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THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM: SECURING THE COOPERATION OF PARTICIPATING COUNTRIES

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP

OF THE

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THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM: SECURING THE COOPERATION OF PARTICIPATING COUNTRIES

THURSDAY, JUNE 30, 2005

UNITED STATES SENATE,
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP, OF THE COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:30 p.m., in Room SD–226, Dirksen Senate Office Building, Hon. John Cornyn [Chairman of the Subcommittee] presiding.

Present: Senators Cornyn, Kyl, Coburn, and Kennedy.

OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Chairman CORNYN. This hearing of the Senate Subcommittee on Immigration, Border Security and Citizenship will come to order. I want to thank Chairman Specter for scheduling today's hearing and thank Senator Kennedy and his staff for working with us on this important hearing.

Today, we will continue a series of hearings examining the need for comprehensive reform of our immigration system. These hearings have shown that our Nation's immigration and border security system are broken and leaves our borders unprotected, threatens our National security, and makes a mockery of the rule of law.

The system has suffered from years of neglect, and in a post-9/11 world, we cannot tolerate the situation any longer. National security demands a comprehensive solution to our immigration system and that means both stronger enforcement and reasonable reform of our immigration laws.

For too long, the immigration debate has divided Americans of good will into two camps, those who are angry and frustrated by our failure to enforce the law and those who are angry and frustrated that our immigration laws do not reflect reality. Both camps are right. This is not an either/or proposition. We need both stronger enforcement and reasonable reform of our immigration laws.

First, we must recognize that in the past, we simply have not devoted the funds, the resources, and the manpower to enforce our immigration laws and protect our borders. As history demonstrates, reform without enforcement is doomed to failure. No discussion of comprehensive immigration reform is possible without a clear commitment to and substantial escalation of our efforts to enforce the law.

Recognizing this necessity, on May 26, 2005, Senator Kyl and I released the border enforcement portion of our legislation which addresses those areas of border security which we believe are most in need of reinforcement.

But, increased enforcement alone will not solve the problem. Any proposal must serve both our National security and our National economy. It must capable of both securing our country and being compatible with our growing economy. Our current broken system provides badly-needed sources of labor, but through illegal channels.

As an example, Border Patrol Commissioner Robert Bonner has previously testified before this Subcommittee that the vast majority of those the Border Patrol apprehends are migrant workers simply coming here to work. He testified that the Border Patrol is still dealing with a literal flood of people on a daily basis, most of whom are attempting to enter the country in order to work.

While the situation we face at the borders represents a substantial and unacceptable risk to our National security, it also demonstrates why we cannot simply close our borders or round up and remove millions of people from within our midst. We simply don't have the resources, the facilities, or even the ability to identify, locate, and apprehend ten to 12 million undocumented workers and their families. In addition, securing our Nation's borders at the expense of weakening our economy and killing off American jobs is simply not an acceptable alternative.

Any comprehensive solution must address both concerns so that law enforcement and border security officials can concentrate their greatest energies on those who wish to do us harm, not those who wish to work and support their families.

Our economy would suffer if we removed millions of workers from our National workforce, just as it would suffer if we removed entire stocks of our natural resources from our National inventory. Our economy would be strengthened if all workers could simply come out of the shadows, register, pay taxes, and participate fully in our economy.

Today's hearing will focus on the fundamental issue of the level of cooperation the United States can expect from countries that will benefit from comprehensive immigration reform. Workers in this country come from many diverse countries. Essential to immigration reform will be increased cooperation on border security, efforts to combat human trafficking and alien smuggling, and stepped up crime prevention from any country that sends workers to our Nation.

We are addressing these types of issues with Mexico and Canada. The United States, Mexico, and Canada have entered the Security and Prosperity Partnership Agreement designed to develop a common security strategy and promote economic development. According to this week's announcement, border security remains the central theme of that partnership. I hope that the partnership continues to identify additional security initiatives that our countries can jointly pursue and that this initiative can serve as a model to address security concerns that relate to other countries as well.

In addition to assisting with border security, sending countries should further develop strategies that will bridge the development gap between our country and theirs so that citizens will not want to leave the country of their birth. For example, Mexico's leaders have made clear that it is in the best interest of their country to keep their citizens in their country, if possible. Foreign Minister Derbez has said the Mexican government has to be able to give Mexicans the opportunity to generate wealth that today they produce in other places. And, President Fox has stated, "Every person has the right to find in his own country the economic, political, and social opportunities that allow him to reach a full and dignified life."

I couldn't agree more with these statements. Other countries need for their young, energetic risk-takers and hard-workers ultimately to be able to come back home, and particularly to come back home with the capital and the savings and the skills they have acquired while working temporarily in the United States. They need these people to come back to their home country, buy a house, start a business so that these small business owners, these potential entrepreneurs can help strengthen and build a middle class.

Today's hearings will explore the relationship of these issues to implementing successful immigration reform. Ultimately, comprehensive immigration reform will require the active cooperation of participating countries, because we will have to have better management, communication, and coordination between our governments to achieve our goals of protecting our National security and strengthening our National economy.

