our common human, security, and economic interests in the years to come. These measures comprise important steps in the creation of a smart border for the 21st century—one that embraces technology and enhanced bilateral cooperation to ensure humane, efficient, and modernized management of the border that joins our peoples and our economies. We have one of the world's most dynamic and successful trading relationships, as well as enormous bonds of family and culture. We are committed to persevering in the establishment of a border that serves and supports, in the most effective ways possible, this extraordinary relationship.

The action plan that our two nations have agreed advances three major goals: (1) creation of infrastructure that keeps pace with travel and commerce; (2) the secure flow of people; and (3) the secure flow of goods. Since March, we have met with our Mexican colleagues to develop the detailed plans to meet these goals and develop mechanisms to monitor progress. Allow me to describe these goals as they were agreed to by President Bush and President Fox:

##### *1. Infrastructure that keeps pace with travel and commerce*

1. We will conduct a joint survey of infrastructure along our common border to identify bottlenecks that impede the movement of goods and people.
2. We will develop integrated infrastructure investment plans to ensure that the economic competitiveness of the border region is not impaired as the volume of trade grows.
3. We will conduct security assessments of critical infrastructure including bridges, dams, and power generation and transmission facilities and take steps to protect them from terrorist attack.
4. We will upgrade the existing Border Group of the Binational Commission, and entrust it to carry out the necessary planning in our common border.

##### *2. The secure flow of people*

1. We will develop and implement systems at ports-of-entry to speed the flow of bonafide travelers and, to that end, streamline and coordinate procedures at our common border.
2. We will cooperate to identify individuals who pose threats to our societies before they arrive in North America.
3. We will enhance our efforts to deter smuggling of third-country nationals.
4. We will work to establish a joint U.S.-Mexico Advanced Passenger Information exchange mechanism.

##### *3. The secure flow of goods*

1. We will implement a technology-sharing program to place non-intrusive inspection systems on cross-border rail lines and at high-volume ports-of-entry.
2. We will develop and implement systems to increase security at key points of the supply chain that links producers and consumers.
3. We will expand partnerships with the private sector to increase security of commercial shipments.
4. We will develop systems to rapidly exchange customs data.

#### CONCLUSION

Mr. Chairman, we have a great interest in working together with the Mexican government to ensure that our common border is safe and secure. Even just a few years ago, many would have been surprised at the level of detailed discussion that is now taking place between the United States and Mexico on very important and sensitive issues. Our bilateral cooperation is at an all-time high in many areas of this modern and successful relationship. Under the direction of the President of the United States and the Attorney General, and in my capacity as Commissioner of the

INS, I will continue to build on this achievement wherever possible, including in law enforcement, safety, migration, and public awareness of our laws. I look forward to working to develop further this excellent relationship, which can serve the interests of so many people on both sides of the border.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer your questions at this time.

Senator DODD. Thank you very much, Commissioner. As I said earlier, I think you're doing a fine job under difficult circumstances. The world did change on September 11, but your budget hasn't changed yet. So you have to do a lot more things with the same amount of resources as in the past.

I'll put a clock on myself here as well, so that we don't over-extend. What I'll do is just ask each various questions and try to get through. I'll give myself about 6 minutes, as well, and then we'll go back and forth if necessary, if we don't cover all the ground.

Secretary Larson, just a brief answer from you because obviously the question could be the subject of a long day's hearing, and that is I'd just be curious in terms of the—and I think Mr. Taylor you may want to comment on this too even though I've focused on the banks with you—but I'm curious about how the Mexican economy is recovering from the consequences of the slowdown here in the United States. We're apparently getting back on our feet again, economically, but what is the outlook for the economy in 2002? If you'd give us sort of a quick snapshot. Either way, either one can start.

Mr. LARSON. I think the very quick snapshot is that Mexico has very much become an economy that's tied to ours. So their recovery, I think, will very much track ours as they export primarily to the United States. Their credit rating has been raised by one of the rating agencies recently, so I think they have a relatively positive outlook this year.

Senator DODD. OK, John.

Mr. TAYLOR. I would just add that there is definite evidence of the Mexican economy picking up. And the recovery in the United States is certainly helping that. The investment grade rating is a real accomplishment for Mexico. I think that's something to be very clear about and it took a lot of important work on the policy side to get that. And I also note that their inflation rate is coming down and it's a good macroeconomic situation for growth going forward. So, the Mexican economy is on its way to recovery in my view.

Senator DODD. OK. Let me turn to—I want to ask both of you again another question dealing with this case: *Hoffman Plastics Compound vs. NLRB*. Are you both familiar with this matter? I assume you are.

Mr. LARSON. To some extent, yes, sir.

Senator DODD. Well you know, this was a very close call, 5 to 4 decision by the Supreme Court overturning the NLRB's decision to award back pay to an illegal worker who had been fired illegally for having been involved in some unionizing activities. Now I'm abbreviating this obviously. The majority says—the Rehnquist opinion says that by allowing back pay you unduly encroach upon explicit statutory prohibitions critical to Federal immigration policy. The minority, four justices—about equally decided—conclude that the ruling would actually create more incentives for companies to

hire illegal workers. If you don't have to award any back pay and you can fire them at will, then it seems to be more of an incentive to bring people in.

Now this has provoked—in fact, I've been told, I'd like you to comment on this—the unfortunate situation in which the Mexican Congress of course denied President Fox the opportunity to travel, which many Latin American countries—we don't want to see anything like that, I'm sure, the Bush administration and the Congress having similar provisions here at home. But nevertheless, that's the rule in these countries. To what extent did this decision cause or provoke the Mexican Congress to invoke that clause in their laws to allow them to deny President Fox an opportunity to travel.

And what is the administration going to do about this? Are you going to propose anything? Are you going to stick with the ruling? Or, are you proposing possibly legislation to correct this situation.

Mr. LARSON. I think three quick remarks, Senator. First of all, it was a very—not only a very close call but a narrowly constructed decision, as I understand it. We have initiated consultations with the Mexican Government about the implications of the Supreme Court's decision for immigrant workers, and are talking with them about ways of exploring further bilateral cooperation. And the third point really is that we made very clear that it is the policy of the administration to make sure that there are not—there is not abuse by employers of workers in our country, whatever their status. And that is something that Secretary Chao spoke out on right away.

Senator DODD. Mr. Taylor.

Mr. TAYLOR. I don't have anything to add to that, Senator.

Senator DODD. Well, this is a matter for the Judiciary Committee more, in a sense, than this committee. But obviously because it does impact on U.S.-Mexican relationships here, and I'm told that this had some bearing on the decision. There was a question of U.S. policy, questions which had something to do with the Congress' decision in Mexico.

I think the committee would very much like to be kept abreast of what steps we're talking about taking here. We've got an inter-parliamentary meeting coming up, which the Senate chairs when we go to Mexico, and this is obviously going to be a subject of some discussion, I'm sure, when we get there. So, it would be tremendously helpful for us to get some further clarity from the administration of what steps if any we're likely to take.

Commissioner Ziglar, the U.S.-Mexico Border Partnership Action Plan is a complicated proposal. But I wonder—a couple of questions here—and I'm watching the clock. I'll get one in here before the clock runs red.

I wonder if you could explain this in a little more detail, the main points of this plan, No. 1. No. 2, they have sufficient funds to implement it. Not only this but also the proposed restructuring of the INS, after the implementation of the post-11, September 11 border reforms.

It's a big question but I think it's a critical one here. I said somewhat teasingly, but also seriously as well, you're operating on last year's budget and to some extent the pressures are even greater on the INS to perform. And we're going to be asking you to do even

more. So, I'm curious as to what the—where you are with the funding issues and how the plan itself would work in some detail?

Mr. ZIGLAR. Well Mr. Chairman, with respect to the border action partnership, it has some major components to it. One of them is sharing information, both on the Customs side, the INS side, the peoples side, and then in a much broader sense sharing information that we get from advance passenger lists and things like that, so that we can detect situations where there may be terrorists or criminal aliens or others that are trying to come into the country.

It also has an infrastructure component to it, and that is at the border synchronizing the way we operate at the border so that we have mirror-image operations on each side so that we don't have gaps, where we have a situation where people can take advantage of those gaps.

Likewise between the ports of entry, we are working very hard to deal with things like the smuggling operations, enhancing those operations, also enhancing the border safety initiative so that we can protect people's lives while also interdicting them, as well as interdicting drugs. There are 22 points to it, as you know. But the concept here is to focus not just at the physical border and making it a more efficient border for commercial purposes and a more secure border for our people, but it's also looking beyond the border and saying where is it that we can be of help to each other in protecting the security of our folks?

For example, third party nationals, it's a real problem in Mexico because Mexico is a transit country to the United States for third country nationals coming in. We are working with them to help them identify those problems and help them, frankly, deport people that come into their country illegally trying to get here illegally. It's kind of a holistic, macrolook at our border and our border relationships in its biggest sense.

The issue of money is always an issue at the INS. There's no question about it that the INS has more and more things thrown at it every day to do, at the same—fundamentally the same level of resources. For example, Congressman Reyes made a very good point about the interior enforcement mechanisms of the INS. We have only 2,000 special agents at the INS to do the entire interior enforcement operations. Everybody else fundamentally operates at the border.

Two thousand agents to deal with smuggling, terrorists, criminal aliens, and then the presence of undocumented folks in here who don't represent any of those others, 2,000 is a drop in the bucket and yet, of course as you know, we're expected to do all of those things. And it is just not possible, so we have to prioritize the interior enforcement side of this. So I can tell you that at the border, some of the initiatives that we have in the action plan are not so capital intensive as they are cooperative relationships that we just need to build on. But it's clear, particularly with respect to the investments at the border, those are going to require a lot of capital.

With respect to the restructuring plan, we have in the 2003 budget a request for \$45 million, I believe it is. We do have some funds currently, but it's a stretch to do all the things that I would like to get done in this fiscal year to move the restructuring along at the pace I'd like to. But, we're bound and determined to do it.

Senator DODD. Thank you very much. Let me turn to my colleague.

Senator CHAFEE. Thank you very much, Mr. Chairman. Mr. Larson, you were testifying as to the Partnership for Prosperity presented to Presidents Fox and Bush in Monterrey. And as part of the Partnership for Prosperity, is it envisioned at all to have any kind of an initiative in environmental infrastructure?

It would seem to me it would be a natural for our two countries to work together on some of the problems that Mexico has, whether it's wastewater treatment, solid waste management, clean air, some of the areas that perhaps we have wrestled with in the past that now we can work together on as partners. And Mr. Taylor testified as to the inefficiency and poor performance of the NADBank and the Border Environment Cooperation Commission and reconciling those two as to what we can do better as Partners for Prosperity, the title of the initiative, and also on the environment. It would seem to be a natural to me that the two of us could work together on that.

Mr. LARSON. Very definitely, Senator. The starting point for this initiative is really that, by facilitating more private investment and better cooperation between the citizens of our two countries, that we can accomplish a great deal. Mexico is a place that receives some \$9 billion worth of remittances from Mexican-Americans in the United States, and in recent years has been getting \$15 to \$18 billion worth of foreign direct investment. So the issue, one of the issues has been how can the governments work with the private sector to facilitate the types of investments one would like to see?

In the area of environmental infrastructure, for example, one of the working groups that we had was on infrastructure. We had both public and private sector people talking about what could be done to facilitate private capital moving into some of these projects. One of the things that they came up with was that mayors in Mexico typically serve for a very short period of time. They don't have a city manager concept there, and so there isn't as much capacity at the municipality level to help them plan for environmental infrastructure.

And so one of the ideas that our experts gave us was to try to facilitate, through something like the President's Freedom Corp, the provision of city managers who are retired and perhaps could go and work with a municipality for a period of time to help them figure out how to structure their finances and their bidding processes so that they could attract investment in things like sanitation plants and other types of community infrastructure.

Senator CHAFEE. Mr. Taylor, in your testimony you did talk about those areas that already are dedicated toward this trying to improve the environmental infrastructure, have failed. It seems to me the best way you want to start is have clean drinking water and somewhere to dispose of your waste water or your solid waste. And you did make recommendations to how we can improve those, but do you agree that that's something that as we work together that that's something of basic importance?

Mr. TAYLOR. I certainly agree, it's very important. And what we want to do in improving the working of NADBank and BECC is to make that happen, make the cases where it hasn't been funded

enough or the infrastructure is needed, make it work better. So that's part of the reason to expand further into Mexico in terms of the geographic limits, part of the reason to have lower interest rate loans, and part of the reason, of course, to have more grants. So I think it will all go in that direction and it will also take, I think, a careful monitoring, looking at what's happening from the Treasury and the State Department and the EPA to make sure this all happens correctly, focusing on the results.

Senator CHAFEE. Very good. And Mr. Ziglar, the Congressman testified that there's going to be legislation that he expects to pass the House consolidating the INS—or consolidation in reference to some of our border policies. Have you had a chance to review that legislation? Can you comment on whether you favor it or oppose it?

Mr. ZIGLAR. Senator, the legislation he's referring to is something called the Sensenbrenner bill that would divide—create two agencies, legal entities; one a service, one an enforcement department, if you will, in the INS. The administration has not taken a position on the bill other than in some testimony I gave last week to point out some issues that were sort of macroissues in the legislation. However, I think Congressman Reyes is right, that it probably is going to pass and will be coming over here.

Senator CHAFEE. Very good. And last, Mr. Larson, I was a mayor of my city and the most important thing for getting re-elected or for returning is making sure that the basic services—starting most importantly probably with drinking water—were provided. So I think it's a terrific program, Freedom Corps, and trying to help some of these growing communities.

Mr. LARSON. Good.

Senator DODD. Thank you very much. Senator Nelson, we're delighted you're here with us.

Senator NELSON. Thank you, Mr. Chairman. Mr. Ziglar, we've got the Border Security bill that has been on the floor, and one of the concerns—and if you would educate me what is the status—where we have a program for security with a number of swipe cards, but do not have the equipment to swipe it through. Educate me about that.

Mr. ZIGLAR. That's with reference to something called the border crossing card, of which there have been about 5 million issued. They only use them on the southwest border. They replaced a card that had been in existence for about 30 years where people used it to come back and forth across the border, people that worked on the other side or they came over to visit family, or tourists or shoppers or whatever.

These new cards have in them a biometric. They have two fingerprints as well as a digital picture and some information on it. Working with the State Department, like I say, we have replaced about 5 million of those cards, but we don't have readers to read those cards.

And it has been a question of having the money appropriated, quite frankly. However, in the counter-terrorism supplement we did get \$10.8 million to start the deployment of those. We will be putting in the first of those readers within a month or two.

They will be not completely deployed until we make sure that the readers are going to work as they are advertised to work. But, once

we get up to August, we will know whether we've got problems that need to be adjusted, and at that point we will start the full deployment across the southwest border. They cost about \$6,000 per machine, so we're going to be able to deploy a lot of machines with \$10.8 million.

Senator NELSON. And what happens in the meantime, until you get the readers in place?

Mr. ZIGLAR. Well, we are using the most common of biometrics, and that is taking a picture and looking to see if that's the right, same person. The border crossing card does have a picture on it and as people come across the border, and they've got the card, we can identify—our inspectors can look at it and determine whether or not the people are the same people.

Senator NELSON. Which is the way it's been done for the last 30 years?

Mr. ZIGLAR. Well, it wasn't even that good. I don't think the old cards even had pictures on them. It's better but it's not at its optimum, but it will be.

Senator NELSON. And to what degree are we implementing this because of terrorists and to what degree are we implementing this new system because of illegal entry across the border?

Mr. ZIGLAR. This system was actually mandated in 1996, well before September 11, and it was done for a number of reasons. One is that the old cards had become the subject of a great deal of fraud. They were just being passed around. And second, it was also because of the problem of illegal immigration that in 1996 the IRCA mandated that these cards be put into effect.

Clearly after September 11 and the counter-terrorism supplement, the recognition that we needed to move this along more quickly was there, and that's why we got the appropriated money for the readers. I might add one other thing Senator, and that is that we will be marrying the readers with—or it would appear that we're going to do this—with our so-called IDENT system so that we will have a way of making sure that the people that come across truly are not people that are criminals or at least they're not in our records.

Senator NELSON. That is they're hooked in with the FBI and the CIA?

