

An Immigration and National Security Grand Bargain with Mexico

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Executive Summary

When President George W. Bush meets with Mexican President Vicente Fox in Monterrey, Mexico, on March 22, 2002, he will have a historic opportunity to strike a “grand bargain” with Mexico on immigration and national security. This package of policies would address the conflicting realities of the U.S.-Mexico relationship: the millions of unauthorized Mexican immigrants who live and work in the United States and who have played an important role in the economic expansion of the last decade; the nearly \$300 billion in vital trade across the southern border each year; and the irregular flow of drugs, unauthorized immigrants, and other contraband from the south which may pose threats to U.S. national security. This grand bargain should be composed of four programs:

1. A registration program for unauthorized immigrants living in the U.S. (a census of the undocumented).
2. An earned regularization (or legalization) program for unauthorized immigrants who register, which would include a “Mexicans-first” clause, but makes the option available to other nationalities in phases.
3. A broad U.S. temporary worker program for new Mexican workers.
4. A new border security arrangement, similar to, if more modest than, the Smart Borders agreement signed with Canada.

This policy paper outlines the economic, political, and national security benefits that such a four-pronged approach would provide to the United States and the Bush Administration.

1. INTRODUCTION

On March 22, President Bush had another opportunity to demonstrate his leadership on a new front—one that requires a different sort of steadfastness than that required to lead the campaign against terrorism. He can do so by remaining true to his commitment to an increasingly crucial partner and friend, Mexico's President Vicente Fox, to reshape the U.S.-Mexico migration relationship from one mired in problems and recriminations to one that yields important national security and economic dividends.

In the process, the Republican Party will also be able to position itself favorably to draw immediate and particularly longer-term political benefits from the President's leadership. The immediate benefits will come from a thoughtful program of earned legalization for undocumented workers. Such a program would be a giant first step toward reversing the political damage that was caused by the party's excesses in the 1990s among Latino and other ethnic and minority groups.

The longer-term benefits will accrue over time, as it becomes clear that the President's willingness to negotiate with Mexico on the migration issue untied two of the proverbial Gordian knots of recent U.S. governance and politics. The first, by securing and bringing order to our southern border, and thus guaranteeing the unimpeded—but regulated—flow of legitimate goods and people. The second, by restoring order to immigration from and through Mexico, and thus reclaiming the migration process from the organized smuggling networks and black marketeers that operate with a low probability of being apprehended either in Mexico or here.

If he is to be successful in this quest, Mr. Bush will need the complete commitment of the Mexican authorities. It is in this regard that Mr. Bush's relationship with Mr. Fox is so pivotal. If the U.S.-Mexico relationship on borders and migration is to be recast, Mr. Fox must be strong enough domestically to make the difficult choices and see through the necessary changes in policies and institutional practices. He can do so best in the context of a "grand bargain" with the United States. For such a bargain to be effective, each party to it must get some of the things it values most at a political price that is steep enough to focus the mind but not so high as to wound either president mortally.

If Mr. Bush succeeds in solving the U.S.-Mexico border and illegal immigration conundrum, he will have also devised a new and cooperative paradigm on how to resolve similar predicaments facing most advanced industrial democracies while paving the way for the smoother integration of North America.

2. NATIONAL SECURITY

The national security argument in support of a grand bargain on immigration is perhaps the most straightforward. An agreement of the type proposed in this essay is necessary for the U.S. to address realistically two national security concerns: first, knowing who the millions of unauthorized immigrants living in the U.S. are and where

they are located, and second, restoring order to and managing effectively a common and notoriously porous border.

First, U.S. immigration policy must come to terms with the fact that there may be as many as 8.5 to 9 million unauthorized foreigners in our midst. Ignoring them will not make them go away. And while *the overwhelming majority of them* are law abiding and hard-working individuals, about three or so percent are criminals or are otherwise in violation of a final deportation order, and a few of them may indeed harbor designs of causing our country harm.

To our credit, no one is seriously proposing massive removal campaigns. Yet, the national security imperative demands that we get a better handle on who is in our midst. One way of solving this problem is through a process of *registering* all unauthorized immigrants, a sort of census of the undocumented. Registration is also essential to the success of proposals for automated systems that track foreigners who are not permanent immigrants and will be a key element of the new temporary worker program discussed later. (Permanent immigrants already have a “secure” identification document, the so-called green card, and are vetted against an extensive set of criteria, including national security ones.)

