

The Bush administration has announced that in the course of the so-called "fast-track" negotiations of a free trade agreement with Mexico the issue of migration will not be on the table. Alan C. Nelson, Former Commissioner of the Immigration and Naturalization Service, protested this stance in a statement before the Office of the US Trade Representative at a hearing on the subject held in San Diego, CA on August 21, 1991.

Testimony

PUT IMMIGRATION ON THE TABLE

By Alan C. Nelson

The central point of this testimony is that *immigration issues must be dealt with as an integral part of Free Trade Agreement negotiations with Mexico*. Both legal and illegal immigration directly relate to trade and the US must insist on certain definitive actions and agreements before an FTA is reached. This testimony does not support or oppose an FTA as long as immigration issues are "on the table."

PERSONAL BACKGROUND

My background should be noted. I served as US Commissioner of the Immigration and Naturalization Service (INS) from 1982-1989, as an appointee of President Reagan, confirmed by the US Senate. As chief executive officer of the INS I had prime responsibility for US immigration laws. I was the key Reagan administration official responsible for the development, passage and implementation of the landmark Immigration Reform and Control Act of 1986 (IRCA).

During my eight-year tenure as Commissioner I had extensive dealings with both Canadian and Mexican officials. I made numerous official trips to Mexico, meeting with a wide range of leaders, including the former President, Foreign Minister, Attorney General, and Mexican Senate and Congressional leaders. Such meetings dealt with immigration, drugs and other law enforcement issues. Although immigration issues are complex, the personal working relationships were excellent.

Currently I serve as a consultant to the Federation for American Immigration Reform (FAIR). FAIR is a non-profit organization based in Washington, DC, dedicated to educating the American people about the need to stop illegal immigration and for reform of American immigration policy to conform with the realities of the 1990s.

IMMIGRATION ISSUES MUST BE NEGOTIATED AS PART OF A FREE TRADE AGREEMENT

Is a Free Trade Agreement with Mexico in the best interests of the United States? Proponents claim that a new Western Hemisphere order will be created and that vast new markets will be opened up. Opponents assert that millions of US jobs will be lost to low-cost Mexican labor.

Strangely, *immigration is not discussed*. How can two neighboring countries with a 2,000 mile common border, a combined population of over 300 million people, and an annual flow of legal and illegal entrants in the millions, not openly deal with the subject of immigration?

President Salinas of Mexico repeatedly has stated that free trade will prevent a large scale migration of Mexicans to the US looking for jobs. He emphasizes that "Mexico wants to export goods and not people". If Salinas is correct, a strong argument is made for an FTA. If not, the US could lose jobs both because of free trade and increased illegal immigration from Mexico. Since both countries agree that migration is an important "bottom line" matter, the US and Mexico must place immigration issues "on the table" in talks leading to a Free Trade Agreement.

Consider the impacts of Mexican immigration on the US. In 1990 some 679,000 Mexicans legally immigrated to the US. This figure is ten times the total from the next largest sending country, the Philippines. An additional 2 million Mexicans were granted legal status in the US under the amnesty program in the late 1980's. Legal border travel between Mexico and the US totaled some 274 million in 1990.

Illegal immigration from Mexico steadily increased over the years but was dramatically reduced between 1986 and 1989 due to passage of

the Immigration Reform and Control Act (IRCA) in 1986. However, illegal flow has increased in the past two years, again exceeding 1 million annually. Illegal aliens impact not only the US job market but other aspects of society such as welfare, crime, education and the environment. Such impacts cause negative financial burdens on the US, as Governor Pete Wilson of California recently noted, as his state deals with a budget crisis.

[Editor's note: Since the passage of IRCA in 1986, world population has been increasing by 90 million a year, so the push-pressure on immigration has increased by $5 \times 90 = 450$ million.]

The issue of environmental concerns relating to FTA presents an interesting comparison. Only due to public outcry that environmental issues directly impact free trade have the Bush and Salinas Administrations promised to deal with the subject. A similar demand is hereby made that negotiators deal with all aspects of immigration (both legal and illegal).

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IMMIGRATION ISSUES TO BE ADDRESSED

1. Jobs

The outcry about the job issue from the AFL-CIO and other labor groups has caused the Bush Administration to promise to address job re-training. However, there must be an unequivocal commitment to address thoroughly *all* aspects of jobs (relocation, transfer, wages, working conditions, flow of labor, re-training, etc.) in trade negotiations.

Action by the Bush Administration is necessary as a prelude to trade talks to demonstrate that it is serious about the job issue. We must immediately take steps to "transfer" jobs currently held in the US by illegal aliens (probably 2 million jobs) to citizens and aliens lawfully in this country.