Mr. ZIGLAR. Well IDENT isn't currently, but we are in the process of marrying IDENT with IAFIS which would then get us access to the FBI. It's one of those things that grows.

Senator NELSON. And over what period of time will that take place, until that's in effect so that somebody who is crossing that the Immigration Service may not know is suddenly a major wanted fugitive that's on the FBI list, that it would automatically pick it up?

Mr. ZIGLAR. We are deploying the IAFIS system, which will be coupled with the IDENT system, now. We've got it up and running in a couple of facilities. We will have six more, I believe, within the next 30 days or so, and then we're going to continue to expand it out.

What we're doing is we're picking, obviously, our busiest, most dangerous—what we consider our most dangerous spots to put it in first. And then we will move it out to the more remote locations.



It's a question of the procurement and the deployment of it. And obviously as the good chairman points out, these things don't—money doesn't just fall off the trees, it has to be there for us to be able to do that.

Senator NELSON. Well it sounds like we better get on the stick and give you the money. Under the present system, when would it first be deployed?

Mr. ZIGLAR. Well, it's—

Senator NELSON. I'm talking about the system where you would hook into the FBI.

Mr. ZIGLAR. We're actually operating it now in two spots. We'll have six more in about 30 days, and we'll just keep moving it out.

Senator NELSON. And under your present schedule, how long would it take for your entire southern border to be hooked in?

Mr. ZIGLAR. The rollout of the six is really to make sure that this system works. So, we don't, my colleagues tell me, actually have an end date for the entire rollout of it. It depends on whether we encounter any big problems in this rollout and the integration of the system.

Senator NELSON. Well then, what you're advising us is the question is not money, it's a question of implementation of what you have in the way of resources now.

Mr. ZIGLAR. Well, it's really—we now know that this system is going to get deployed. It's just a question of tuning it up, making sure that it works effectively. So while it may not be money today, it's clearly going to be money as we go forward.

Senator NELSON. Well, I'm just trying to get a grasp. Are we talking about a year, 2 years, 5 years until the whole system is up? How long are we talking about, 2 months?

Mr. ZIGLAR. Well no, not 2 months, but I would suspect that all things being equal, probably 2 years to have it fully deployed.

Senator NELSON. And one final question, Mr. Chairman, of five million cards that have been issued since 1996, what percentage—I take it these are people that frequently go across the border, that you've issued to—so what percentage of your frequent crossings, of the Texas to the coast border, does that five million cards represent?

Mr. ZIGLAR. Senator, we get about 800,000 crossings a day. Now we don't clock how many of that five million and what percentage of that goes across, but I would have to guess that it's a fairly concentrated number that use it regularly, and then others that have had it for 30 years, they use it for the occasional once a month shopping trip over into the United States. See this actually operates as a visa, as a B1, B2 visa, so that people can get across the border because we do require a visa.

Senator NELSON. Thank you, Mr. Chairman.

Senator DODD. Just to followup, Jim, I presume there's some way to track that so that you have some idea—people using the new card versus the old card, so that for purposes of testing the effectiveness of it, to iron out the kinks that the staff member indicated would have to be the case before you'd be able to predict with absolute certainty, before implementation. Am I correct in that? Are we—

Mr. ZIGLAR. No one can use the old card anymore. The new card is the only thing that can be used now. As of October 1 of last year the old cards were not useable unless—we did have a transition period. If you had an old card but your new card hadn't been issued yet, but you had gotten into the queue for it, then we did an identifier on the old card until you got your new card. But now, with the swipe machines going up we will then be able to, at least in the secondary, we'll be able to identify who is coming across.

Senator DODD. I gather, because we prohibited the old cards from being used, this has created some real problems as well?

Mr. ZIGLAR. Well you know, it's interesting, Mr. Chairman.

Senator DODD. That is we the Congress, but also in cooperation with the President.

Mr. ZIGLAR. We thought—I remember the day that Congress did not pass an extension last year as they had before, and I remember going into work that next morning thinking oh boy, this is going to be one of those days, because I figured they'd have huge lines. And the fact is that while we did have some lines some places, it was nothing like we anticipated it might be. And it's now trailed off to the point that we really don't have a problem there.

I know that in this Border Security bill there is a provision for the extension. We have not taken a position on that, but frankly I don't think it's necessary at this point. And in fact, it might even be confusing to people about the situation down there. So I'm not taking a position on this Mr. Chairman. I think it might actually be counterproductive to have it in there.

Senator DODD. All right. Those were excellent questions, Senator Nelson.

Senator NELSON. Thank you.

Senator DODD. Let me jump if I can a bit to the NADBank. Mr. Taylor, I've got a series of questions I could raise with you about it. President Fox, you know, had sought to expand the size of NADBank beyond simply the environmental projects to include more broad-based assistance to infrastructure in order to create a climate for local investment. The Bush administration has rejected the notion of a broader scope for NADBank, and I wouldn't—I want to know—I guess the question is wouldn't such a move of a President Fox approach to this be more consistent with the goals we've talked about in the plan that Mr. Larson described in the Prosperity for Peace Initiative?

Mr. TAYLOR. Well as you know, we've been working very closely with the Mexican Government, and President Fox and President Bush have discussed this. And upon looking at the situation we felt it would be most important to get NADBank working efficiently on what it is set up to do. In other words, make sure it's working well in the areas that Senator Chafee had indicated. And that's the direction where the reforms are headed at this point.

And part of the creation of the activity that Under Secretary Larson has discussed, is really to look for other ways for the United States and Mexico to engage on these issues. And I think it's been very successful in doing that. So what we really—you could think of it as a two-track process. One was the NADBank reform, which I think is going along quite well, plus the activity and the whole

wide range of things that Under Secretary Larson's been involved with.

Senator DODD. I understand that initially, to get it going, but it seems that what President Fox has talked about makes sense if not in the short term, at least in the longer term. Do you disagree?

Mr. TAYLOR. Well I think we have to look into how this reform works in the institutions that we have at this point in time. And it very well might be that the activities that he may have alluded to are going to be worked out better in the Partnership for Prosperity. So I think it's very much let's get done what we plan to do now and then see what happens after that, Senator.

Senator DODD. Well in that regard, I mean I appreciate the points of unification of the boards, between the BECC and NADBank. Couldn't you make also a strong case that they ought to be merged organizationally, that you've got a lot of duplication here? You could overcome that, it seems to me, by—the inefficiencies built in are just—by having one board, two organizations. Why didn't that happen?

Mr. TAYLOR. Well, there were various proposals to deal with the improvements and coordination between the two organizations. And certainly merging the organizations was discussed and actually had quite a bit of discussion on consultation. And there's been a lot of consultation with the Mexican Government, with the border states, with the Governors, with the NGO's.

But part of that led us to believe that we should try a different approach, which was to merge the boards rather than the organizations themselves. The boards will give the coordination and the direction that's necessary, I think, to drive the organizations to coordinate their activities better. So I think this will work well and it's more acceptable to the wide range of people that we consulted with.

Senator DODD. You're not ruling out the possibility to merge the organizations either down the road, are you?

Mr. TAYLOR. Well I guess we've got a good proposal here and I think we're going to move ahead on that.

Senator DODD. Now you're going to submit some legislation to Congress authorizing some of the changes you've talked about. When is that going to come up here?

Mr. TAYLOR. As soon as possible. That's necessary for the grants proposal as well as for the extension beyond the 100 kilometers in Mexico. So we're working on that and will try to do that as soon as possible. Those are the two issues which we need legislation on.

Senator DODD. As part of the Partnership for Prosperity Initiative you indicated that you intended to use the experiences of Fannie Mae and Freddie Mac in order to create a secondary mortgage market for Mexico to facilitate home ownership. I wonder if you'd give the committee some indication or some of the details about this, and are Fannie Mae and Freddie Mac officials involved in helping craft such a proposal?

Mr. TAYLOR. I think in this I'm going to ask Under Secretary Larson to address since that is part of the——

Senator DODD. I know, the Partnership for Prosperity.

Mr. LARSON. The answer, Senator, is yes, but if you'd permit me to just back up slightly. One of the fascinating things in the first

outreach session that we had in Mexico was how many times housing came up as an issue, in an exercise that was focused on bringing foreign investment into Mexico. And it wasn't anticipated, it was something we learned about from talking to the experts. And it came up in several respects.

One, was the fact that housing, of course, was a very important sector and this is one of the ways you can stimulate economic activity. Second was the fact that many small business persons use their home as a form of collateral for loans, and it was part of the issue of stimulating small- and medium-sized business in Mexico. Third, the absence of a well functioning mortgage market was something that was impeding the overall operation of financial markets in Mexico, and there was even thought that a well functioning mortgage market could attract additional capital into Mexico.

For all of these and other reasons, this was seen to be a very fruitful area to explore further. And we did draw on officials from each of those organizations to get further advice as we carried this to the second stage. And then in the implementation, there are explicit plans for cooperation between those agencies and counterpart agencies in Mexico.

Senator DODD. Very good. I'd be interested in following up on that and how that's proceeding. I don't disagree with some of the conclusions, at least temporary ones, you've reached about the possibility of—or the effects of developing a secondary mortgage market could mean. It could be very, very successful.

Jim, let me jump back and I'm going to—obviously there may be more questions. I'm going to leave the record open for people who have some additional questions. I know the quick answer to this next question might be, "Well Senator, when is the Senate going to move?"

I want to raise the issue of 245-I, which is a very important issue. I know the—where I think, based on some things I've heard today that we may actually be able to move on that legislation sooner rather than later. But there are obviously some principals involved who are not members of this committee who are pursuing that—but some indication that we may be able to get to that sooner rather than later. To what extent is this a priority of the administration on the 245-I proposal?

Mr. ZIGLAR. Mr. Chairman I believe that the administration is very much committed to 245-I. Certainly I have been given every indication in my activities that this is a high priority item that we would very much like to see happen.

Senator DODD. I should point out, I suppose, sometimes we in Washington can start talking in these terms of just announcing letters and numbers. And what we're talking about here is a policy which would allow immigrants seeking permanent resident status in the United States to be able to do that in the United States rather than having to go back to Mexico and then come back in again, to sort of expedite the process.

Second, Jim, I wonder on the immigration issues generally, the overall proposals—and we've talked earlier. You've heard some of the conversation about the guest worker programs. We've had this debate.

We came very close a few years ago to actually having a pretty good compromise between the employers of guest workers and the constituency groups that very much are concerned and work with guest workers here. It got very, very close. Howard Berman, the Congressman from California, along with Senator Gordon Smith of Oregon had really come a long way to developing a proposal. The Congress went out of session and we didn't get it done.

But I wonder if you might—this is such a critical issue. It's going to dominate and dwarfs almost every other issue we grapple with here. And so, I would be remiss if we didn't pursue this issue a little further here in this hearing since it's such a critical issue for both countries. Could you please kind of lay out where things are with regard to the broader immigration policy questions?

Mr. ZIGLAR. Well, Mr. Chairman, there's no question that September 11 had an impact on what was, from my very limited view at that time—because I started on August 6 and got thrown right into the middle of the migration talks—and it was clear to me that things were moving along very nicely. September 11 changed the dynamics of that. However, I can tell you that it's pretty clear to me that this administration, and the President specifically, still wants to find a way to deal with the host of issues that come under the rubric of migration.

I know for a fact that there are a number of options that are being discussed on an inter-agency basis. You know, it's not just the INS. It's the Department of State, it's Labor, it's HHS, the whole group have a play in this, and there are a number of options being discussed.

When we will reach a point of having something to advance to the Mexicans and to the Congress I don't know the answer to that. But I do know that it still has the support of the President and the White House and that we are still discussing how to reach that. And there are principles that the President has laid out, you know, over time. It has to be humane. It has to protect American workers. It's got to be fair. It's got to be flexible. Mexico has got to make a commitment on its side to work with us on other issues.

I think there are some other things that probably need to be principles in this, looking at it maybe from an INS point of view. One is that it needs to be easy to administer, because it will be—talking about having a full load now, that will be a full load. It needs to be capable of being enforced, and it shouldn't encourage further illegal immigration. As you know, the President has used the supply and demand concept, at least with respect to the guest worker component of it.

Senator DODD. I wonder if you might—and I hear you very loud. I'm not going to—I'll use, make the point you made earlier. Obviously, look, this is a work in progress from the administration's perspective. And so nothing you say here am I necessarily going to take as some particular point of absolute certainty of inclusion or exclusion.

But I wonder if you might just take—we had this discussion obviously with Silvestre Reyes coming up with the guest worker issue. And I wonder if you might just share with me, sort of debate a little bit on this issue, on the question of whether or not if we're going to have a guest worker program whether or not there is also

to be included a road here for legalization. The people we're obviously implicitly or explicitly inviting to come to change beds in hotels, and to pick crops and to do other things—our economy doesn't survive without them.

And so, we need the guest worker program. Now, to what extent are we prepared to say to people who come here, to provide us that kind of economic advantage that the guest worker does, that we're going to see to it in exchange that that guest worker has a chance to begin that process of legalization, either as for citizenship or permanent resident status, whatever it may be? Where are we on that, that critical point, that critical issue?

Mr. ZIGLAR. Well let me talk in broad terms about that. I think it would be unrealistic to think that we could fashion a program that had only circularity to it, and that is the concept that people come in, stay a few years, leave, others come in, that sort of thing. It's clear that people come and they put down roots, and that they buy into our culture and contribute to our society and all of those sorts of things.

And like other immigrants in the past, they aspire to be Americans. So in a very broad sense I think it would be safe to say that any program that attempted to deal with undocumented workers here now, in terms of their status as well as creating a guest worker program, would necessarily end up somewhere along the line creating a path to permanent residency, which of course then creates a path to citizenship. I mean, I think that's—I'm a businessman, as you know, Senator from my background. I try to deal with reality, and there are some realities about this whole situation. You've got 8 million people in this country who are undocumented and we need to do something about that.

I thought Congressman Reyes had a very good point, and that is that we have an underground, sort of a somewhat transparent underground, but an underground in this country as a result of that. And it's an underground that could breed security problems. And it's something that we need to address. And I know the President is very concerned about this, as are others in the White House. And I am hopeful that we will have something to show for it.

Senator DODD. Well, there are a lot of very critical points. I was sort of stunned, I think many of us were, to learn, for instance, on students that come in—and sometimes the only people who know who these people are, to the extent they know anything, are the universities and colleges that accept them, as to where they are in the country. It's a wonderful thing they come here, but it's disconcerting in this day and age to know that nobody knows where these people are, what their status is as a result of that.

Tell me what your views are with regard to this *Hoffman Plastics vs. NLRB* issue, where you had that almost equally divided court, on what the implications of that decision are? And I'm not going to ask you to write a law, but just in terms of your own reaction. As the INS Commissioner, do you see merit in the minority viewpoint of the four Justices that talk about this actually in some ways as a magnet for maybe some businesses to want to draw in people in illegal status?

Mr. ZIGLAR. Senator, as you know I had the good opportunity to clerk at the Supreme Court in my much younger days, and I've

learned unless I've read an opinion not to comment, because there are things in those opinions that the press doesn't pick up. So I haven't read this opinion. However, in a broad sense I am really—as you know at my confirmation hearings I talked about the notion of mistreating people who were here illegally. And that still offends me.

Now we are, at the INS, we are taking some actions in places where we see situations that employers are not treating people well, through our work site. But we don't have the resources to do it in any kind of big way. But we have taken some notable actions in the last few months.

I can understand the logic that this would cause—this kind of approach to it would cause employers to be less recognizing of the rights of people as human beings. I also think that—again, without having read the opinion—that it probably makes a pretty good argument for our dealing with the situation of undocumented aliens in this country. Maybe you don't deal with it legislatively and back into it, maybe you deal with it from the top down instead of the bottom up.

Senator DODD. Well, I thank you for that. You've been very patient in time and I'm very grateful to all of you for coming up. Obviously we could have spent just at any one of these subject matters, a whole hearing. And obviously trying to cover a terribly complicated, arguably the most significant—or one of the most top two or three significant bilateral relationships—a couple of hours of hearings in an afternoon does not begin even to penetrate the layers that require it. But I hope just in the fact that we're having a series of these hearings—and as I said at the outset I really couldn't have, in my view anyway, begun a series of hearings without beginning with the one that is the most significant bilateral relationship. And also, in terms of the rest of the Americas, the administration of President Fox, Mexico's role is a critical one. And so, that's the reason we've begun this.