[The prepared statement of Senator Cornyn appears as a submission for the record.]

With that, I would turn the floor over to Senator Kennedy, our Ranking Member on this Subcommittee, for any statement he cares to make.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Thank you very much, Mr. Chairman, and thank you for calling the hearing on the importance of the cooperation with other governments to help mend our immigration system.

Without the help and cooperation from neighboring countries, immigration reforms adopted unilaterally by the United States are less likely to succeed. So we need to work with Mexico, Central America, Canada on migration problems and enforcement. It is in the best interests of all of our countries to improve security, too. Bilateral and multilateral agreements provide a framework and incentives for safe and legal immigration.

Every year, thousands of Mexicans and Central Americans come to the U.S. legally or illegally to work and join their families. Illegal immigration continues to increase annually. To deal with the growing numbers of undocumented workers, we have to modernize our laws to meet the challenges of the 21st century. As Mexican officials understand, a guest worker program and a path towards earned legalization are two essential components of any effective proposal for reform. We need fair steps to respond to family needs,

economic needs, and basic migration patterns between the U.S., Mexico, and Central America.

Another critical component of comprehensive immigration reform is border security and control of illegal immigration. One of the mistakes we continue to make is throwing money at border enforcement as our primary means for reducing illegal immigration. By making it more difficult for many Mexican citizens to cross the border to work and reunite with their families living in the United States, we are essentially trapping them inside the United States. It is an incentive for desperate families to do whatever it takes to be together. A more sound policy is realistic immigration laws that provide legal avenues for qualified immigrants and strong enforcement of those laws. This plan will restore control of our borders, improve national security, and strengthen our economy.

Another mistake of past immigration bills is to assume that we can control illegal immigration on our own. America needs to do its part, but Mexico and other countries must do their part, too, to replace illegal immigration flows with regulated legal immigration. We need a framework for negotiating an agreement with Mexico to prevent Mexico from being used as a transit corridor for third-country nationals attempting to enter the U.S. illegally. We need to work with Canada and Mexico to help Guatemala and Belize maintain the security of their borders. We need a framework for the U.S. to work with all countries of central America to set up a database on the activities of criminal gangs, to control alien smuggling and trafficking, prevent the use and manufacturing of fraudulent travel documents, and share relevant information.

Under the leadership of President Fox, significant efforts have been made to address Mexico's economic problems. Remittances from the United States continue to be a principal source of income for many Mexican families. Tapping into these funds, the Fox administration has adopted promising initiatives, such as the Three-for-One Program to match these funds with federal, state, and local money. The pool funding is then used to build schools, clinics, establish other programs to help economically depressed areas of Mexico.

John McCain and I have included all of these proposals in our bill. We know that effective enforcement of our immigration laws depends heavily upon the participation and the commitment of neighboring governments, and I thank our witnesses at today's hearing and look forward to working with them to address these important challenges ahead of us.

Thank you very much, Mr. Chairman.

Chairman CORNYN. Thank you, Senator Kennedy, and I appreciate your hard work on this effort. I know we will have a lot of tough work ahead of us, but hopefully this year, we will be able to achieve some success that we will all be able to be proud of.

We are pleased today to have a distinguished panel, and I will introduce the panel and ask each of you to give opening statements.

Andres Rozental is President of the Mexican Council on Foreign Relations. He has also been Mexico's Ambassador to various countries, including the United Kingdom, Sweden, and its representative to the United Nations. He has also served as Ambassador at

Large in a special envoy for President Vincente Fox. Ambassador Rozental is now President of Rozental and Associates, an international consulting firm specializing in providing political and economic advisory services to both Mexican and foreign companies.

Joining Ambassador Rozental on our first panel, and only panel, is Roberta Clariond. I hope I am pronouncing that correctly, Professor. Professor Clariond is a Professor of International Relations at the Technological Autonomous Institute of Mexico. She holds Master's degrees in Latin American studies and international relations from UCLA and the University of Chicago. She has been involved in numerous seminars and projects on migration.

We welcome both of you to the hearing, and Professor, we want to thank you for agreeing to fill in when your predecessor fell ill, but we know you have been working on these issues a long time and appreciate your expertise.

Why don't we begin with the Ambassador, and then we will turn to the Professor. Let me ask you please to remember to push the button on the microphone in front of you so the light shows. That means your microphone is on. We ask you to keep your opening statement to around 5 minutes, and then we will be able to engage with some questions with the rest of the panel. Thank you. Ambassador?

STATEMENT OF HON. ANDRES ROZENTAL, FORMER MEXICAN AMBASSADOR AT LARGE, AND PRESIDENT, ROZENTAL AND ASSOCIATES, MEXICO CITY, MEXICO

Ambassador ROZENTAL. Thank you, Mr. Chairman and Senators Kennedy and Coburn. Thank you for having me. I have prepared a written statement, which I leave with you. I won't read through it. I think you will probably find it interesting.

Chairman CORNYN. We will make it a part of the record.

Ambassador ROZENTAL. But I wanted to take the opportunity of these few minutes to go over two or three points that are contained in that statement.