President Bush, when Vice President, supported IRCA, which became law in 1986. The keystone of

IRCA was employer sanctions. Every US President from Harry Truman forward has favored sanctions as the only viable means to reduce the magnet of jobs drawing illegals to the US. Sanctions worked, cutting illegal alien flow in half from 1987-1989. Now the numbers are again increasing due to use of fraudulent documents and less vigorous enforcement.

If sanctions should be repealed or not enforced, as a few groups propose, a very dangerous signal would be sent to Mexico and elsewhere that the US is no longer serious about controlling illegal immigration. The resulting expansion in illegal flow would further reduce US jobs. This, of course, is in addition to any loss of jobs resulting from a free trade agreement.

The Bush Administration must take several immediate domestic steps regarding jobs.

(a) **Maintain and strengthen employer sanctions.**

The President should notify Congress that employer sanctions are essential and that any effort to repeal or weaken sanctions will be opposed and defeated.

(b) **Improve worker identification systems.**

When IRCA was passed in 1986, Congress and the Administration recognized that use of fraudulent documents to verify eligibility to work could undercut the law. The commitment to pursue pilot projects for improved worker ID has not been met. The technical capability exists (as the public sees everyday in its use of credit cards) to have a fair and secure system of verifying a person's right to work in the US. It is now time for Congress and the Administration to meet the commitment.

(c) **"Transfer" illegal alien jobs to legal US workers.**

In this time of recession, with unemployment at high levels and welfare costs growing, many legal US residents need jobs. Taxpayers demand action to reduce growing deficits.

Jobs typically held in the US by the estimated 2 million illegal aliens now working here include the service industry — hotels and restaurants, construction, garment and agriculture. Many of these jobs are entry level or do not require extensive prior work experience. These are exactly the jobs which can be filled by persons receiving welfare or other benefits. If 2 million jobs are "transferred" from illegal to legal workers, several benefits can be realized: the

magnet of illegal immigration can be stopped; welfare and unemployment costs can be reduced; and people will be shifted from dependency to productive future lives.

Through administrative action, the Department of Labor can utilize existing job training funds to accomplish this "transfer." Employers who cooperate in hiring legal workers in place of illegals could be freed from penalties. Congress can enhance this process by amending current laws to mandate this multi-benefit "jobs transfer" approach.

In addition to the obvious benefits of keeping illegals from taking US jobs, the message for trade negotiations is clear. We let the American public and Mexico know that jobs are an element to be dealt with before there can be a free trade agreement. This includes both the assurance that potential job "relocation" from the US to Mexico will be addressed and that illegal alien labor will not be tolerated in this country.

2. Border crossing fees.

With the millions of annual land border crossings between the US and Mexico, a nominal crossing fee would generate huge revenues for both countries. Such fees could actually increase legal travel and commerce, since border traffic and processing delays could be reduced with the addition of more staff and equipment. This also would result in better prevention of entry of illegal aliens, narcotics and other contraband.

The concept of funding government services by "user fees" is gaining acceptance. Such fees already fund airport inspections and other Immigration and Naturalization Service functions. It is common for people to pay bridge tolls or turnpike fees. Yet in travel across the US-Mexican land border there currently are no fees unless one crosses privately owned bridges.

The argument that such border fees would reduce commerce or travel is without merit. The argument that such fees would be considered anti-Mexican fails with the simple proposition that fees should be shared by both the US and Mexico.

By way of example, a fee of \$1 per border crossing both ways (the same toll currently charged for a round trip bridge crossing between San Francisco and Oakland) would generate hundreds of millions of dollars in revenue per year. The US share

could fund thousands of additional immigration and customs inspectors, border patrol agents and other officials. Such funds could also be utilized to obtain high tech fingerprint readers and detection devices to help assure only legal entry of people and products.

On the Mexican side the infusion of such additional funds can fund even more jobs which could be used for many purposes including patrolling the border to reduce robberies, rape and violence. Some of these collections also could be used to pay for the return travel of Mexicans apprehended at the border to their interior homes.

3. Return of illegal Mexican entrants to their homes.

The great majority of Mexicans resides in the interior of Mexico, thousands of miles from the US border. After being apprehended attempting to enter the US, such illegal entrants should be transported back to their interior homes rather than being released across the border, only to repeat illegal entry into the US until they succeed.

"Often a 'coyote' will guarantee successful entry or at least a number of attempts. ...people are encouraged to stay in the border area and persist in their efforts to enter the US illegally."

A typical scenario is that a person from the interior of Mexico spends his savings to purchase a one-way bus or train ticket to Tijuana. The purpose of the trip is obvious and it is not for a special hotel vacation on the Pacific! The balance of funds are spent to pay a smuggler (or 'coyote') to accomplish the illegal entry. Often a coyote will guarantee successful entry or at least a number of attempts. Therefore, people are encouraged to stay in the border area and persist in their efforts to enter the US illegally.