So I'm grateful to the three of you. I've got another panel here of views I want to hear on many of these same subject matters. We've gone a little longer than I anticipated, but we thank you. We'll leave the record open for some additional questions. And I'm very grateful to you, Jim, for being here. I know there was some question about coming up, and I'm glad you did because it helps us in examining these policies a little more thoroughly.

Mr. ZIGLAR. Like I said, I'm real pleased to be here anytime.

Senator DODD. Thank you.

Mr. ZIGLAR. Thank you, sir.

Senator DODD. Thank you all. We've got four witnesses here. I'm delighted to have you before the committee. I'll ask you to join us at the table. Ms. Barbara Shailor, the director of International Affairs Department, AFL-CIO. I might point out that I was down at the AFL-CIO for coffee this morning with the president, John Sweeney, at about 8 o'clock. And I saw Barbara Shailor at that time. So it's almost not quite 12 hours later, but I know you've had a busy day. We ran into each other in the hallway, I should say.

Mr. Steven Ladik, president of the American Immigration Lawyers Association, we appreciate Mr. Ladik being here. Mr. Gregori Lebedev, who is the chief operating officer and executive vice presi-

dent of International Policy, U.S. Chamber of Commerce. We thank you, Gregori, for being here. And Ms. M. Delal Baer. Thank you, Ms. Baer, nice to see you again, the senior fellow and chairman, Mexico Project, deputy director, Americas Program, Center for Strategic and International Studies, a very well respected organization.

And so let me thank all four of you for being here. I'm sorry that this has gone a little later than anticipated. I'll begin in the order I've just introduced you here. Ms. Shailor, we'll begin with you. I'll put the clock on like I did for the others, and if you can try and live within the timeframe, it makes it a little easier. But we thank you very, very much for being a part of this hearing, this first in a series of hearings on the Americas and the importance of this bilateral relationship. Ms. Shailor.

**STATEMENT OF BARBARA SHAILOR, DIRECTOR, INTERNATIONAL AFFAIRS DEPARTMENT, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS [AFL-CIO], WASHINGTON, DC**

Ms. SHAILOR. Thank you very much, Mr. Chairman. And I also recall almost a year and a half ago you were urging president Sweeney to have his initial meeting with President Fox. And we had the opportunity to lay out some of the framework of this discussion at the World Economic Forum.

Senator DODD. You're right, I arranged that and we had breakfast with incoming President Fox. And I called him and asked if they'd be willing to meet with John Sweeney and they did. And we had a very, very—Jorge Castenada, the Foreign Minister, was there, and president Sweeney and President Fox. And it turned out to be a very, very worthwhile meeting.

Ms. SHAILOR. It was an excellent meeting. We appreciate your leadership on this issue. We have stayed in very close contact with the new Fox administration. And as you know, our labor movements have a long history going back almost a century, but particularly in these last few months the AFL-CIO has continued our relationship with CTM and the expanding union movement in Mexico.

On behalf of the AFL-CIO and the over 13 million working men and women of every race, ethnic background and immigration status, including many Mexican-Americans, it is very clear that workers want to improve their lives and the lives of their families. Workers here and in Mexico want to be treated with basic dignity and respect, free from persecution and harassment based on who they are or where they come from. These fundamental aspirations of the human spirit do not distinguish between workers based on their immigration status.

The attacks of September 11 and their aftermath, including the increased fear of immigration and the greater burden placed on immigrants by the recession, have made it more important than ever to stand in solidarity with immigrant workers and their families. We must demand that they be treated with dignity and fairness, both on and off the job. Anything less diminishes America, its leaders, its people, and immigrants particularly deserve the attention that you and the committee are giving these issues.



Let me point out a number of areas that I will expand on. But certainly the issues of utmost concern to the AFL-CIO focus on: Legalizing the undocumented among us who are working hard, paying taxes, and contributing to their community and the Nation; to replace employer sanctions and the failed I-9 system, which has never served their intended purpose; and then in particular, to reform, not expand, the guest worker programs. And finally, from a trade union perspective, obviously to fully protect worker rights, including the freedom to organize a union for all workers regardless of their immigrant status, and stiff and meaningful penalties for employers who break immigration and labor laws.

We feel strongly that without a meaningful remedy our rights and rules cannot be effective. So, as you have asked many of the former witnesses, we are deeply disappointed in the decision of the Supreme Court on the *Hoffman* case which invalidated the limited back pay remedy that the NLRB had crafted for cases in which undocumented workers have been unlawfully discharged. We believe the decision was wrong and we will work with others in the Senate to press for legislation to overturn this decision and pursue fundamental justice for all workers.

And, we call on Presidents Bush and Fox to reinvigorate their discussions on migration as it relates to the United States and Mexico. We would hope that these discussions lead to a framework for a far-reaching migration accord, consistent with our principles, by the end of the summer. And ultimately, legislation should not be Mexico-specific. We need a comprehensive congressional act on an immigration package, and we would hope that that immigration package could follow sometime next year.

It is important to note the special relationship between unions and immigrants. American workers and their unions are indebted to an earlier generation of immigrants who, in their determination to fight exploitation and abuse, founded the American labor movement. Today, growing numbers of immigrant workers once again are winning a voice at work by joining in the unions. Last year, 10 percent of all of union members were foreign born, roughly paralleling the percentage in the overall U.S. population.

So to refer back to the specific issues on legalization, together with our coalition partners the AFL-CIO is dedicated to ensuring that the legislation to legalize undocumented workers who contribute to their workplaces and community, passes in this Congress. And we will work very closely with a expanding coalition on these issues. It is clearly unacceptable that upward of eight million people live and work in the country each day without the full protection of the law.

In the workplace, employers may sometimes seek to polarize workers based on race, ethnic background and national origin. In the face of such a divide and conquer strategy, labor and employment laws are broken with impunity, wages and working conditions stagnate or fall, and worker progress overall is impeded. That's one of the reasons why legislation to address the recent *Hoffman* decision is so important, in addition to the broader immigration legislation.

Also a broad legalization program must allow undocumented people from all countries to address their status. This point is particu-

larly important in the context of the U.S.-Mexico discussions. We value and respect Mexican immigrants. They are hard working and deserving, but so are workers from Haiti, Guatemala, Poland, Canada and elsewhere. Limiting a legislative program to one nationality will only further divide us as a people and leave millions of workers and families without the legal protections they deserve.

And wrapping it up rather quickly, the three other areas, reforming guest worker programs. Some policymakers have advocated a new guest worker program would be the answer. We do not agree with this.

On reforming employer sanctions, these provisions have not worked and should be replaced with a more effective mechanism. And then finally on the issue of full workplace rights, we are working closely with unions in Mexico, in particular around the *Hoffman* case which has been mentioned many times, in formulating a position that we can bring back up to the Congress that shows the uniformity of commitment on both sides of the border.

So, we look forward to working with you in the days and weeks ahead. And I know that president Sweeney particularly appreciates your determined leadership on this issue. Thank you, Senator.

[The prepared statement of Ms. Shailor follows:]

PREPARED STATEMENT OF BARBARA SHAILOR, INTERNATIONAL AFFAIRS DIRECTOR,  
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS  
[AFL-CIO]

On behalf of the AFL-CIO, thank you for the opportunity to be here today to discuss one of the most important issues we face as a nation and a people, our policies with respect to Mexico, focusing particularly on migration issues. Our nation's relationship with Mexico is of significant importance. Mexico is our neighbor, one of our key trading partners, and is by far our largest source of new immigrants, documented and undocumented, who make an important contribution to our economy today.

The scores of unions that make up the AFL-CIO represent over 13 million working men and women of every race, ethnicity, and immigration status, including many Mexican-Americans. And all of our workers want one thing: to provide better lives for their families. All of us want the opportunity to hold good jobs in safe environments, which pay a living wage and provide reliable health care and retirement benefits and a chance to better ourselves through education and training. And as much as anything else, workers here and in Mexico want to be treated with basic dignity and respect, free from persecution and harassment based on who we are or where we come from. These fundamental aspirations of the human spirit do not distinguish between workers based on their immigration status. Nor, we believe, should we.

The attacks of September 11 and their aftermath, including increased fear and scapegoating of immigration and the great burden placed on immigrants by the recession, make it more important than ever to stand in unequivocal solidarity with immigrant workers and their families. We must demand that they be treated with dignity and fairness, on and off the job. Anything less diminishes America, its leaders and all its people, regardless of immigration status. And we must and can do so even as we make our borders more secure against people who want to harm us.

We call on the Congress and the Administration to proceed with plans to:

- Legalize the undocumented among us who are working hard, paying taxes and contributing to their communities and the nation;
- Replace employer sanctions and the failed I-9 system, which have never served their intended purpose;
- Reform, not expand guest worker programs;
- Fully protect workplace rights, including the freedom to organize a union, for all workers—regardless of immigration status—and stiff and meaningful penalties for employers who break immigration and labor laws in order to exploit workers.

It should be clear from my last point that we feel strongly that without a meaningful remedy, our rights and rules cannot be meaningful—and so we are deeply disappointed by the decision of the United States Supreme Court on the *Hoffman* case which invalidated the limited backpay remedy that the NLRB has crafted for cases in which undocumented workers have been unlawfully discharged by their employers in violation of national labor law. The decision was wrong. We will join with others and work with the Senate to press for legislation to overturn this decision and pursue fundamental justice for all workers.

By allowing unscrupulous employers to unlawfully victimize undocumented workers without any economic consequence, the court's decision undermines the living standards and working conditions of all Americans.

And we call on President Bush and President Fox to reinvigorate their discussions on migration as it relates to the U.S. and Mexico. We hope the discussions could lead to a framework agreement for a far-reaching migration accord consistent with our principles by the end of the summer. Ultimately, legislative action should not be Mexico specific. We need comprehensive Congressional action on an immigration package. And we hope that package could—and should—follow next year.

It is important to note the special relationship between unions and immigrants. American workers and their unions are indebted to earlier generations of immigrants who, in their determination to fight exploitation and abuse, founded the union movement and in so doing, improved working conditions and living standards for all working families. Today, growing numbers of immigrant workers are once again winning a voice at work by joining together into unions. Last year, 10 percent of all union members were foreign born, roughly mirroring immigrants' share of the population overall.

*Legalization:* The labor movement is increasingly concerned about the welfare of our undocumented brothers and sisters, as we are for all immigrant workers. The relationship between unions and their immigrant members is mutual: unions make a tremendous positive impact on the lives of immigrant workers and their families, and immigrant workers have long been a vital part of the union movement. As a growing part of the workforce and a growing part of unions, immigrant workers have courageously stood with U.S. workers, leading organizing drives and assuming positions of leadership on both the local and national levels. Together with our coalition partners, the AFL-CIO is dedicated to ensuring that legislation to legalize undocumented workers who contribute to their workplaces and community passes in the Congress.

It is unacceptable that upwards of 8 million people live and work in our country each day without the full protection of the law. Undocumented workers and their families are constantly at risk of being preyed upon by criminals, dishonest landlords, or unscrupulous employers, by those who believe they can get away with breaking the law simply because their victims are immigrants. But, undocumented people are not the sole victims when these laws are broken: All of us lose some of our own legal protections when entire categories of people are denied theirs. This is especially true in the workplace, where employers may sometimes seek to polarize workers based on race, ethnicity or national origin. In the face of such divide and conquer strategies, labor and employment laws are broken with impunity, wages and working conditions stagnate or fall, and worker progress overall is impeded. That's why legislative action to address the recent *Hoffman* decision is so important.

Also, a broad legalization program must also allow undocumented people from all countries to adjust their status. This point is particularly important in the context of the U.S.-Mexico discussions. The large number of undocumented Mexican workers is a consequence of the 2000-mile border and 300 year history our nations share. We recognize and cherish the bond and special relationship between our countries. And we value and respect Mexican migrants; they are hardworking and deserving. But so, too, are undocumented workers from Haiti, Guatemala, Poland, Canada and elsewhere. Limiting a legalization program to one nationality will only further divide us as a people, and leave millions of workers and their families without the legal protections they deserve.

*Reforming guestworker programs:* Some policymakers have advocated a new guestworker program as the answer to the problems associated with our current failed immigration policies. We do not agree. Before there is any serious consideration given to a new guestworker program, immigrants who have been living in this country, holding jobs, paying taxes and contributing to their communities must be given access to permanent legal status.

Beyond that, we are deeply troubled by the guestworker proposals some are advocating, which would lift restrictions on recruiting and hiring low wage, low skilled foreign workers, while conferring only limited protections on these workers and prohibiting them from seeking permanent residency. We recognize that some workers

want to return to their native countries and should be able to do so, but any reforms of our temporary worker programs must include a path to permanent legalization.

A new guestworker program built on the failed policies and models of the past cannot be the centerpiece of our national immigration policy. Analyses by DOL, GAO and others have found that despite employers' claims to the contrary, guestworkers earn less than their U.S. counterparts. Years of low wages facilitated by the *bracero* and H-2A programs and easy access to undocumented workers have left U.S. agricultural workers with wages that actually fell during the last economic expansion, a time when virtually all other low wage, low skill workers saw their incomes rise. An INS report to Congress verified that even highly skilled H-1B visa holders in the IT industry earned less than U.S. workers in the same occupations. Guestworkers regularly face many of the problems associated with contingent employment: lower pay, no benefits and intentional misclassification of employment status.

Guestworkers are tied to an employer or industry or occupation in a way that other workers are not. That alone makes them extremely vulnerable. While guestworkers are covered by most labor and employment laws, the nature of their tie to their employer makes these protections more fiction than reality for most. Hence, any guestworker program must include and protect all the workplace rights that U.S. workers enjoy. In addition, a new guestworker program based entirely on a worker's relationship to his or her employer, resulting in a system of virtual bondage for many, is unacceptable.

*Reform Employer Sanctions:* The last legalization law enacted, IRCA in 1986, included provisions making it illegal for an employer to hire a worker without work authorization, imposing employer sanctions for violations of that law. These provisions have not worked and should be replaced with more effective mechanisms. Even though the object of employer sanctions was to punish employers who knowingly hire undocumented workers, and not the workers themselves, in reality, some unscrupulous employers have manipulated the program to violate federal and state labor laws and to discriminate against workers. The current situation not only harms all workers, but also those employers who face unfair competition from others who skimp on labor costs by hiring and then exploiting undocumented workers.

I think no one will contest that employer sanctions have failed. They have not deterred the flow of undocumented workers into the United States, and almost no employer ever experiences a penalty or sanction. In 1999, the General Accounting Office reported that only 17% of lead-driven cases resulted in *any* sanction or penalty against employers who had violated the law, and that INS collected only 50% of the fines that were levied. During the same period reviewed by the GAO, only 2% of all investigations resulted in a criminal penalty.

In addition, both the GAO and the U.S. Commission on Civil Rights have documented that numerous workers, mainly Asian and Latino, have faced discrimination by employers who assumed the workers lacked legitimate work authorization because they "appeared" foreign or spoke with accents. In effect, a system designed to penalize one form of unlawful behavior promoted another.

Although employer sanctions did not create the problems of exploitation and discrimination, they have contributed significantly to the inability of immigrant workers to enjoy and enforce the most basic of labor and workplace rights. Having failed to fulfill their central purposes and, indeed, having set back the progress of workers generally, employer sanctions must be replaced with laws that will work. We should increase criminal penalties for employers who knowingly recruit undocumented workers and participate in document fraud for business advantage. Moreover, to help ensure the new scheme works and to avoid the manipulation that characterizes the present system, it is essential that immigrant workers, who risk unfair deportation when they stand up for their rights, receive protections when they file well-grounded complaints against their employers.

*Full workplace rights:* In theory, all workers, regardless of immigration status, enjoy most of the basic rights and protections under the nation's labor and employment laws. In reality, though, undocumented workers typically fall through and outside this safety net—a result that all too often occurs not by accident, but by design. The constant threat of deportation serves as a velvet hammer employers can wield not only to deny basic rights, such as the right to earn the minimum wage, but also to deter undocumented workers from filing complaints. And since most labor standards investigations are complaint-driven, employers deny rights and protections for undocumented workers with virtual impunity.