Registration, however, will not be enough. If a grand bargain is to be possible—and for it to succeed—registration would need to be accompanied by an “earned regularization” initiative. (Such an initiative was central to the pre-September 11 U.S.-Mexico conversation.) Earned regularization is a process of moving from illegal, to legal, to permanent resident status, to access to citizenship by earning “credits” or “points” in each of a number of pre-agreed attributes. Among them might be being law abiding (measured by having no criminal record), stability at the workplace, paying taxes, having family equities in the U.S., and certain measures of one’s attachment and integration into community life—what one might call “civic engagement.” A fee that is substantial enough to defray the costs of administering the regularization program *and* underwrite the initial service costs to local communities (and takes the tax burden issue off the table) would complete the process. To reinforce Mexico’s incentives to cooperate across the board with the U.S., this earned legalization program should include a “Mexicans-first” provision.

Properly done, such phased legalization will likely garner at least begrudging acceptance among the general public. States and localities, where the rubber meets the road on migration matters, will likely welcome such a program. Finally, such a plan would receive enthusiastic support from most of the human rights and immigrant rights advocacy communities, as well as the labor movement, for whom regularization is priority one. Of course, those unauthorized immigrants who choose not to register for any reason would not only forego the possibility of earning legal status but would also likely expose themselves to more concerted enforcement campaigns.

While the first response to our national security imperative focused on those foreigners who are here without permission, the second national security component has

also a “law-and-order” element to it. Specifically, it would enlist Mexico in a joint effort to prevent goods and people who should not cross our common border from doing so. Truly securing the common border and achieving the host of “smart border” and “perimeter defense” initiatives that are now crucial U.S. policy priorities *cannot be accomplished without the organic cooperation of the Mexican authorities*. For Mexico, such cooperation, *if it is to be meaningful*, will be politically costly for Mr. Fox. It is in this light that the earned legalization program becomes the down payment for securing Mexico’s active collaboration on border security.

Most senior U.S. officials seem to grasp the linkage in its entirety. Mr. Ridge’s comments during his recent visit to Mexico City earlier this month, as well as those of Mr. Ziglar, the U.S. Immigration and Naturalization Commissioner, make that clear. Secretary of State Powell has been clear also from the beginning both about the value of the bilateral relationship and of the necessary trade-offs. Below these levels, however, there seems to be far less appreciation that for us to get what we need most requires that we give the Mexicans a good deal of what they need. White House bureaucrats, and surprisingly, segments of our political classes—both in the Congress and among opinion leaders—seem to be particularly tone deaf in this regard. These latter groups are also the ones that systematically under-appreciate Mexico’s cooperation thus far—which has been significant by many objective measures—while clearly overestimating our ability to get increased cooperation from Mexico without giving much in terms of what matters to it most: the migration relationship. If they prevail, the “dialogue of the deaf” character of earlier U.S.-Mexico negotiations will surely resurface.

U.S. national security *and* law and order objectives on our southern border cannot be accomplished anywhere near the degree required *without the full and seamless cooperation of Mexico*. Some who disagree with this conclusion cite, *inter alia*, considerations of sovereignty (both ours and Mexico’s) and their conviction that Mexico will prove to be an unreliable partner. While the capacity issue is legitimate, and will require generous amounts of due diligence on our part, in most other ways, this entire essay—and the grand bargain itself—is about answering these reservations. A thorough analysis, however, also requires that one addresses the following areas.

1. How much would it cost to achieve our border control objectives on our own, both in terms of actual tax dollars and of the opportunity costs associated with making massive new budgetary allocations to accomplish goals which, if pursued jointly, would be much more cost-effective?
2. Why should those living in the U.S. Southwest, where most of the nearly \$300 billion annual U.S.-Mexico trading relationship is centered, bear the cost of the economic disruptions associated with acting unilaterally?
3. Considering that massive and ever increasing expenditures for border controls for nearly a decade have been met with rather meager success, are there other viable options available which can accomplish our national security and law and order priorities more effectively?

There is only one “most likely” conclusion to such an exercise: that although Mexican cooperation will not guarantee full and immediate success, the failure to enlist Mexico’s *full* cooperation will make progress toward meeting our objectives much more expensive, much slower, much more difficult, and far less certain.

In many ways, the age of unilateralism in border controls is over. Economic interdependence (“globalization”) and the cost of border control one-upmanship against increasingly determined national and international networks have seen to that. Recent experience attests to that. In the U.S. case, the enormous build-up of unilateral border controls since 1994 has had uncertain results, at best, in terms of accomplishing the primary policy goals of controlling the unauthorized traffic of goods and people. In fact, net annual unauthorized immigration in the late 1990s may have nearly doubled—just as the new and improved southern border control paradigm was becoming fully operational. More pointedly, perhaps, the effort has had a myriad of perverse effects. These have included hundreds of deaths of would-be immigrants each year (a stain on both our self-perception and our image abroad); adverse effects on the “life” and the economies of border communities; and the transformation of back-and-forth migration, which traditionally rose and fell with U.S. labor market demands, into permanent immigration.