This phenomenon must be reversed to slow illegal immigration effectively. The best method is to transport the apprehended back to their homes in the interior of Mexico. This approach was successfully utilized in previous times. Boats transported illegal entrants from Brownsville, Texas to Vera Cruz.

Trains and buses left border areas of California, Arizona and New Mexico for various interior Mexican locations. Even aircraft were utilized on occasion.

The impact is obvious. People are returned to their homes, reunited with their families. The cost and difficulty of another long trip to the border is a significant deterrent. With fewer crossers congregating at the borders, more attention can be paid to arresting and incarcerating smugglers and those making repeat illegal entries. This increased effectiveness is a further deterrent since the chances of successful entry are reduced.

As part of any free trade agreement, the US and Mexico should agree to reinstate such a "return-home" program and pay for it from border crossing fees. Our countries also must commit to enhancing law enforcement efforts on both sides of the border.

***"It is in neither country's interest
to tolerate violence
against human beings."***

4. Border violence.

It is in neither country's interest to tolerate violence against human beings. Yet there is significant violence along the border, mostly perpetrated by Mexican national bandits against fellow Mexicans. The rapes, robberies, murders and drug trafficking negatively impact legal border commerce and travel. Part of any free trade agreement must include specific commitments by both Mexico and the US for more intense and effective law enforcement cooperation to prevent such criminal activity.

5. Mexican commitment to reducing illegal immigration.

The concept of a free trade agreement is to open up markets, jobs and opportunities for citizens of both countries. This must be done legally. Therefore the illegal back door, whether it be to people or to products, must be closed to assure that the legal front door is open. The US must insist, as part of a free trade agreement, that Mexico actively take steps to control illegal immigration to the US. No one is suggesting that the Mexican government limit its

citizens right to travel, but many steps can be taken, including those discussed herein: enhanced border law enforcement, a "return-home" policy, incentives for working in Mexico, and reduction of legal immigration numbers should illegal flow not be reduced.

6. 'Debit' against legal immigration.

As noted, the legal permanent immigration from Mexico to the US is far larger than from any other country. This is healthy for two neighbors and reflects our continued close relationship. But the increasing illegal flow causes problems. As an incentive to assure efforts to reduce illegal flow, trade negotiators should consider some 'debit' to annual legal immigration numbers if there is not a concomitant reduction in illegal flow over a reasonable period of time. While this approach is not easy, it can assure the mutual philosophy of "Legal — si; illegal — no."

7. Physical barriers to illegal entry.

The US citizenry properly reacts negatively to walls or fences when they are viewed as restricting the right of a citizen of any country to depart legally. This concept should not be confused with reasonable barriers to prevent *illegal entry*. People fence their yards, buildings have gates and security devices, walls and fences prevent improper access to highways and canals.

Today there is fencing along the Rio Grande River and other border locations, not only to prevent illegal entry but to avoid death and injuries. Reasonable physical barriers along the border at key crossing areas can assist in requiring legal entry, limiting illegal entry and reducing injuries.

While the US-Mexico Border is 2,000 miles long, most of that border is seldom crossed due to geography and lack of population. Nearly all legal and illegal crossings occur over about a 50 mile span, divided among the various border cities. Effective border crossing ports, adequately staffed and maintained, can control legal traffic of people and products. Enhanced border patrol staff plus utilization of effective devices such as lighting, sensors, ditches and other barriers in that 50 mile span can help slow the entry of both illegal aliens and illegal drugs and contraband. Note that such barriers are only of value as part of overall policies and methods to stop illegal entry. Such barriers must

be one of the immigration items discussed in free trade negotiations. Both countries should agree on and announce general approaches in order to avoid the rhetoric of a few groups on both sides of the border which intentionally distorts the issue.

CONCLUSION

The proposed Free Trade Agreement between the United States and Mexico has great significance. It is essential for both countries to be thorough and open in negotiations. No issue can be ignored. It is in our mutual interest to face all the difficult problems up front — otherwise much greater consequences will arise later.

Immigration, both legal and illegal, both permanent and temporary, between Mexico and the US is inseparably tied to trade, commerce and investment. A sound immigration relationship builds

our mutual friendship and inter-dependence. Closing the back door of illegal immigration helps the US job picture, will prevent an increase in illegal Mexican immigration to the US and will solidify a legal system of immigration.

If the US fails to insist that immigration be dealt with in free trade talks, we will be the losers on several fronts: some US jobs will be lost by reason of the agreement itself; illegal flow will increase irrespective of an agreement; Mexico will have no incentive to limit its actions to the terms of an agreement, always having the safety valve of illegal US jobs to supplement its economy.