In many instances, employers call the INS to report undocumented workers only after they get wind of organizing campaigns or labor standards complaints. Upon learning of organizing efforts or that immigrant workers have filed wage and hour, OSHA, or EEOC charges, employers who have shown no interest in complying with

any other labor law suddenly become converted to the sanctity of the ban on hiring workers without work authorization. In a sense, employers determine immigration enforcement policy by alerting the INS whenever workers seek to exercise their employment and labor rights.

Union organizers have faced this tactic when they try to organize workplaces that are comprised predominantly of immigrant workers. It takes a lot of courage for workers to come forward and openly fight for a voice at work through a union. Human Rights Watch stated in its report "Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards," that many U.S. workers "who try to form and join trade unions to bargain with their employer are spied on, harassed, pressured, threatened, suspended, fired, deported or otherwise victimized in reprisal for their exercise of the right to freedom of association." The threat to immigrant workers is even greater: they risk not only job loss, but also possible deportation if they exercise their right to form a union.

Instead of punishing workers, immigration and labor standards policies should specifically penalize employers who break the law and protect workers who uphold the sanctity of our legal system by pursuing their labor and employment rights. We need to ensure that all workers, regardless of their immigration status, are made aware of their rights and of the means to vindicate them. And immigrant workers should have specific protections against employers who try to use the workers' immigration status to block their efforts to form a union or to otherwise exercise basic workplace rights. Workers should be protected against deportation when they file a labor standards complaint unless the INS can prove that the deportation proceedings are in no way related to the workplace situation, and that the complaint was not filed in bad faith to avoid deportation. Agencies such as the Department of Labor should be required to keep confidential any information they learn about a worker's immigration status during an investigation or proceeding enforcing labor rights. The INS should be prohibited from proceeding with workplace investigations during a labor dispute. Finally, in order to better target investigations and enforcement, the Departments of Labor and Justice should be required to conduct a study of industries that employ undocumented workers, and the exploitation of undocumented workers by their employers.

Of course, continued inadequate funding for labor standards enforcement will hamper the measures I have outlined above. Funding for labor protection activities has not kept pace with labor force growth during the 1990's. We must reverse that trend and fund these programs adequately, if we are to ensure full workplace rights and protections for all.

We recognize that the issues we have discussed touch on just a few aspects of the U.S.-Mexico talks now underway. There are several other issues of critical importance. For instance, we believe that discussions on the well being of U.S. and Mexican workers should include a close examination of labor rights in Mexico and stronger enforcement of Mexican labor laws to protect the right to organize and other core ILO principles. For example the system of employer dominated unions called "protection contracts" severely restrict freedom of association. So far, these issues have been excluded from the Bush-Fox agenda.

#### CONCLUSION

Unions are playing an important role in bridging the gap between immigrant and non-immigrant workers. We know that the fortunes and futures of all workers in the United States—are linked: If undocumented workers have no practical choice but to accept substandard pay and working conditions, their U.S. counterparts will eventually be forced to accept such conditions as well. There is no protection for *any* worker when some workers have freedom to exercise their labor and employment rights and others do not.

Unions have already begun the process of bringing workers together and encouraging open and frank discussions in the workplace and in our communities. We believe this dialogue fosters the respect and brotherhood necessary for our country to move forward, even as our demographics change. And we know that when we act to strengthen protections for the most vulnerable among us, we build a movement and a system that is stronger for all of us.

We strongly believe that the U.S.-Mexico discussions on migration should reflect these principles, and we look forward to working with you as the process moves forward.

Senator DODD. Very, very good, and we thank you. We're going to talk about the *Hoffman* case with all of you here because I find it's an intriguing matter—hearing both arguments on either side of

this. I realize obviously having a regulation or a statute is different than a constitutional amendment. But I know that constitutional protections apply to all people in the United States regardless of how they got here, in a sense.

One may try and draw some distinctions, but it seems to me there as well, to be able to summarily—to dismiss someone illegally and then—you were willing to hire them, you weren't worried about their status when you hired them—and then gives you the right to illegally dismiss them and not have to bear any responsibility, back pay—is rather precarious when it comes to trying to discourage, using all the vehicles to discourage illegal immigration in the country. So, I will come back and I'll be asking others for their point of view on this as well.

Mr. Lebedev, thank you for being with us.

**STATEMENT OF GREGORI LEBEDEV, CHIEF OPERATING OFFICER AND EXECUTIVE VICE PRESIDENT, INTERNATIONAL POLICY, U.S. CHAMBER OF COMMERCE, WASHINGTON, DC**

Mr. LEBEDEV. Mr. Chairman, thank you. On behalf of the three million member companies of the U.S. Chamber I appreciate the opportunity to comment today, not only on the spectacular success of the U.S.-Mexico partnership over the past decade, but on the unfinished agenda which we believe our two countries still face today. My observations this afternoon will address three major areas in the U.S.-Mexico relationship: trade, border management and migration.

First, let me briefly highlight the dramatic revitalization in this critical relationship in recent years. The foundation of these improvements is, of course, the North American Free Trade Agreement. In the 8 years since NAFTA came into force, trade between the United States and Mexico has nearly tripled, as Ambassador Larson said, with bilateral commerce topping today about \$245 billion.

This explosion in U.S. trade with Mexico has allowed U.S. companies to generate hundreds of thousands of new jobs. In fact, NAFTA was one specific reason why the U.S. economy generated over 20 million new jobs in the 1990's. So, contrary to the politically distorted forecasts, there has been no giant sucking sound, just the noise of three nations working together, raising incomes and building a prosperous and shared future.

However, one item that some Members of Congress believe ought to be placed on the unfinished agenda is the NAFTA Chapter 11. Critics of Chapter 11's investor state claims process argue that it gives foreign companies rights that are denied to U.S. firms. This is indeed an odd and quite upside down point of view.

It is curious how these critics overlook the fact that the United States is by far the biggest beneficiary of the investor state claims mechanisms. Such provisions are included in over 40 U.S. bilateral investment treaties around the world, for one very good reason. The United States is the world's largest overseas investor, with annual sales overseas surpassing \$2.5 trillion. This sum is roughly two and a half times our total merchandise trade.

While foreign investors in the United States can count on our legal system to ensure due process, U.S. investors in too many for-

eign countries cannot enjoy similar security without effective treaty provisions and protections. It's that simple. Let me repeat this crucial point. The United States is the primary beneficiary of these protections against discriminatory treatment. Why the United States should want to re-write these rules is peculiar indeed, and the U.S. Chamber urges the Congress to think long and hard before making any changes to Chapter 11.

Let me speak for a moment about secure and efficient borders, Mr. Chairman. Indeed, border management has become not just a buzzword in Washington, but an imperative in the wake of September 11. Economic activity at the border is tremendous. Over 800,000 people cross the U.S.-Mexican border every day. That includes 250,000 individual vehicles and over 12,000 trucks.

While we obviously must and will ensure our physical security and protect our country from the devastation that could be caused by another terrorist attack, we also must protect our economic security, and therefore ensure the continuation of legitimate travel and trade at our borders. In January the Chamber conducted a survey of local and state Chambers of Commerce on the Mexican border to assess the economic impact of the post-9/11 security measures. Not surprisingly, every locality reported significant delays immediately after the attacks. But, these delays have gone down as Customs and INS have been operating on 14 to 16 hour a day shifts. However, even with that effort, border crossings are still down by as much as 30 percent in some areas, and local economies continue to suffer.

In response to this situation, the U.S. Chamber has created the Americans for Better Borders (ABB) coalition, and the Chamber and the ABB support S. 1749, which the Senate has been debating. While this bill is only a good first step, the Chamber also applauds the recent smart border agreement with Canada and the 22 point border accord with Mexico, which was announced during President Bush's recent trip to Monterrey. These are very important initiatives.

Many in Congress and in the administration have also urged the creation of a new border agency to achieve the dual goals of improving security and facilitating trade at the border. The Chamber is supportive of all measures that would move toward these two goals. But, we do not encourage reorganization for the sake of reorganization. We're all well aware of the good work being done by the agencies toward improving border processes. We don't want to see those initiatives lost or derailed as otherwise necessary changes will occur. Consequently, the Chamber looks ahead to working with the Congress and the administration on any set of broad reforms on border oversight that might be proposed.

Although the challenges of border management are enormous, arguably the biggest area of unfinished business in the U.S.-Mexico agenda is migration. To be sure, it's undeniable that our legal and regulatory mechanisms have been largely out of step with this phenomenon, resulting in terribly unfortunate consequences. It's time for this country to initiate a fundamental and comprehensive change in our immigration system. As President Bush says, we need to make it legal for willing employers to get together with willing employees.

The U.S.-Mexico migration discussions are the first step in this comprehensive reform, and the U.S. Chamber actively supports this process. Last Thursday, Chamber president and CEO Tom Donohue and AFL-CIO president John Sweeney and representatives of the Hispanic and religious communities renewed their call for comprehensive immigration reform in the course of the U.S.-Mexico dialog. Month-to-month changes in the unemployment rate have altered the fundamental reality that America's population is aging. In short, Mr. Chairman, we need to move forward in a comprehensive fashion to examine the whole range of immigration policies, including guest workers, the legalization of those who are currently gainfully engaged in this country, and a management system that will allow us to monitor those in this country to either facilitate their ultimate matriculation into our society or to help them return to their country of origin.

[The prepared statement of Mr. Lebedev follows:]

PREPARED STATEMENT OF GREG LEBEDEV, UNITED STATES CHAMBER OF COMMERCE

Mr. Chairman, thank you for allowing the United States Chamber of Commerce to submit this statement today. I am Greg Lebedev, Chief Operating Officer and Executive Vice President for International Policy at the United States Chamber of Commerce, which is the world's largest business federation. On behalf of our three million member companies of every size, sector, and region, I appreciate this opportunity to comment not only on the spectacular success of the U.S.-Mexico partnership over the past decade but on the unfinished agenda our two countries face today. My testimony will address three major areas in the U.S.-Mexico relationship: trade, border management, and migration.

A DECADE OF PROGRESS

First, I would like to survey the dramatic improvements in this vital relationship in recent years. The tremendous progress in U.S.-Mexico relations over the past decade is a bipartisan success story. The first U.S. President named George Bush changed the relationship between our countries forever by proposing and successfully negotiating a completely new economic partnership under the North American Free Trade Agreement (NAFTA). Likewise, President Clinton deserves credit for his leadership in making the case for NAFTA's passage before the Congress and for standing by Mexico during the 1995 financial crisis.

But more than his predecessors, President George W. Bush has signaled a new perspective on the U.S. relationship with Mexico. By choosing Mexico as the site of his first foreign trip as president, President Bush showed that Mexico and the other nations of the Americas would be a principal focus of his administration's foreign policy. Mexico's President Vicente Fox shares this commitment to finding new approaches to longstanding challenges.

The key to the progress of the past decade is clearly the enormously successful North American Free Trade Agreement. In the eight years since the NAFTA came into force, trade between the United States and Mexico has nearly tripled, with bilateral commerce topping \$245 billion last year.

The explosion in U.S. trade with Mexico has allowed U.S. companies to generate hundreds of thousands of new jobs. By one calculation, the boom in U.S. exports to Mexico alone generated over one million new U.S. jobs, to say nothing of new jobs created south of the Rio Grande. Indeed, NAFTA was one reason why the U.S. economy generated over 20 million new jobs in the 1990s. There has been no giant sucking sound—just the noise of three nations working together, raising incomes, and building a prosperous, shared future.

Also, the NAFTA has boosted international investment. By 2001, U.S. companies had direct investments worth \$35 billion in Mexico. Among emerging markets, the level of U.S. investment in Mexico is second only to Brazil (by less than \$1 billion) and is more than four times the amount U.S. companies have invested in China. Partly as a result of this new flow of investment, Mexican sovereign and corporate debt is receiving investment grade ratings from international agencies, and Mexico has paid off all its IMF debts years ahead of schedule.

After growing by nearly 8% in 2000, Mexico today has followed its northern neighbor into a recession, but it is a North American recession characterized by a contrac-



tion of less than 1% of GDP. It is not a classic Latin American recession, in which economies can contract by 5-10% of GDP. North America is moving toward a true single market.

#### NAFTA'S UNFINISHED AGENDA

But more can be done to enhance the value of the trade and investment partnership Mexico and the United States are building. Our two nations took a step forward a year ago, when the U.S. Overseas Private Investment Corporation (OPIC) announced that it would offer long-term financing to small U.S. businesses investing in Mexico. This was a historic decision because OPIC support was not available to U.S. companies operating in Mexico until now. President Fox welcomed OPIC's announcement, which comes in response to strong demand by U.S. businesses to expand into the Mexican market.

At present, OPIC is authorized to lend from \$100,000 to \$200 million for small business projects in Mexico in which U.S. businesses have at least a 25 percent ownership interest. However, the business community is still waiting for an inter-governmental agreement to allow OPIC to provide a complete array of investment services to U.S. companies operating in Mexico. Over 140 countries around the world have signed such agreements with the United States, but outdated concerns in the Mexican Congress about such an agreement infringing on national sovereignty have made Mexico one of just a handful of countries where OPIC services are not generally available.

It's time for to leave these antiquated views behind. Thanks to its free trade agreements with 32 nations, Mexico is already showing the world that free trade is an engine of prosperity. Outmoded thinking should not stand in the way of mutually beneficial trade and investment.

One item that some critics of NAFTA believe ought to be placed on the "unfinished agenda" for further work is the NAFTA's Chapter 11. Even some members of Congress have criticized Chapter 11's "investor-state claims" process, asserting that it gives foreign companies rights that are denied to U.S. firms. What these critics overlook is that the United States is by far the biggest beneficiary of investor-state claim mechanisms. Such mechanisms are included in literally hundreds of bilateral investment treaties around the world and are an established and beneficial part of international commercial jurisprudence.

Why is the investor-state claim process so important to the United States? First, because the United States is the world's largest overseas investor, with annual sales by overseas affiliates of U.S. companies surpassing \$2.5 trillion, a level roughly two and half times that of our merchandise trade. While foreign investors in the United States can count on our legal system to ensure due process, U.S. investors in many foreign countries cannot enjoy similar security without effective treaty provisions. This is why such provisions have been included in 45 U.S. investment treaties with other countries. Even as we speak, U.S. investors in Argentina are invoking the investor-state claim process laid out in the investment treaty between the United States and Argentina, to the great benefit of U.S. companies and workers.

Let me repeat this crucial point: that the United States is the primary beneficiary of these protections against discriminatory treatment. Rules permitting investor-state arbitration grant U.S. investors access to an impartial, independent decision-making body when they make claims against foreign governments for breaking rules established in trade agreements and investment treaties. Why the United States should want to rewrite these rules is unclear, and the U.S. Chamber urges the Congress to think long and hard before making any changes to Chapter 11.

An additional area where our two countries are just beginning to live up to the NAFTA's promise is cross-border trucking. The U.S. Chamber of Commerce was pleased last year when the Bush Administration and the Congress reached a consensus on legislation that will allow the United States to live up to its NAFTA commitments on cross-border trucking.

Under NAFTA, the United States and Mexico pledged to liberalize cross-border trucking, but the United States retains full authority to inspect—and reject—trucks that do not meet U.S. safety standards. However, beginning in 1995, the Clinton Administration hid behind safety standards to deny Mexican trucks entry to the United States. That policy maintained a cumbersome, environmentally damaging, and costly system that has put a brake on further trade growth. With over 80% of our trade moving by truck, neither country can afford to block our trucks at the border.

In the wake of a NAFTA dispute panel ruling that unanimously found the United States in violation of the agreement, President Bush has pushed forward with plans to bring our country into compliance with our solemn commitments under NAFTA.

The Department of Transportation has rolled out regulations that will allow the United States to do just that beginning in the second half of this year.

Clearly, the time has come for our countries to open our borders to a modern cargo transportation system that will allow our economic partnership to reach the next level of success. We must insist that our countries make adequate—and smart—investments in border infrastructure to accommodate the ever-expanding volume of trade.

#### A SECURE AND EFFICIENT BORDER

Border Management has become not just a buzzword in Washington but also an imperative in the wake of September 11. In many ways the renewed focus on the operations of our borders has been a boon—for too long policymakers in Washington have paid little attention to the functioning of our borders, or, when they did, it almost always dealt with stopping the flow of illegal immigration or contraband. Little has been done over the past decades to update our border management policies, border infrastructure or staffing to facilitate the millions of legitimate travelers and billions of dollars in legitimate trade that crosses our borders each day. Specifically, over 800,000 people cross the U.S./Mexico border *each day*. That includes 250,000 personal vehicles and over 12,000 trucks. Truck trade with Mexico amounted to \$171.1 billion in 2000.