3. ECONOMICS

While the national security and law and order angles have always been important anchors in the U.S. perspective on its relationship with Mexico, September 11 has made them more compelling. What may be still under-appreciated is that both economic and political circumstances are also aligned properly for a grand bargain on borders and immigration to succeed.

The economic argument supports acting now. (“Now” is a relative term because the politics of the issue and the complexity of the public administration aspects of a serious initiative demand a lead-time of a minimum of eighteen months before actual programs can become operational.) Last year’s economic recession seems to have been aided disproportionately, but apparently temporarily, by the economic and labor market effects of the September 11 attacks on the travel, food, hospitality, and similar low-value added service sectors. These are also the sectors in which legal and unauthorized immigrants are over-represented. That downturn may well have forced a temporary reordering of the main pre-September bilateral negotiating priorities—earned regularization, border security, and a temporary worker program. It did not, however, make any of them obsolete *nor did it change the indivisibility of the grand bargain’s main elements*. In fact, except for border security—then, as now, the anchor of what the U.S. needs most from Mexico—being an even more relevant U.S. priority post-September 11, the other components of the grand bargain continue to be crucial to a negotiated deal.

Specifically, regularization remains the linchpin for addressing the facts on the ground, that is, the reality of a massive population residing and working in the U.S.

without the right to do so and our need to know who and where these people are. It is also the carrot that employers, organized labor, and the civil society sector, from ethnic, minority, and rights' communities to immigrant advocates, require in order to mobilize themselves and persuade undocumented immigrants to come forward. Furthermore, regularization is the *sine qua non* for these groups' non-opposition to, and possibly even *sotto voce* support for, a "progressive" temporary worker program—something most Republicans and their allies in the employer community consider a critical element in the bargain. Finally, and for reasons that have to do with President Fox's aspirations to be the president of all Mexicans, his interest in crafting a strong and stable relationship with the Mexican-American community, and associated domestic Mexican politics, legalization is also, and most emphatically, the policy vehicle for enlisting Mexico in a joint effort to control new unauthorized migration through *and* from its soil. (Such migration is the source of at least three-fifths of all net unauthorized immigration to our country.)

The remaining pre-September 11 bilateral negotiating priority¹ would address the crucial issue of future pressures for migration from Mexico by legalizing and regulating Mexican entries for work purposes—a reality anchored as much in Mexican economic necessity as in the needs of U.S. employers. A substantial temporary worker program *for new workers* that is large enough to replace most of the Mexican workers who now risk everything to enter the United States illegally with *legal* workers would complete the bilateral bargain; it would also be a principal vehicle for controlling (by regulating) future immigration from Mexico. It would do so by addressing honestly both U.S. demand for Mexican workers and Mexico's need for a continuing outlet for some of its workers for an additional decade or so—two realities scrupulously ignored by legislative efforts and the policy debates that have surrounded them for the last two decades.

Thinking through analytically, designing properly, *and implementing successfully* a temporary worker program will challenge all concerned. This realization is a strong argument for starting now to come to terms with design issues and the analysis that must underpin them. If we do so, we might stand a chance to be ready when the labor market says "go." Furthermore, working hard and smart now may reassure legitimate skeptics that such a program, properly configured and administered, can indeed be a classic "win-win-win" situations—for Mexico, for the temporary workers themselves, and for U.S. economic and other public policy priorities.

The remaining economics in favor of the three-pronged program (registration, earned regularization, and a temporary worker program) outlined here are straightforward. The Fed is already reporting signs of economic recovery—which makes

¹ There is really an additional inter-related priority for addressing the issue of future pressures for migration from Mexico: managing the ongoing need for Mexicans to reunify with their closest family members. This priority is particularly difficult because of both issues of equity and the size of the cohort in question. There are two candidate ideas for resolving this part of the policy (and political) challenge. The first might speed up family reunification for the closest relatives along the lines of the Senator Orrin Hatch-inspired "V" visa. The alternative would opt for a geographic contiguity-based solution to the challenge by taking both Canada and Mexico outside the global U.S. immigration framework and re-configuring our immigration relationship with them to reflect what some have called the reality of the "neighborhood effect."

a conversation about bringing in new workers politically more feasible. (The registration and earned regularization proposals have little to do with the day-to-day ups and downs of the economy since these programs are not for new foreign workers, but workers who are already here and are an indistinguishable part of the U.S. labor force.) Any economic recovery will simply make the importance of such workers obvious again by returning them to the status of essential workers who helped sustain our most recent economic boom. President Bush, Fed Chairman Greenspan, and the AFL/CIO have openly acknowledged the contributions of these workers. Even in hotly contested political issues a group should not fall from near “hero” (President Fox’s designation) to scapegoat so fast.