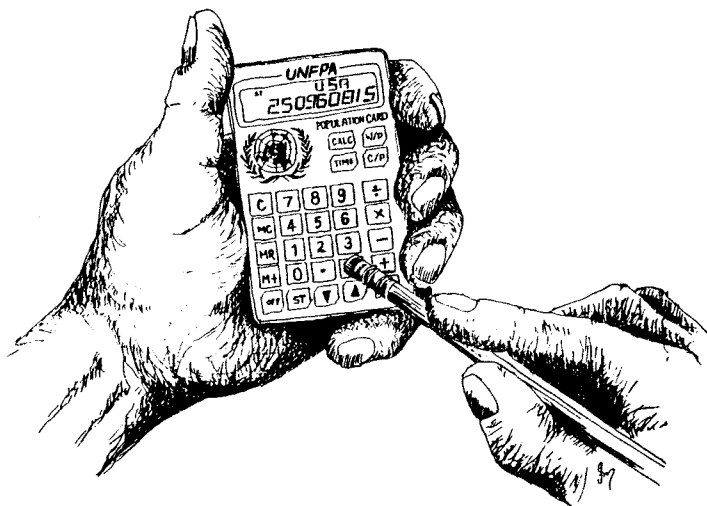
The Bush Administration must put immigration "on the table" in free trade talks with Mexico. Otherwise the American public and Congress must say "no deal".

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A Correction

We had a note from reader Jack Parsons in Wales, UK, who questioned the statistics we used while demonstrating the U.N. Population Card in the summer issue of The Social Contract. And, indeed, he is correct that we should not have said that there are (according to the card) 8,640 births in Bangladesh every 24 hours. Instead, there is an excess of 8,640 births over the number of deaths in that country each day.

The United Nations Population Card is available for \$21 postpaid from: U.N. Population Fund, File PCMFSO-Population Card, 220 East 42nd Street, New York, NY 10017.



For our feature series on the proposed US-Mexico Free Trade Agreement, we're pleased to present the views of Sidney Weintraub, Dean Rusk Professor at the Lyndon B. Johnson School of Public Affairs, The University of Texas at Austin. While Dr. Weintraub favors some such agreement, he fairly points out some of the difficulties and possible entanglements, especially as they relate to immigration, language and culture. His essay is reprinted with permission from The Responsive Community, Vol. 1, No. 3, Summer 1991.

THE RISE OF NORTH AMERICANS: A US-MEXICO UNION

By Sidney Weintraub

While the founders of the European Community used trade integration as a way to achieve political harmony, the Canada-US free trade agreement seeks trade integration but eschews any significant political content; it even expressly excludes certain cultural industries. The proposed US-Mexico free trade agreement will almost certainly stick to economic matters, with perhaps a nod to environmental issues, but without reference to political or cultural ones. Nevertheless, the US-Mexico trade agreement will have profound political, social and cultural implications for the future of North America.

Free-trade arrangements are often chosen precisely because they have less political content than does a customs union, because there is no obligation to establish a single external tariff or to devise a common commercial policy. However, it is worth asking whether this formal distinction will actually make a difference if a US-Mexico free-trade area is created. Just how limited will the derogation of sovereignty be, particularly as habits of free trade and of industrial production-sharing develop over time?

It has now been decided that the free-trade negotiations will be trilateral, to include Canada from the outset. Once the three countries are engaged in free trade (possibly with some differences in the obligations undertaken by each), some sort of secretariat will be needed to interpret provisions of the agreement, to set forth regulations, and to resolve trade conflicts. This is not supranationality, but it does supersede pure sovereignty of the three countries involved. This new arrangement will become a magnet attracting other countries in the Western Hemisphere seeking non-discriminatory access to this large market. Mexico will be preferred

to hemispheric countries without such access as location for foreign investment and for the kind of production-sharing that is increasingly becoming the norm among multinational corporations. Such extensive free trade will require an even more elaborate secretariat and begin to push toward supranationality.

Moreover, the US southwest, which includes two of the most populous states in the United States — California and Texas — is already heavily Latin American. This results from a combination of legal and undocumented immigration, amnesty for millions of previously clandestine immigrants, and a natural rate of demographic growth greatly exceeding that of the Anglos. A free-trade agreement with Mexico will not entail completely free movement of labor, but it is likely to permit relatively easy movement of technical and managerial personnel, as in the Canada agreement. Mexican migration to the United States, particularly to the southwest, is unlikely to taper off in the near future. This combination of increasing Mexicanization of the US southwest and freer movement of goods, services and capital across an increasingly irrelevant border will change politics and lifestyles in that populous part of the United States. Indeed, we are likely to have four regions in North America: Canada/Canada; Canada/US; US/Mexico; and Mexico/Mexico — that is, a mixed society rather than three separate societies.

The contemplated free-trade agreement may be intended mainly to alter North American trade and investment patterns. More significantly, the purpose of free trade is to increase income and employment in the two countries — particularly in Mexico, which has much further to come than does the United States. However, these changes will not end there: if