As I stated in the first part of my testimony, under NAFTA, these border crossings represent a significant portion of our international trade and our domestic economy. While we must ensure our physical security and protect our country from the devastation that could be caused by another terrorist attack, we must also protect our economic security, and ensure the continuation of the legitimate travel and trade at our borders. We must remember that the terrorists also targeted our economy when they struck at our national symbols.

In the wake of the September 11 attacks, our nation's ports of entry have been on a Level 1 Security Alert. This increased security has meant that commercial and passenger traffic at our nation's land borders has been subject to increased scrutiny. While this security is necessary, it has also resulted in significant disruptions to the normal course of trade and travel across our borders.

In December, the Chamber conducted a survey of local and state chambers of commerce on the Mexican border to assess the economic impact of the post-9/11 security measures. Every locality reported significant delays immediately after the attacks. Delays have gone down since then as Customs and INS have been operating on 14-16 hour shifts, mounting uncountable overtime hours, and stretching resources to the limit. National Guard and local law enforcement have been called in to assist with managing the traffic flow. But even so, border crossings are still down as much as 30% in some areas and local economies that are heavily dependent on the border traffic are continue to suffer. We are gravely concerned that the current border situation is unsustainable in the long term.

In response, the U.S. Chamber has created the Americans for Better Borders (ABB) coalition. The coalition brings together over 100 regional business organizations, companies, and national trade associations representing manufacturing, hospitality, tourism, transportation, recreation and other industry sectors to work to ensure the efficient flow of exports and tourism across our borders while addressing national security concerns.

The Chamber and ABB support S. 1749, the Enhanced Border Security and Visa Entry Reform Act, sponsored by Senators Kennedy, Brownback, Feinstein and Kyl, which we believe takes good, reasoned steps toward security while ensuring the continued flow of legitimate travel and trade. The House passed a version of this bill in December and we urge the Senate to do so as well.

But this bill is only a first step. We cannot address our border security from our side alone. We must work in concert with our neighbors. The Bush Administration has acknowledged this need and has moved forward in a positive way to address border issues by engaging Canada and Mexico in the creation of "smart border" accords. The 22-point accord with Mexico, announced during President Bush's trip to Monterrey last month, commits the United States and Mexico to moving forward on an expedited clearance program for shipments by firms that participate in enhanced compliance regimes, dedicated lanes for frequent border crossers with "smart cards," and exploration of joint border infrastructure. This new agreement also provides a framework for future border cooperation and communication between the United States and Mexico.

Many in Congress and in the Administration have also urged the creation of a new border agency to achieve the dual goals of improving security and facilitating trade at the border. The Chamber is supportive of all measures that would move

toward those two goals, but we do not favor reorganization for the sake of reorganization alone. Any agency consolidation or reorganization should be undertaken with specific goals and outcomes in mind. We are also aware of the good work being done at the agencies now toward improving border processes, and we would not want to see those efforts derailed in the rush to make organization changes. It is a daunting challenge to reform both the procedures at our borders and their management oversight at the same time, and in an urgent manner. But let me say this clearly—when it comes to our borders we cannot afford to make mistakes. So we must think carefully about all such moves and gauge their impact before we undertake them.

The Chamber can serve as a forum for bringing together lawmakers and policy-makers with the private sector to accomplish these objectives. Later this month we will host a daylong forum with Members of Congress and representatives from business and academia to discuss cargo security and how to achieve the dual goals of security and efficiency. We would like to work with Congress and the Administration on any broad reforms of border oversight that might be proposed.

#### CREATING A LEGAL MIGRATION FRAMEWORK

Although the challenges of border management are enormous, arguably the biggest area of “unfinished business” in the U.S./Mexico agenda is migration.

The United States and Mexico share almost 2,000 miles of border in addition to cultural, historic, economic and familial ties that go back generations. The links between our economies also extend to our workforce. These factors have resulted in the patterns of migration that have evolved over centuries. And yet our legal and regulatory mechanisms have been largely out of step with this phenomenon, resulting in terribly unfortunate consequences: millions of people living and working in the U.S. without legal status, but building our communities and economy; hundreds of people dying each year on our border trying to achieve the same American dream; and a thriving criminal underclass to take advantage of this system.

It is time for us to seriously address this reality. We need comprehensive, fundamental change in our immigration system—not just more small band-aid fixes that create more problems than they solve. We need to make it legal for, as President Bush says, “willing employers to get together with willing employees.”

And once again, President Bush has shown leadership in this difficult area. He and President Fox announced in February 2001 the creation of a High-Level Bi-National Working Group on migration, and tasked these senior cabinet officials with developing a new immigration framework for the United States and Mexico. We have supported these discussions from the beginning.

Last fall, in fact only four days before the terrorist attacks, U.S. Chamber President and CEO Tom Donohue testified before the Senate Judiciary Committee, along with AFL-CIO president John Sweeney and representatives of the Hispanic and religious communities to urge comprehensive immigration reform in the course of the U.S./Mexico dialog. And, last Thursday, these groups came together again for the first time since the attacks to renew their call for immigration policy reform. We continue to state reality: *we need these workers and they are not going anywhere.*

Month-to-month changes in the unemployment rate have not changed the fundamental reality that America’s population is aging and our pool of available workers is shrinking. According to the Bureau of Labor Statistics, by 2010 we will have 167.8 million jobs, a more than 15% increase from current levels. But our workforce is expected to grow only 12%, to 158 million, in the same period. And the median age of the workforce will be over 40 years old! We need to change our policies, make legal immigration the norm, and expand—not limit—immigration to meet our labor needs.

New immigration policy must satisfy three important requirements.

First, we need to address the need for employers to hire foreign workers legally when U.S. workers are not available. We need to allow employers to fill jobs quickly and workers to have the rights and dignity that come from having legal status.

Second, we need workable temporary and long-term visas. We need to create new visas that go beyond seasonal needs and that have streamlined processes that do not create additional, unnecessary burdens. We also need to assure that everyone is playing fairly: offering the required wages, looking first within the U.S. and treating workers well. We need a system that is flexible to allow employers to train and promote these workers, to allow workers to find the best employers for them, and for both employers and employees to make the arrangement permanent, when both agree.

And third, but possibly most importantly, we need to address the status of those who are already here and contributing to our economy. We believe that those who

have already demonstrated their commitment to the United States by living here, working and paying taxes, should have a means by which they can earn permanent residence. There are many possible ways to accomplish this that are being discussed by the policy-makers; but we simply want to ensure that these individuals can continue their contributions to their employers and communities.

Now there will be some who will say that in light of the terrorist threat against us, how can we propose such a broad expansion of our legal immigration system. The Chamber has been at the forefront of creating a security framework in which business can continue to operate and I would argue that immigration reform is fully consistent with our national security imperative.

A regulated, structured immigration system will tell us who is coming to our country, where they are living, and assure us that they are not terrorists. We need to bring into the light hard working, upstanding immigrants who deserve protection under our laws, while exposing criminal gangs and terrorists that use the current system to their advantage.

The relationship between the United States and Mexico cannot flourish with this large issue remaining unaddressed. As Tom Donohue said on Thursday to President Bush, President Fox and Congress: "Do it. Work it out. And we . . . will be here to work with you. But don't leave this unfinished business."

#### CONCLUSION

In conclusion, Mr. Chairman, the U.S. Chamber of Commerce believes, as the President does, that we have no more important relationship in the world than with our neighbors in Mexico, and we need to do all we can to perpetuate and strengthen that relationship, through increased trade, secure and efficient borders and a migration framework that meets the needs of both nations. And we look forward to working with Congress and the President to achieve those goals.

Thank you, and I am happy to answer your questions.

Senator DODD. Very good, I thank you for your testimony. I've got some questions for you in a few minutes. Ms. Baer, why don't you go ahead.

#### **STATEMENT OF M. DELAL BAER, PH.D., SENIOR FELLOW AND CHAIRMAN, MEXICO PROJECT; DEPUTY DIRECTOR, AMERICAS PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON, DC**

Ms. BAER. Thank you very much, Senator Dodd. Thank you so much for your leadership on these issues over the years. It's a tremendous honor to testify before you.

Senator DODD. Thank you.

Ms. BAER. Mr. Chairman, if you were to ask me the question what are the two most important issues confronting the United States and Mexico today, I would answer without hesitation. First, we must make provision for the mutual security of our two nations. It is fundamental. And second, we must do all we can to support the consolidation of Mexico's new democracy. Let me begin with a few comments on security.

The national interests of the United States and Mexico are complementary when it comes to homeland security. Millions of Mexicans and Mexican-Americans reside in the cities of the United States, for example, and they are as vulnerable to a terrorist attack as is any other U.S. citizen. A contagious bioterrorist attack, for example, would know no boundaries, and it would strike deep into the heart of Mexico as surely as it would strike into the U.S. heartland.

The defense of our contiguous airspace, land, border and seacoasts is essential to the uninterrupted flow of our integrated trade and transportation systems. Mr. Chairman, I believe that there is a compelling rationale, for the first time in the history of

U.S.-Mexican relations, for creating a partnership for security, an orderly framework for U.S.-Mexican homeland defense that would complement our efforts in the Partnership for Prosperity. The objective of such a framework, as I conceive of it, would be focused principally on matters of mutual homeland defense.

Mexico and the United States, you know your history very well, have never had an institutionalized defense arrangement, as has the United States and Canada in the case of NORAD, for example. Yet surely, we should be thinking about air and sea defense cooperation. Guidelines are needed regarding hijacked civilian airlines which could cross international borders, overflight rights, and coordinated operations in emergency situations.

A bilateral data base, for example, of shared flight pattern information is needed in order to be able to detect cross-border flight path anomalies. I also suspect that our grip is shaky on even such basic issues as the low flying illegal aircraft that regularly evade radar detection to cross the border. I applaud the steps mentioned by Jim Ziglar that have been taken with the signing of the 22 point bilateral agreement by Presidents Bush and Fox aimed at creating smarter and more secure borders. I would simply warn that the institutional capacity of Mexico to implement such accords is limited by the lack of resources, trained personnel and technology.

You, Senator, were asking questions about whether or not the resources were sufficient for the INS to comply with its mission. And I have serious doubts about whether there are sufficient resources for our partners, with all of their best intentions, to meet their own missions as well. I'll just give you one example.

According to the Mexican Government's figures as released by UNICEF, as of 1998 there were over five million Mexican children without birth certificates, which suggests how difficult it is for the Mexican Government to keep tabs on its own citizens, let alone those who would enter Mexico illegally.

Senator DODD. Enter the United States illegally.

Ms. BAER. Pardon me.

Senator DODD. Enter the United States illegally.

Ms. BAER. And into the United States, absolutely, but born in Mexico. Also illustrative is the ease with which one can acquire false birth certificates, military service cards and driver's licenses to create fictitious identities. The United States and Mexico, I believe, will have to apply immense resources, more than we currently are, and hands-on cooperation in order to effectively achieve our goal of secure borders.

So, I am interested in your repeated allusion to the need for resources. My own intuitive suspicion is that there is a need for a serious infusion of resources on both sides of the border. We shouldn't be shy about making a compelling case for better defending our citizens. It's a controversial issue in Mexico. But making the case for a partnership for security would be the boldest thing to be attempted in the bilateral relationship since the passage of the North American Free Trade Agreement, which as you know required a revolution in the historic mindset of bilateral relations. And I think it's time to work toward another revolution in our mindset of bilateral thinking.

Let me make a few comments on the consolidation of democracy and building prosperity. Obviously our security efforts will be in vain if it is not to defend freedom. The consolidation of Mexico's democracy is important to the United States and to building a community of shared values in North America, to which you alluded. In that context, Mr. Chairman, I am increasingly worried about the apparent difficulty of Mexico's new democracy to generate multi-party consensus on basic policy matters at home. Such difficulties could well impact Mexico's margin for maneuver abroad and in its relationship with the United States.

At the end of the day it's not really clear to me what more the United States can do or should do to help Mexico consolidate its new democracy. It's clear to me what we shouldn't do. We shouldn't take sides in Mexico's partisan battles, I think that's elementary. Nor should we be in the business of designing our bilateral relationship with one eye on the partisan balance of Mexican politics. I guess I have a simpler vision, and that is offering hope to Mexico's poorest citizens might be one of the best things that we can do in the United States to help Mexico consolidate its new democracy.

Presidents Fox and Bush have announced the deliberations of the public-private group called the Partnership for Prosperity. I believe that a vigorous commitment must now be made for providing resources to implement that partnership vision. Alan Larson mentioned that there is no appropriation envisioned for the partnership initiative. I wonder whether or not perhaps we should be thinking of that.

I'm not a great believer in foreign aid, Mr. Chairman, but if it is managed with an eye toward triggering private investment, then perhaps it will make some sense, and it would offer hope in Mexico and it would strengthen our bilateral relationship. I worked on the agricultural committee of the Partnership for Prosperity, and we ended up deciding that the United States and Mexico should facilitate partnership agreements between Mexico campesinos organizations and private investors. I think if we move energetically ahead on something like that we can touch the lives of thousands, and we can bring hope to many.

In conclusion, I am concerned about the potential for growing impatience in Mexico with democratic institutions. I am concerned about the growing frustration in Mexico about the perceived absence of progress in bilateral relations. Mexico is a shining light in our troubled Western Hemisphere, but we shouldn't take it for granted. We have to deliver results.

And let me conclude by citing Ecclesiastes, the famous passage: "To everything there is a season, and a time to every purpose under heaven." Now is the season for the United States and Mexico to embrace the dual purpose of defending democracy and future generations of Mexicans and Americans from the depredations of global terror. Thank you very much.

[The prepared statement of Ms. Baer follows:]

PREPARED STATEMENT OF M. DELAL BAER, PH.D., CHAIRMAN AND SENIOR FELLOW,  
MEXICO PROJECT, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

A PARTNERSHIP FOR PROSPERITY AND SECURITY—U.S.-MEXICO RELATIONS

Mr. Chairman and distinguished Members of the Committee,

Thank you for inviting me to share my views about U.S.-Mexico relations with the Committee. This hearing is especially timely. We are at a special moment in the history of U.S.-Mexican relations, and I am not convinced that we are doing all we can to meet the challenges before us.

Mr. Chairman, if you were to ask me the question, "What are the two most important issues confronting the U.S. and Mexico," I would answer without hesitation—first, we must make provision for the mutual security of our two nations and second, we must do all that we can to support the consolidation of Mexico's new democracy. Mexico's democratic transition and the tragic events of September 11 create a dramatic window of opportunity to build a new security relationship with Mexico at the same time that we help to advance Mexican social and economic development. We must work hard to build a Partnership for Prosperity at the same time that we build a new Partnership for Security.

*U.S.-Mexico Homeland Defense*

Let me begin with a discussion of security issues. The national interests of the U.S. and Mexico are complementary when it comes to homeland defense. Millions of Mexicans and Mexican Americans reside in the cities of the United States, for example, and they are as vulnerable to terrorist attack as any U.S. citizen. A contagious bio-terrorist attack, for example, would know no boundaries and which would strike into the heart of Mexico as surely as it would strike into the U.S. heartland. The defense of our contiguous air space, land border and seacoasts is essential to the uninterrupted flow of our integrated trade and transportation systems. Open trade must not create an open door for terrorists, and Mexico's interest in liberalized U.S. immigration policies depends upon closing loopholes that can be exploited by terrorists. In sum, it is hard to argue with the proposition that our destinies are linked by geography and that everything possible must be done to assure the safety of the citizens of both countries.

Mr. Chairman, I believe that there is a compelling rationale for the first time in the history of U.S.-Mexico relations for creating a Partnership for Security—an orderly framework for U.S.-Mexican homeland defense. The objective of such a framework, as I conceive of it, would be to focus principally on matters of mutual homeland defense. Mexico and the United States never have had an institutionalized defense arrangement as do the U.S. and Canada with NORAD, for example, yet surely we should be thinking about air and sea defense cooperation. Surely we should be thinking about how to organize our homeland security together with Mexico and asking whether or not tripartite institutions involving Canada are appropriate. Guidelines are needed regarding hijacked civilian airliners crossing international borders, over flight rights and coordinated operations in emergencies. A bilateral database of shared flight pattern information is needed in order to be able to detect cross border, flight path anomalies. I suspect our grip is shaky on basic issues such as low flying, illegal aircraft that regularly evade radar detection to cross the border.