4. POLITICS

The U.S. political argument for registration and earned regularization initiatives, the grand bargain’s most contested components, is also very strong. In fact, as I have suggested earlier in this essay, the politics of such an initiative may be less complicated now than they were before the cowardly acts of September 11. In February of 2001, the President challenged us all to rethink the U.S.-Mexico relationship. Migration was front and center in that effort. Mr. Bush repeated his challenge several times in the spring and summer of last year. And when the likely outline of the negotiations became public in July, the initial uproar was followed by a robust conversation about each of the elements under consideration. That conversation intensified leading up to and during President Fox’s visit in early September.

By that time, several things relevant to the argument of this essay had become clear. Politically speaking, the sky had not fallen. Quite the contrary. While some Republicans opposed the deal as outlined in the newspapers (there were no formal U.S. proposals tabled during the negotiations at that time and there are none today), most of those were in the camp that would oppose *any* deal. More to the point, key Republicans indicated their willingness to support their President on his U.S.-Mexico migration agenda, just as most did on March 12, 2002. (At that time, the House of Representatives passed a limited change in law—something known as the 245i provision—that would remove an eventual obstacle for a small number of unauthorized immigrants who might otherwise qualify for a change in status.) And after struggling to find their footing, most Democrats embraced the President’s agenda and, in an effort to outflank him, proposed that *all* unauthorized immigrants be given the opportunity to earn the new legal status. (From a fairness, governance, policy, and program administration perspectives, the Democrats are right.)

The lesson? Most of the inevitable political blood required to resolve tough issues has been shed already—while the post-September 11 environment makes a deal more, rather than less, compelling. The national security context further clarifies why the regularization program should have a “Mexicans-first” provision while the temporary worker part of the bargain must have a “Mexicans-only” component—only Mexico can deliver the things that are most important to us. (Although Canada is also critical in the effort to secure North America, it is almost insignificant as a source of unauthorized

migration. Furthermore, Canada already has its own large temporary worker program, the NAFTA treaty trader provision that has accounted for between 75,000 and 100,000 visas per year in recent times spread across about seventy occupations.) In addition, the President's, and by extension, his party's, political advantage relative to the Democrats on this issue is fairly secure—but only if he acts first and he does so resolutely. Finally, the President earns important statesmanship credits for following through with his commitment to reverse the “dialogue of the deaf” character of past U.S.-Mexico discussions on border and migration matters and for placing the bilateral relationship solidly near the top of the U.S. list of priorities.

5. CONCLUSION

The proposal outlined here is delicately balanced, with each of the grand bargain's main elements joined together to provide each side with enough of what it needs to swallow hard and deliver on those items it must—making this a classic “no pain, no gain” deal that advances the prospects for meaningful North American integration and another American Century. Doing so will also clarify each side's share of the tough political choices this approach entails—a priority for fair-minded domestic debates on these issues—and allow each government to hold the other accountable for meeting its legal commitments.

To get the ball rolling, Mr. Bush and Mr. Fox should announce that they have instructed their negotiating teams—which now include each side's secretaries of labor—to re-start their negotiations in earnest. They should direct them to present the two presidents with a full and detailed plan of action for all negotiating components within six months. If the proposed plan meets with the two presidents' approval, a legislative package could be prepared in time for early consideration by the 108th U.S. Congress and by the next Mexican Congress.

Pro-growth and thoughtful Republicans will welcome the initiative, as will Republicans who have bought into the imperative and the prospect of wooing Latino and other ethnic minority votes. Republicans from America's vast Midwestern and Plains' states, such as Nebraska, Iowa, Kansas, Minnesota, the Dakotas, etc, will also be receptive. These states have been feeling the pinch of actual labor shortages and many of their politicians are forward-looking enough to understand—and to be interested in coming to terms with—their states' looming demographic crisis (too many old people, not enough young people!) The Democrats will have two choices in their response. If the President is clear and resolute, they will embrace the initiative. If he is tentative, they will one-up him for this failure in leadership.