I applaud the steps that have been taken with the signing of the bilateral agreement by Presidents Bush and Fox aimed at creating smarter and more secure borders. I would simply warn that the institutional capacity of Mexico to implement such accords is limited by a lack of resources, trained personnel and technology. According to the Mexican government's figures as highlighted by UNICEF, as of 1998 there were over 5,000,000 Mexican children without birth certificates, which suggests how difficult it is for the Mexican government to keep tabs on its own citizens, let alone those who enter Mexico illegally. Also illustrative is the ease with which one can acquire apocryphal birth certificates, military service card and driver's licenses to create fictitious identities. The U.S. and Mexico will have to apply immense resources and hands on cooperation in order to effectively achieve our goal of secure borders.

These are not easy issues, Mr. Chairman, and the mere mention of closer security relations is controversial in some Mexican circles. Recently, a political firestorm was touched off by the U.S. decision to create a Northern Command as a part of the post 9/11 restructuring of the U.S. Unified Command Plan. Some Mexicans mistakenly believed that a joint, U.S.-Mexico-Canada military command was in the making, while others suspiciously viewed the Northern Command as a hostile act directed at Mexico. Similar tensions could be seen when the Mexican Senate recently refused

permission for President Fox to travel to the United States, citing an accumulation of irritations in bilateral relations and questioning new security-oriented initiatives.

In light of these tensions, a strong articulation of our shared security interest should be made a priority mission of U.S. and Mexican diplomacy. Each country has an interest in guaranteeing its own homeland security, and this interest exists independently of the many other issues that are currently on the bilateral agenda, such as immigration or trade disputes. We should not be shy about making a compelling case for better defending our citizens. Making the case for a Partnership for Security would be the boldest thing to be attempted since the passage of the North American Free Trade Agreement, which required a revolution in the historic mindset of bilateral relations. It is time to work toward another revolution in bilateral thinking.

*Consolidating Democracy and Building Prosperity*

Our security efforts will be in vain if it is not to defend our freedom. The consolidation of Mexico's democracy is important to the United States and to building a community of shared values in North America. In that context, Mr. Chairman, I am increasingly worried about the apparent difficulty of Mexico's new democracy to generate multi-party consensus on basic policy matters at home. Such difficulties could well impact Mexico's margin for maneuver abroad and in its relationship with the United States.

At the end of the day, it is not clear what more the United States can or should do to help Mexico consolidate its new democracy. It is clearer to me what we should not do. The United States should not take sides in Mexico's partisan battles. Nor should the United States be in the business of designing the bilateral relationship with one eye cast on the partisan balance of Mexican politics.

Offering hope to Mexico's poorest citizens may be one of the best things that the U.S. can do to help Mexico consolidate its new democracy. Presidents Fox and Bush announced the deliberations of a private-public group called the Partnership for Prosperity during their last meeting in Monterrey, Mexico last March. A vigorous commitment must now be made to providing the resources for implementing the Partnership for Prosperity, whose mission is to stimulate private investment in the poorest, migrant-sending regions of Mexico.

I am not a great believer in foreign aid, Mr. Chairman, but if aid is managed with an eye toward triggering private investment, as conceived in the Partnership for Prosperity, than it may well make sense. I participated in the agricultural session of the Partnership for Prosperity and can see an enormous potential for good. Let me give you one example. If the United States and Mexico reach out energetically to match up scores of Mexican peasant organizations with U.S. private investors, we can touch many lives and rapidly spread the seeds of hope in Mexico's poorest regions. There are similar opportunities for progress in the areas of providing technical assistance and funding for micro-credit and remittances programs in Mexico. Many of the strategic relationships that the United States sustains around the globe are accompanied by a commitment to provide development assistance as well as military or technical assistance. If we can provide resources to strategic partners such as Egypt, Israel and Pakistan, surely we can do so for Mexico.

Finally, let me make one brief comment on immigration policy. President Fox has made a liberalized immigration policy in the United States a key objective of his foreign policy, a goal that is shared by many Mexicans across the partisan spectrum. Clearly, there is growing impatience in Mexico with the slow pace of bilateral discussions with the U.S. Yet, immigration is a very complex domestic issue in the United States, and the first obligation of U.S. policy is to the interests of our own citizens. I, for one, do not think that it is helpful to imagine that migration policy can be treated as a bargaining chip in some wider trade off with the Mexican government—I tend to believe that each issue on the bilateral agenda should be treated on the virtue of its own merits. And as an academic, I have the luxury of being dismayed at the partisan treatment of this important policy issue at the hands of politicians of all parties on both sides of the border.

My own view is that we are most likely to make progress on migration policy if we take it one step at a time, building consensus along the way. For example, if a carefully conceived expansion of our temporary visa program can be designed to prevent visa overstays and to guarantee that false documents and false identities are screened out, than such a program should be moved expeditiously as part of an overall enhancement of bilateral relations.

Mr. Chairman and Members of the Committee:

I am concerned about the potential for growing impatience in Mexico with democratic institutions. I also am concerned about the growing frustration in Mexico with a perceived absence of progress in bilateral relations. Mexico is one of the shining



lights in our troubled western hemisphere, but we should not take Mexico's democracy for granted. The excitement inspired by Mexico's democratic transition and the friendship between President Fox and President Bush has raised unrealistically high expectations about the potential for striking grand deals on everything from migration to energy. In addition, the events of September 11th have set a new and very high bar over which Mexico and the United States must now leap. We must find a way to deliver results.

Let me conclude by citing the famous passage of Ecclesiastes—"To everything there is a season, and a time to every purpose under heaven." Now is the season for Mexico and the United States to embrace the dual purpose of defending democracy and defending future generations of Mexicans and Americans from the deprivations of global terror.

Senator DODD. Excellent testimony, we thank you. Mr. Ladik, thank you for being with us. You are the last witness, but not the least witness.

**STATEMENT OF STEVEN M. LADIK, PRESIDENT, AMERICAN IMMIGRATION LAWYERS ASSOCIATION, WASHINGTON, DC**

Mr. LADIK. Thank you, sir. Thank you very much. I am honored to be here today, Mr. Chairman, representing the American Immigration Lawyers Association. AILA appreciates this opportunity to express its views on strengthening U.S.-Mexican relations, and the unfinished agenda that the two nations face.

I will focus my testimony today on the immigration aspects of this unfinished agenda, because immigration clearly is an important dimension of that agenda. Migration issues play a pivotal role in any discussion about the relations between these two neighbors. The United States and Mexico share a challenging history, a long common boundary, and an important trading relationship, reflected most recently by the North American Free Trade Agreement; and the shared responsibility, along with Canada, of enhancing this hemisphere's security.

An agreement between the United States and Mexico on immigration matters will be groundbreaking for both countries. Through these talks the United States can achieve long needed immigration reforms that contribute to our national security, that reunify families and respond to ongoing worker shortages that remain a critical issue because of long term demographic, economic and education trends. These reforms need to be comprehensive in nature. We must align our immigration policies with our national security needs, while recognizing market forces and working to reunify families.

It is our hope that President Bush and President Fox sign a migration accord that combines cooperation and enforcement and security with changes in U.S. immigration policy. Enforcement, security and U.S. immigration policy reforms must proceed together because each needs the others to succeed. It is only through such comprehensive reform that we can change our immigration policies in ways that enhance our security and make legal immigration the norm.

The outline of such comprehensive reform would include a smart border agreement that would enhance the security of both nations and include joint enforcement efforts to reduce illegal immigration; an increase in the number of temporary and permanent visas for workers and their families coming to the United States so that our legal immigration system, by more closely tracking economic needs

and family dynamics, will be more easily and effectively enforced; and earned legal status for hard working immigrants already here so that these valued workers are properly documented, can participate fully in their communities, and are eventually made eligible for permanent residence and U.S. citizenship.

Past efforts at reform were partially successful at best, because they were not comprehensive. For example, the 1986 amnesty while addressing one issue, legalizing the status of people already here, failed to address systemic problems such as the backlogs in family based immigrant visas and the absence of temporary and permanent business-based visa programs. We need to learn from our past and advocate for comprehensive reform this time around.

What specifically would a comprehensive reform package include? No. 1, an earned adjustment for people in the United States without authorization. People who work hard, pay taxes and contribute to the United States should be given the opportunity to obtain permanent residence. This legalization would stabilize the work force of U.S. employers, encourage people to come out of the shadows to be scrutinized by our government, and allow immigrants to work and travel legally and be treated equally.

Next, a new temporary worker program. Current immigration laws do not meet the needs of our economy for short and long term employees in those sectors currently experiencing worker shortages, and others that are expected to experience shortages when the economy rebounds. A new temporary program that includes full labor rights and protections would give workers the opportunity to work in areas of the country where they are needed, and would give employers experiencing shortages the work force that they need.

Such a new temporary worker program would have many positive benefits for Mexico, because it has the potential to allow for the cross-border flow of Mexican workers between the United States and their home communities. Currently, Mexican towns and labor exporting regions are bereft of their working age males because border crossing is too dangerous. A visa program that allowed these workers to return to their homes would be of immense benefit to their families and their communities, and would help the Mexican economy greatly. Such a program would parallel the Mexican program that already exists with Canada, under which future program participation is based on current year compliance.

Next, more legal channels for family and business-based immigration. Our immigration system has been characterized by long backlogs in family based immigration and long delays in business-based immigration. Illegal immigration is a symptom of a system that fails to reunify families and address economic conditions in the United States and abroad. Developing an increased legal migration flow will make immigration more orderly and legal. It also will allow more people to reunite with their families and work legally in the United States.

Finally, adequate funding for these reform initiatives. Immigration reform must include adequate funding to implement reform. Unfortunately, and in all due respect, Congress frequently passes new immigration laws without including adequate funding. Such changes would make legality the norm and would ensure that im-

migration is legal, safe, orderly, and reflective of the needs of American families, businesses and national security. It is now time that we work with Mexico to develop and implement these needed reforms. Thank you.

[The prepared statement of Mr. Ladik follows:]

PREPARED STATEMENT OF STEVEN M. LADIK, PRESIDENT, AMERICAN IMMIGRATION  
LAWYERS ASSOCIATION

Mr. Chairman and Distinguished Members of the Subcommittee:

My name is Steven Ladik. I am honored to be here today representing the American Immigration Lawyers Association (AILA). I am President of AILA, the immigration bar association of more than 7,800 attorneys who practice immigration law. Founded in 1946, the association is a nonpartisan, nonprofit organization and is affiliated with the American Bar Association (ABA).

AILA takes a very broad view on immigration matters because our member attorneys represent tens of thousands of U.S. families who have applied for permanent residence for their spouses, children, and other close relatives to lawfully enter and reside in the United States. AILA members also represent thousands of U.S. businesses and industries that sponsor highly skilled foreign professionals seeking to enter the United States on a temporary basis or, having proved the unavailability of U.S. workers, on a permanent basis. Our members also represent asylum seekers, often on a pro bono basis, as well as athletes, entertainers, and foreign students.

INTRODUCTION: IMMIGRATION AND THE UNFINISHED AGENDA

AILA appreciates this opportunity to express its views on strengthening U.S./Mexican relations and the unfinished agenda that the two nations face. I will focus my testimony on the immigration aspects of this unfinished agenda because immigration clearly is an important dimension of that agenda. Migration issues play a pivotal role in any discussion about the relations between these two neighbors. The United States and Mexico share a challenging history, a long common boundary, an important trading relationship reflected most recently by the North American Free Trade Agreement (NAFTA), which has deepened the levels of economic integration and interdependence between the two countries, and the shared responsibility (along with Canada) of enhancing this hemisphere's security.

An agreement between the U.S. and Mexico on immigration matters will be groundbreaking for both countries. President Bush and Mexico's President Fox were working together to produce such an accord just prior to the September 11 terrorist attacks. Those attacks only reinforced the need for such an agreement. I come before you today to both express my hope that these discussions accelerate and produce an agreement and to review the potential benefits of such an accord. I feel most comfortable in my capacity as AILA's President to focus my testimony on the benefits to the U.S. of such an agreement.

The mere existence of these discussions has revolutionized the immigration debate. Direct talks between our two countries have internationalized the issue of immigration and broadened the discussions in Washington, D.C. Much is now on the table for the first time to offer us an historic opportunity to fix what has been long-broken. Through these talks, the U.S. can achieve long-needed immigration reforms that contribute to our national security, reunify families, and respond to ongoing critical worker shortages.

Most agree that our current immigration system has failed in many ways and needs to be fixed. It has not been reformed in many years and reflects neither current nor future needs. Many have lost their lives at our borders, trying to cross into the U.S., smugglers are profiting from this trade in human lives, and precious resources are diverted from enhancing our national security because our government, instead of seeking out those who would do us harm, is rounding up people who are drawn here to fill our labor needs. Employers in several sectors currently are unable to obtain the workers they need, and as the economy continues to improve, other employers will experience worker shortages. Furthermore, families remain separated for years due to bureaucratic processing delays and long backlogs, and hard-working tax-paying people who contribute to our economy are undocumented and forced to live an underground existence.

The United States needs to reform its immigration system to recognize the contributions that immigrants have made to this nation and their continued importance to our national well-being and to the enhancement of our security. These factors will only intensify as the U.S. continues to emerge from an economic slowdown and from the shadows of the September 11 terrorist attacks. President Bush views reforming

our immigration policies as an opportunity rather than a problem and has put together high-level working groups in his Administration to develop a proposal with their Mexican counterparts. The President has pointed out that the "relationship between the United States and Mexico is very strong, is very important, and it's growing stronger every day." Senator Tom Daschle (DND) and Representative Dick Gephardt (D-MO), the Democratic leaders of the Senate and House, respectively, have emphasized that "fashioning strong relations with Mexico is vital to our national security," and have reiterated their strong support for "comprehensive immigration reform" and policies that "must reflect our core values of family unity, fundamental fairness and economic opportunity."

The election of Mexico's President Fox has been essential in making these discussions possible. President Fox has made migration a priority on his government's agenda, has called Mexicans who have come to the U.S. "heroes," and has been a forceful partner in the ongoing discussions. He has shed the Mexican government's traditional hands-off approach to the issue. In fact, just prior to the attacks, the Mexican government put forth a new comprehensive proposal consisting of five components: an earned legalization program for hardworking people currently in the U.S.; an expanded permanent visa program; an enhanced temporary worker visa program; border control cooperation; and economic development in Mexican immigrant sending regions. These five components point the way to the comprehensive reform that is needed in this area, and should be the foundation upon which the continuation of the bilateral talks between our government and Mexico is built.

#### THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM

The U.S. immigration system needs to be reformed in a comprehensive manner to meet our security needs, to reflect accurately the close and growing economic ties between the U.S. and Mexico, and to help families to reunify. Most would agree that our current immigration system is out of sync with reality. In fact, the status quo is unacceptable, especially in a post-September 11 world in which enhanced security becomes a central priority along with the need to balance these security demands with the continued flow of people and goods that keeps our economy strong.

The Border Security and Visa Reform Bill, that we hope the Senate will soon pass, takes a first important step to change our immigration laws to help make us safer. But this bill, which includes urgently needed provisions, is by itself insufficient and needs to be fortified by the kind of comprehensive reforms the U.S./Mexico discussions can produce. These discussions offer us the opportunity to further align our immigration policies with our national security needs while recognizing market forces and family reunification goals.

It is our hope that President Bush and President Fox sign a migration accord that combines cooperation in enforcement and security with changes in U.S. immigration policy. Enforcement, security, and U.S. immigration policy reforms must proceed together because each needs the others to succeed. It is only through such comprehensive reform that we can change our immigration policies in ways that enhance our security and make legality the norm. The outline of such comprehensive reform would include:

- A "smart border agreement" that would enhance the security of both nations and include joint enforcement efforts to reduce illegal immigration.
- An increase in the number of temporary and permanent visas for workers and their families coming to the U.S. so that our legal immigration system, by more closely tracking economic needs and family dynamics, will be more easily and effectively enforced.
- Earned legal status for hardworking immigrants already here so that these valued workers are properly documented, can participate fully in their communities, and are eventually made eligible for permanent residence and U.S. citizenship.

Aspects of such comprehensive reform were highlighted in the groundbreaking report issued last year by the Carnegie Endowment for International Peace and the Instituto Tecnológico Autónomo de México. In this report, a high-level panel composed of equal numbers of Mexican and American experts issued recommendations on U.S.-Mexico relations with respect to migration and border issues. The report proposes a "grand bargain" with the shared belief that "migration from Mexico to the United States should be (a) mutually beneficial; (b) safe, legal, orderly, and predictable; and (c) that, over the long term, it should naturally decrease and stabilize at moderate levels."

Our immigration system needs to be reformed comprehensively so that legality is the norm, and immigration is legal, safe, orderly, and reflective of the needs of American families, businesses, and national security. Past efforts at reform were

partially successful at best because they were not comprehensive. For example, the 1986 amnesty, while addressing one issue—legalizing the status of people already here—failed to address systemic problems such as the backlogs in family-based immigrant visas, and the absence of temporary and permanent business-based visa programs. We need to learn from our past, and advocate for comprehensive reform this time around.

*A U.S./Mexico Immigration Agreement Will Help the U.S. Address National Security Concerns*

Bilateral cooperation in enforcement initiatives that focus on illegal immigration, the opportunity for hardworking immigrants already here filling legitimate labor needs to earn legal status, a new temporary program for essential workers to fill identified labor needs, and more visas for workers and family members are initiatives that together will contribute to our security. Because our shared security needs create the additional impetus for Mexico and the U.S. to coordinate and cooperate, it follows that by encouraging and facilitating legal immigration, both countries will be able to focus their resources on terrorists and people engaged in smuggling, trafficking, and other criminal activities.

Immigration reforms that legalize hard working people already here and that create a new temporary program also will help the U.S. government focus resources on enhancing security, not on detaining hard working people who come here to work or reunite with their close family members. In addition, reform that includes a new legalization program and a temporary worker program will encourage people to come out of the shadows and be scrutinized by our government. The legality that results from these initiatives will further contribute to our national security.

That cooperation with Mexico is central to enhancing our security is evident in the recent action plan signed by Presidents Bush and Fox. During President Bush's April trip to Mexico, he and President Fox finalized a 22-point "U.S.-Mexico Border Partnership Action Plan." This plan is a first step to reconcile post-September 11 security concerns with the need to keep commerce moving freely between the U.S. and its second largest trading partner. The "smart border" deal aims to facilitate the legitimate flow of people and commerce across our borders while screening out those who would threaten us. In a joint statement, Presidents Bush and Fox stated, "We will build a border that protects our societies against those who would do us harm, and that truly serves the human and economic needs of our dynamic relationship. We share a vision of a modern border that speeds the legitimate flow of people and commerce, and filters out all that threatens our safety and prosperity."

Among other initiatives, the plan calls for the U.S. to pre-certify certain Mexican companies that would electronically seal their containers in Mexico and receive express treatment at the border. The plan also calls for a study of the possibility of creating express immigration lines at airports for people from the three NAFTA nations, and for Mexico and the U.S. to share information on those applying for visas to travel to either country.

The two countries are also discussing: improved sharing of intelligence in order to thwart terrorists using Mexico to facilitate illegal entry into the U.S.; border crossing practices that facilitate and streamline the passage of legitimate people and cargo while identifying those that require more extensive screening; and intensified joint efforts to crack down on human trafficking.

This type of bilateral effort to facilitate the safe and legal flow of people and commerce across our borders through the use of improved technology and international cooperation will aid us in our fight against crime and terrorism.

*A U.S./Mexico Immigration Agreement Will Help the U.S. Address this Country's Economic Needs*

Mexico is the U.S.' second largest trading partner (after Canada), with southern border communities a symbol of the interrelatedness of the two countries and economies. Since the passage of the NAFTA, levels of economic integration and interdependence have dramatically increased. However, this cooperation and coordination of capital, goods, and services stands in stark contrast to the massive enforcement efforts directed against employers and the legal restrictions faced by labor. The U.S. and Mexico cannot continue to be good partners on economic issues when a partnership does not exist on immigration issues. This contradiction is particularly harmful to the U.S. economy due to our nation's economic dependence on undocumented workers from Mexico and the demand for additional workers to meet labor shortages.

Recent studies suggest that the current levels of undocumented migration from Mexico contribute somewhere between \$154 billion to \$220 billion to the Gross Domestic Product of the U.S. Because these workers have become indispensable to the

U.S. economy, it is vitally important that their status be legalized so they acquire the protections and rights that all workers in the U.S. should receive. Yet there are few opportunities for these workers to legalize their status. Current laws pose difficulties for employers as well. In my experience as a lawyer who practices in Texas, when the Immigration and Naturalization Service (INS) initiates work-site enforcement, U.S. employers, through no fault of their own, can lose 50 to 75 percent of their workforce. These employers usually are unable to replace these workers in a timely manner, getting no assistance from either the Texas Workforce Commission or the Dallas County Welfare Department. Finally, after about five months, employers are generally able to find employees to replace the ones they lost through INS enforcement efforts. In the meantime, however, assembly lines are shut down and businesses are incapacitated for months.

This is no way to run a world-class economy. We must find a way for employers to get the legal workers they need, and for workers to either legalize their status or have a legal means, on a temporary or permanent basis, to enter the U.S. to take jobs for which they are needed. Mexicans have been coming to the U.S. for more than a century to work in both agriculture and the service sector, and this flow will continue regardless of the laws that Congress does or does not pass. The U.S./Mexico discussions offer us the opportunity to legalize this flow of needed workers so that we treat them, not as second-class human beings, but with the full rights and protections of our laws and legal system to reflect their many contributions to our country and economy.

It is important to understand that our country's need for these workers will only increase over time. Our labor market will demand even more workers because this nation is facing the prospect of dramatic labor shortages. Notwithstanding the now receding slowdown, the U.S. will be confronting shortages that result from demographic realities: our society is aging, with insufficient replacements due to low birth rates. European countries are already beginning to experience the negative consequences of such an equation. The U.S. will be next if we do not reform our immigration system. And Mexico is key to any successful reforms we are to undertake.

The Bureau of Labor Statistics (BLS) projects that the U.S. will create 17 million new jobs by 2010, 58 percent of which will not require a four-year college degree. The service-producing sector will add 20.5 million jobs with a total projected increase in the labor force of 17 million. Meanwhile, the U.S. is not producing enough new workers to sustain such growth and our current workforce is aging. By 2010, the labor force ages 46-64 will have the fastest growth rate. More than 60 million current employees will likely retire over the next 30 years. Testifying before a House Subcommittee in 2000, Dr. Richard Judy of the Hudson Institute said, "After 2011, the year in which the first of the Baby Boomers turns 65, their flight to retirement will reach proportions so huge as, barring unforeseen increases in immigration and/or participation rates among the elderly, to reduce the total size of the nation's workforce."

The following are examples of sector-specific information on present and future labor needs provided by the Essential Worker Immigration Coalition (EWIC), a coalition, of which AILA is a member, of businesses, trade associations, and other organizations from across the business spectrum concerned with the shortage of both skilled and less skilled ("essential worker") labor.

#### From the American Health Care Association

On February 18, 2002, the New York Times reported that more than 90 percent of all nursing facilities do not have the number of staff necessary to provide good care. The U.S. Department of Health and Human Services recently reported that nursing homes currently need 181,000 to 310,000 nurse aides (an entry-level position) to reach full staff levels. This number is expected to grow to over 800,000 by the year 2008, as more baby boomers need long-term care. Nursing homes have hired over 100,000 people from the welfare roles, wages are higher than in the service sector generally, and the facilities generally provide a training and certification course (paying wages while attendees take classes) to become a Certified Nurse Aide (CNA).

#### From the American Hotel & Lodging Association

A recent report by the American Economics Group estimated current lodging industry employment at 1.9 million with projected growth to over 2.6 million in 2010, meaning that the industry will require more than 700,000 additional workers this decade.

From the American Meat Institute

According to the BLS, the meat and poultry packing and processing industry employed more than 500,000 workers in 2000 (compared to 235,000 in 1975), and is projected by BLS to employ more than 540,000 workers, a 7.6 percent increase, by 2010. Most large meat and poultry packing plants are located in low-population, rural areas, which pose unique challenges to this labor-intensive industry. Not only does a labor shortage reduce productivity and efficiency in meat and poultry plants, it reduces capacity to buy and process poultry and livestock, hurting farmers as well.

From the Associated General Contractors

The December 2000 "Insights in Construction" Survey by AGC and Deloitte & Touche listed a shortage of skilled labor as the biggest challenge facing the construction industry over the next five years. The BLS recently estimated that more than 2 million workers will be needed in construction trades and related fields between 2000 and 2010 due to job growth and net replacements for retiring workers.

From the Building Service Contractors Association International

Current employment in building services is over 1 million, and has grown steadily in the last year. According to a survey by the Association, all responding members reported they expect to increase employment in the next year, and all reported difficulty filling vacant positions. These vacancies have resulted in curtailment of seeking additional service contracts and expansion plans. Notably, these shortages are affecting an industry that employs anywhere from 40 to 99 percent women and minorities.

From the National Association of Home Builders

Finding skilled workers has become increasingly difficult for homebuilders. Recent surveys of local homebuilder associations have consistently ranked labor availability as one of the most critical issues facing the industry. Other NAHB surveys have reported that the labor shortage has added 20 days to the time needed to build a single-family home, significantly adding to its cost. According to BLS, over 200,000 new workers are required by the industry each year to meet consumer demand for housing.

From the National Restaurant Association

Restaurants are the largest private-sector employer with over 11.3 million employees. By 2010 the industry expects to employ an additional 2 million workers. Labor shortages consistently poll among the top issues for restaurants/small business. According to the National Council of Chain Restaurants, workforce shortages, particularly in metropolitan areas, are among the most significant short and long term challenges to the industry.

From the National Roofing Contractors Association

The lack of qualified workers is the single biggest problem facing roofing contractors today. In a recent on-line survey of members, over 50 percent responded that they could hire up to five additional employees right now if qualified workers were available. The BLS projects an additional 50,000 roofers will be needed over the next decade to keep pace with demand.

From the U.S. Chamber of Commerce

The U.S. Chamber of Commerce's Center for Workforce Preparation did a survey of local chambers of commerce in the summer of 2001. Ninety-nine percent of leading chamber of commerce CEOs reported workforce development as a priority issue among employers. Eighty percent of survey respondents listed a "shortage of workers/low unemployment" as a key workforce development issue in their community. For example, a representative from Chamber member Ingersoll-Rand, a multinational manufacturing company, testified in Congress in 2001 that one of its key workforce problems is finding workers for skilled trades, including welders, tool and die makers and skilled machinists, and that even though the company operates its own training facilities for these jobs, it cannot find enough applicants for the training.

All of these facts point to one simple reality: developing a fair and effective immigration system is essential to our economy. The current discussion between the U.S. and Mexico provide a rare opportunity to address this country's economic needs and build a stronger, brighter future.

*A U.S./Mexico Immigration Agreement Will Help the U.S. Address the Urgent Need to Reunify Families:*

Through family-based immigration, a U.S. citizen or legal permanent resident can sponsor his or her close family members for permanent residence. However, the numerical limitations on many visa categories for both family-based and employment-based immigration force families to wait many years before they can be reunited legally. The current caps are unrealistic and run contrary to policy promoting family unity (as well as make it difficult for U.S. employers to secure able and qualified workers). For example, adult unmarried children of U.S. citizens must wait four and a half years before they can receive a permanent visa. Mexicans are especially impacted. Mexican family members of U.S. citizens or legal permanent residents in all of the visa categories must currently wait anywhere from 1-5 years longer than most other nationals for a visa to become available.

The result is that families remain separated for many years, a situation that encourages illegality as families are forced to wait, sometimes for a decade, and during that period are not even allowed legal entrance into the U.S. as visitors.

Two possible approaches to ameliorating the family immigration backlogs should be considered. First, the U.S. should consider exempting both Mexico and Canada from the per-country limits. These limits impose an artificially low ceiling on family immigration from Mexico, and are out of synch with today's reality. In light of the increasing interdependence of North American economies, there is no reason to continue to limit Mexican immigration to the same per-country quota imposed on countries in other more distant parts of the world.

Second, the U.S. should consider exempting Mexico and Canada from the family preference system numerical limits. Doing so would free up family preference numbers and would help alleviate the backlogs in these categories for all foreign nationals.

Comprehensive reform must support the reunification of families. Legalizing the status of hardworking people already in the U.S. and opening up channels for family-based immigration will help ensure an orderly process and legal flow and make legal that which in many cases has been illegal.

CONCLUSION: WHAT NEEDS TO BE DONE

To address our economic and security needs and to reunite families, any U.S./Mexico agreement needs to accomplish the following:

- *Develop a Regularization Program for People in the U.S. without Authorization:* People who work hard, pay taxes, and contribute to the U.S. should be given the opportunity to obtain permanent residence. This legalization would stabilize the workforce of U.S. employers, encourage people to come out of the shadows to be scrutinized by our government, and allow immigrants to work and travel legally and be treated equally. Many have been here for years, are paying taxes, raising families (typically including U.S. citizen and lawful permanent resident spouses and children), contributing to their communities and are essential to the industries within which they work. In order to unite families and keep them together, liberal and generous waivers must be made available for grounds of admissibility and deportability. It is neither in the best interests of the workers nor their employers for this situation to remain unaddressed.
- *Create a New Temporary Worker Program:* Current immigration laws do not meet the needs of our economy for short- and long-term employees in those sectors currently experiencing worker shortages and others that are expected to experience shortages when the economy rebounds. A new temporary program that includes full labor rights and protections would give workers the opportunity to work in areas of the country where they are needed and would give employers experiencing shortages the workforce they need. Current programs often have proven unusable by both employees and employers, and do not accommodate employers facing longer term, chronic labor shortages. The framework for a new temporary worker program must differ significantly from existing programs, and must respect both the labor needs of business as well as the rights of workers.

The creation of a new temporary worker program would have many positive benefits for Mexico because it has the potential to allow for the flow back and forth of Mexican workers between the U.S. and their home communities. Cur-



rently, Mexican towns in immigrant sending regions are bereft of their working-age male members because border crossing is too dangerous. A visa program that allowed these workers to return to their homes would be of immense benefit to their families and communities, and would help the Mexican economy immensely. Such a program would parallel the one already that already exists with Canada under which future program participation is based on current year compliance.

- *Open Up Legal Channels for Family and Business-Based Immigration:* Our immigration system has been characterized by long backlogs in family-based immigration and long delays in business-based immigration. Illegal immigration is a symptom of a system that fails to reunify families and address economic conditions in the U.S. and abroad. To ensure an orderly future process, it is critical to reduce bureaucratic obstacles and undue restrictions to permanent legal immigration. Developing an increased legal migration flow will make immigration more orderly and legal. It also will allow more people to reunite with their families and work legally in the U.S., and would facilitate fair, equitable, and efficient immigration law, policy, and processing. It is essential to make legal future immigration that otherwise will happen illegally.
- *Adequately Funding Immigration Reform Initiatives:* Immigration reform must include adequate funding to implement reform. Congress frequently passes new immigration laws without including adequate funding. Lack of adequate funding has contributed to the long backlogs and ineffective, inefficient and unfair services that currently characterize the Immigration and Naturalization Service (INS). Whether funds are directed to the INS or other entities to implement reform, any changes in the law must be accompanied by adequate funding, in the form of direct congressional appropriations.

Senator DODD. Thank you very much. I thank all four of you. Excellent testimony, very, very helpful to this committee in having a full discussion of the many issues that relate to the bilateral relationship, and your particular emphasis on a couple of them, I think, is particularly helpful. Let me—and I'll leave the record open—I wanted to raise some issues with you here, and if any of you want to jump in or raise any questions please feel free to do so.

I raised the issue of *Hoffman Plastics*, Ms. Shailor, and I wonder if you might—what recommendations would you be making. I know my colleague, Senator Kennedy of Massachusetts, is talking about legislation to deal with the court's ruling in this matter. And I've raised this issue with other panelists, and obviously you all—particularly from the administration being advisedly cautious about expressing what legislative proposals they'd support.

But it just strikes me that if you're, as I said earlier, if you're going to stay within the borders of the United States, we're going to say that some laws like this will only apply to people who work here, who have a legal status. In other words, the law does discriminate in that sense. It seems to me you're going to have—it raises some serious questions when you begin to move into other areas of law. It seems to me you start applying that same standard and you're going to run into some major, major problems. And I think it's been reflected in some of the reaction to this decision, in Mexico.

So I'd like you to comment on that. And I'm going to ask you as well, Mr. Lebedev if you might, because clearly I'd like to hear the Chamber's sort of view on this because obviously it involves a business and a decision they made to one, hire this individual, and then to fire this individual. And I'm curious as to how you and the Chamber might react to this as well.

Ms. SHAILOR. Well, I think on a basic trade union principle of international solidarity, the reality is when you undercut any one worker's rights you undercut all workers rights. And so in this particular situation, invalidating the limited back pay remedy, is one that is basically, you know, a hammer that unscrupulous employers can use when they realize there will be no effective penalty for their actions. And so I think this is symptomatic of hundreds of stories that we hear from organizers from all our affiliated unions who are dealing with immigrant populations, whether it be in organizing campaigns or representing them under collective bargaining agreements.

So I think this has to be looked at very carefully by the Congress. I would say that our relationship with our Mexican trade union counterparts is essential in this regard so that we're speaking, obviously, with one voice in speaking with the Mexican Government as well as to our own Congress. But this is, as you well know, not unusual. We face this every day as we try and represent the rights of immigrant workers throughout the country.

Senator DODD. Mr. Lebedev.

Mr. LEBEDEV. Unlike Jim Ziglar, I did not clerk in the Supreme Court, but I will subscribe to his general thesis that one should not comment extensively on a case that has not been read. But, I think the case highlights that employers in this country and members of the U.S. Chamber are fundamentally concerned about fairness in the workplace. And without speaking to the merits of a case with which I'm not specifically familiar, I think it goes to the very reasons that you're holding these hearings.

You're putting a spotlight on the need for considerable reform in a system that creates circumstances, that creates contexts that high light, that we have not yet come to terms with the undocumented yet contributing worker. We do not have a regime that properly addresses either worker or employer needs and requirements and rights in the guest worker context. So I think if *Hoffman* does anything it highlights and should accelerate our thinking toward, as my colleague here said, a revolution in our thinking about how we come quickly to grips with a set of circumstances that each may be different but each is probably untenable in its own right.

Senator DODD. Well, that's a good point. You mention—you outline, rather, your vision of a guest worker program, and stated that the migrant workers, obviously as you just pointed out again, the ready worker, the ready employer, the ready employee, the ready worker, and that they're absolutely critical. I mean if you talk about sustaining economic growth in the United States and remove from that formula the guest worker, you cannot reach the conclusion we're going to have a sustainable economy. You're shaking your head in agreement.

Mr. LEBEDEV. I'm shaking my head in agreement.

Senator DODD. Yes, so this is a critical element in terms of our sustained economic growth. And obviously American industry and business, to varying degrees, are dependent on these migrant foreign workers, guest workers to fill a variety of jobs. I guess the point—and I accept the last point that you made that you're going to have to deal with the underlying issues that Mr. Ladik and oth-

ers have talked about. But in the interim period, it seems to me, while you're getting there, just as there is a necessity in recognizing the contribution of the guest worker, there must be a commensurate recognition of the rights of those workers. That their rights, their basic rights as workers be protected. And I wonder if you might just comment on that?

Mr. LEBEDEV. We would fully agree. Without presumptuously prescribing a legislative response to the situation, I think that there are, as my colleague from the AFL-CIO would say, rights and responsibilities for both employers and employees. So, today, there are too many circumstances that create an uncertainty in the workplace, that create an ambiguity in those relationships, that create situations that are neither fair for individuals nor for the business purpose, and that don't create a harmonious productivity which is to the ultimate benefit of this country and the communities in which these businesses operate.

So, indeed, I hardly know a businessman or woman who would argue for anything other than a workplace that has fundamental fairness, that respects the rights not just of workers, but of human beings in their interaction with those with whom they work.

And so we encourage that sort of conduct across the board. But, in the same spirit, Mr. Chairman, we would still urge that the Congress look comprehensively at the context and the history of this whole matter. We don't look to individual businesses to do it but rather to create a framework for reform.

Senator DODD. I don't think you'll hear much debate about that. A related point that should be made here is what we're talking about, or at least I'm talking about, is the idea of guest workers filling voids, where it cannot be the present—there are shortages that are not going to be, for whatever reasons, they're not going to be filled, rather than using that guest worker to depress the wages and benefits of potential workers where shortages don't exist. I think it's very important to make that distinction as well. If it's going to be used more for the latter, then it's going to run into a buzz saw of opposition. Whereas, I think in the former set of circumstances, there is a recognition, obviously, of the need. So, I'll make that point as well.

Mr. LADIK, you made some, obviously sweeping comments here, and they're appreciated. I know that AILA does not entirely support the current extension of the 245-I program that is making its way through Congress because in your view it does not do enough for immigrants in the country. I wonder if you could speak to your position on this issue and outline what type of permanent extension of 245-I you would support.

Mr. LADIK. Well, 245-I as it is now, it's kind of like the old hamburger commercial where 245-I is between the buns and when I open it my first thought is where's the beef? It has a retroactive date which in effect is going to reward a lot of people engaged in the unauthorized practice of law—Notarios. For instance, last summer I would go out to an electrical contractor who cared a lot about his employees in this situation and say, "Steve, what can you do for them?" I said well, 245-I expired April 30. I would be a crook if I took your money and started filing labor certifications for your workers now. I'm not going to rip them off.

And at the same time you had the people engaged in the unauthorized practice of law, as I said, who would “Oh yeah, 245-I, you know, give me a thousand dollars for the fine and I will prepare your application.” Well there was no application to be filed. Now, if this passes, ironically the guy who was giving bad legal advice last summer when there was no 245-I may be rewarded and look like he has a crystal ball. And I look like an idiot for following the rules.

So as far as business-based immigration goes, it’s kind of a hollow benefit. It will be a benefit for family based immigration because it will extend the date—you know, people who were confused about the law last April 30. It will give them—if they had the relationship as of last August—they will be able to benefit. I would, to answer your question, I would really favor a permanent extension of 245-I which would not result in these piecemeal programs that allow people engaged in UPL, an unauthorized practice, to play on the fears of people and get them in long lines where there’s a panic situation.

If you can’t have a permanent extension, I would favor a reasonable extension from this day forward from 6 months to a year where there’s time to educate the public. And then let businesses, like the companies I went and talked to, try to use the benefit for their workers.

Senator DODD. I appreciate your suggestions, and as well on the more comprehensive reform efforts. You realize though up here, there are such strong emotional feelings about these questions that it’s—you see the difficulty we’re going through even on a temporary 245-I. I mean, here you have the administration, I think most of the Congress, agreeing that even a temporary program makes some sense. But we still have, here it is now—we tried to get this through in December of last year and it’s now the middle of April and maybe something might happen in the next few weeks, maybe May or so. But nonetheless, even on something which isn’t terribly difficult, it seems to me to understand, we’re having an awful difficult time moving along. So—

Mr. LADIK. Mr. Chairman, I didn’t want to sound ungrateful because we do appreciate—

Senator DODD. No, no.

Mr. LADIK [continuing]. You’re taking the leadership on it and for the benefit it does provide, but I think we have to honestly—

Senator DODD. I’m sure—I knew you meant that as well, but I also think that you’re right. I think that in the end here—sometimes because we deal with this on an incremental basis we end up creating the unintended consequence is what we do. It’s like we kind of move them along in an uneven way so as we move one forward without moving forward in a comprehensive fashion, you create situations that can be, as you point out, you’re rewarding those engaged in the illegal practice of law, in effect, for something that they did, in a way. So, that’s a point worth making.

Ms. Baer, I want to ask you a couple of things as well. I wanted to ask you because you’re knowledgeable, comprehensive. I think some of your ideas are very creative that you’ve raised here. We saw on April 10 the arrest of some major figures from the Arellano Felix drug cartel that were sold information. There were policemen,

including top officers in Tijuana and Tecate who were arrested. Do you think this is limited—that corruption is limited to the north, northwestern Mexico or is it more widespread?

Ms. BAER. Oh no, I don't think it's limited to the north of Mexico at all. I think it extends throughout all of Mexico, the south where there is always the opportunity for border corruption, central highland states like Michoacan, Jalisco which had a history of being in drug routes. I think the problem is probably a national one and I laud the energetic activity of the current Attorney General of Mexico who as you know, was also a distinguished member of the Mexican military.

The question that we all have to ask at some point, will Mexico's police force be able to stand on its own two legs without the military crutch. It's a question of institutional development and capability, and it also speaks to the question of resources and training. It's a long term challenge.

Senator DODD. You know you mentioned—and I found it somewhat creative. My first reaction, I'm sure the reaction of many would be to start talking about defense cooperation. You can just imagine the reaction you're going to get with something like that.

But I think it's worth—maybe take the word defense out, and look for some other words. You might not sort of get the Pavlovian—Pavlov's dog response here with it. My first reaction is here's a country struggling to get an economic development program going.

I mean, I have fought for years against the introduction of sophisticated military hardware in the region, not modernization, but sophisticated hardware, knowing what it does to budgets of developing countries. We're waging this again now as a result of Brazil's desire to bring in some sophisticated weaponry, and Chile and then Peru, and it gets complicated here and we're trying to sort this out. But my first reaction would be, and I'd like you to respond to it, at a time when President Fox is trying to marshal the resources to invest in the infrastructure of a country in order to get its economy functioning in such a way—and I don't think it's going to be done just in his administration, I think you're going to need successive administrations, over three or four, to have a continuum of policies. If there's a start and stop process I think it's going to be very difficult to do this over an extended period of time. So at a moment when we're trying to focus our attention on increasing economic opportunity, which is the underpinning of stabilizing democratic institutions, the idea of talking about an interchangeability in some defense cooperation strikes me as the kind of proposal that is apt to meet with rather significant opposition within Mexico.

Ms. BAER. Well I think I was being deliberately provocative, Senator, in using the—

Senator DODD. Outrageous that you should do so.

Ms. BAER. Simply because I think we need to at least begin the dialog and begin the process of thinking about these ideas. I personally believe that you need to do both. It's not a question of either/or. And in the case of other strategic relationships that the United States sustains around the world, there often is a sizable development assistance component that goes along with the U.S.

strategic relationship. I'm not unalterably opposed to something along those lines.

Obviously I'm throwing out a grand notion and we would have to be looking at baby steps in the beginning. I raised the model of NORAD and I think it's a reasonable model to think about simply because what we were doing in the case of NORAD is we are monitoring. A large part of NORAD activity is devoted to intelligence monitoring of air traffic and air movement.

It's the sort of thing that we perhaps should be able to do with Mexico. It's a bilateral agreement which is not terribly threatening. But yes, of course, people will respond to it, but I think you can make a strong case that the defense of Mexican citizens requires a new security arrangement—you can't separate us, we're joined at the hip. Whether Mexico likes it or not, you don't have to love the United States to realize that Mexico's security is bound up with our security. And we might as well come to grips with that issue.

There are some small things we can do. For example, we used to have a bilateral working group in which members of the defense community across the board would meet on a regular basis, defense to defense, to talk about a whole series of issues. That group, to my understanding, hasn't met for a while and that's a simple question of creating a forum for dialog.

Senator DODD. Well I appreciate your being provocative too, whether that's a good idea. Just quickly, just to get a—and I'll leave the record open because there are other questions I didn't raise with you, but if you just had to in a sentence or two or three—all of you bring some real knowledge about this bilateral relationship. I'll begin with you Mr. Ladik, how would you briefly describe the present state of affairs between Mexico and the United States? We've discussed a lot of different issues here today, but what would be your answer to that question if you were asked to describe the current bilateral situation?

Mr. LADIK. Well, I'm very excited by it. I think last August we were extremely excited, and having looked at what's taking place in the last 6 months, and the strength of the dialog and the fact that we're 6 months from September talking about legalization and talking about temporary worker programs, leads me to believe that immigration as a benefit to our country, it has sunk in so deep that we all—we didn't pull away from it and that thanks to President Fox's foresight and President Bush for moving the debate along, and Congress. I'm amazed we're at where we are now and I'm very excited where we're going to be by the end of the year, I hope.

Senator DODD. Very good, Ms. Baer.

Ms. BAER. Relations are excellent, but I think on the Mexican side in particular, people are awaiting results. I detect some mounting frustration on the Mexican side, and so I do hope we can generate some concrete achievements that we can point to in the next year, whether it be pilot programs that are begun under the Partnership for Prosperity or some movement on the immigration issue. At some point, the wonderful embraces have to be, as they say "aterrizado" they have to come down to earth in practical achievements.

Senator DODD. Mr. Lebedev.

Mr. LEBEDEV. Allow me to echo the fact that we are all very enthusiastic about the current state of bilateral relations and the positive contributions that NAFTA has made. I think what's important and what should emerge, whether from 9/11 or however we choose to consider our path going forward, is that we have common borders, have increasingly common economies, we're going to have increasingly common cultures. And despite political issues in both Mexico and the United States, and views will always change politically, there is a transcendent relationship that cannot be ignored, and I think that's the real opportunity for both countries.

Senator DODD. Ms. Shailor.

Ms. SHAILOR. And I would point to three particular areas at the AFL-CIO where our relationship with Mexico is greatly strengthened. One would be the reality that we elected for the first time our executive vice president, who is of Mexican descent. And so the whole dialog and discussion inside the AFL-CIO on immigration issues, our relationship with Mexico, has been very deepened by listening to Linda describe over and over her experience as a young immigrant in this country.

Second, as you well know Senator, our position on immigration has become sort of dramatically revised. We're working with organizations throughout the country. And then third, after many years we reopened our Solidarity Center office in Mexico City. Tim Beilly who is behind me was for many years, well these last 3 years, our Mexico City representative. So this interchange of U.S. unions going to Mexico, Mexican unions coming to the United States now takes place on a weekly and a monthly basis. And therefore, I think the understanding, despite our dramatic differences on the NAFTA integration model, we are working constructively to improve the integration model for the hemisphere. So I think we have a lot to look forward to, and again, we very much appreciate the leadership that you have taken on these issues.

Senator DODD. Thank you very, very much. This has been very, very helpful. And again, we touched on subject matters any one of which could have been the subject matter of several days of hearings, let alone a 3-hour hearing on a relationship that is tremendously important, tremendously complicated and as the expression in Spanish goes, you know, "So far from God and so close to the United States." And I suppose the same could be said here from time to time as you talk about that relationship. But we're here and no one knows of any policies that would allow us to move.

And so it is important that we stay at this and work at it. I know all of you do and for those reasons we're all very grateful and I am encouraged by your relatively positive outlook on where things stand today. As I say, we'll be having bilateral inter-parliamentary meetings, the oldest by the way in the United States, the continuous inter-parliamentary meetings that have gone on. I've been at them every year pretty much since I've been in Congress, and that's more than a quarter of a century. I remember my parents going on bilateral meetings in Mexico 40 years ago. And so it's certainly seen dramatic changes over the years, but getting closer and closer. In fact, the present Ambassador from Mexico to the United States, Juan Jose Bremer and I were sort of young first-term Con-

gressmen meeting at inter-parliamentary meetings years ago when he was a member of the House of the Mexican Congress.

So it's tremendously important that we maintain that interchange, that communication, which is essential. And I'm delighted to hear that those relationships exist as well with your various organizations. So with that, we'll leave the record open for members who want to raise some additional questions. I'm very grateful to all of you. And as I said, this is one in a series of hearings of examining U.S. relations in this hemisphere, and there's some very, very big issues that are outstanding. And this is a very troublesome time, in my view, in the Americas and we've got a lot of work to do. I know there are issues all across the globe, not the least of which in the Middle East as we talk.

But the United States needs to be active and involved on a multitude of levels and a multitude of places. And that's the price of being a super power. And it's also the obligation of a great nation, to stay involved in the affairs, particularly of its own neighborhood. And so I am hopeful that we can energize some more comprehensive and deeper perspectives on these questions that we've seen in recent times. With that, this committee will stand adjourned.

[Whereupon, at 5:23 p.m., the hearing was adjourned, to reconvene subject to the call of the Chair.]