The first is that in February of 2001, just after President Fox was elected and took office as President of Mexico and President Bush began his first administration, the two governments agreed to work together, guided by a principle of shared responsibility, in establishing new mechanisms to allow for legal, orderly, safe, and humane migration between both countries.

The working agenda that was set at the time included five basic components: Improving border security and safety; fighting the root causes of immigration from Mexico through economic development initiatives; modernizing and expanding the existing temporary worker mechanisms; addressing the status of undocumented Mexican nationals currently residing in the United States; and reviewing the backlogs of immigration visas and also looking at the possibility of taking Mexico and Canada as NAFTA partners and neighbors out of the country quota system under which the immigration law currently operates.

These five points, which took up about a year of discussions between the two governments, came fairly abruptly to a halt after 9/11. It is very satisfying to me, because I have been involved in immigration issues between Mexico and the United States for about

30-some years now, to see that this is now again back on the agenda, both in each of our two countries as well as bilaterally.

The point that I would like to make to you Senators is that, and I agree very much with what Senator Kennedy just said in his statement, there is no way that this is going to work unless it is done together with the source countries. Unilateral immigration reform has been tried before in the United States. There are lots of precedents for it. Mexico engaged to share in the responsibility of an immigration reform and an immigration agreement with the United States and it would be very important for Mexico to be engaged once again in a bilateral fashion on this. There doesn't seem to be any way that I can think of that the United States can administer a temporary worker program or an earned legalization program or any other type of immigration reform of substance if it doesn't have the source countries working with it, and this is particularly the case with Mexico.

Now, Mexico has done quite a few things. As you mentioned, the Fox administration began a series of programs to make it more attractive for Mexicans to remain in Mexico and not come to the United States. But it occurs to me that the way the social networks have now been formed between the communities of Mexicans living in the United States and their families and their home country, it is probably unrealistic to think that, over the long term, there will not be any incentives for Mexicans to come to work in the United States or to live in the United States, and I feel very strongly that there should be ample ways for them to do it when they do it legally, in an orderly fashion, and according to the laws of both countries.

I also believe that the only way to engage Mexico to cooperate in that is through a series of bilateral agreements. I think that that is the hook with which you will be able to get a Mexican government to cooperate and the Mexican government to help implement whatever decisions you take in immigration reform.

We also are about to go through a political process in Mexico. There will be Presidential elections in July. And I think that it is very important that this engagement take place as soon as possible so that through the transition of a new Mexican administration, there be the ability to continue to work together as the case has been.

Perhaps in the questions, I will be able to further expand on some of the areas in which the Mexican government has been working and areas in which it hasn't been working yet but could be working if a program were designed to engage the Mexican side equally with the U.S. on this and also to find ways to undertake enforcement in a way in which both sides work together, because border security, enforcement of the law, rule of law in general requires both to be able to function.

I will just finalize with an issue which I have talked about a great deal over the years, the circularity of the immigration phenomenon between Mexico and the United States is an extremely important part of how it worked and how it functioned, and the interruption of circularity probably is one of the reasons why it is broken today. Thank you.

Chairman CORNYN. Thank you very much, Ambassador.

[The prepared statement of Ambassador Rozental appears as a submission for the record.]

Chairman CORNYN. Professor Clariond, please proceed with your opening statement.

STATEMENT OF ROBERTA CLARIOND, PROFESSOR OF INTERNATIONAL RELATIONS, TECHNOLOGICAL AUTONOMOUS INSTITUTE OF MEXICO, MEXICO CITY, MEXICO

Ms. CLARIOND. Thank you, Mr. Chairman and Senator Kennedy, for this opportunity to speak to you today.

We firmly believe that the status quo on immigration between Mexico and the U.S. is no longer acceptable. Moreover, since the infamous attacks of 9/11, the conditions have only been aggravated. Because of the current situation, we appreciate the opportunity to share our ideas with the Senate Subcommittee on Immigration, Border Security, and Citizenship.

It is necessary to act promptly to develop a new migration paradigm on Mexican and Central American immigration to the U.S. Almost 75 percent of the current migration flow to the U.S. comes from Mexico and Central America. Therefore, I will focus the majority of my testimony on these areas.

In Mexico and Central America, we fully appreciate the efforts of this Committee to promote immigration reform. This testimony consists of five elements that we believe should be considered in the immigration debate that is taking place in this legislative chamber.

The first element is shared responsibility. The new migration status quo should be based on shared responsibility between the receiving country—the U.S.—and the countries with intense rates of migration—Mexico, El Salvador, Guatemala, Honduras, and Nicaragua—as the only way to manage a bilateral and sub-regional phenomenon.

There is an urgency to change the paradigm in which Mexico and the U.S. operate on migration matters. Traditionally, U.S. migration policy has been considered a domestic issue. Thus, U.S. authorities have unilaterally managed migration efforts. For its part, Mexico for many years had a policy of not having a policy. During the Fox and Bush administrations, there have been similar steps to engage in a new migration dialogue and cooperation. Still, much more has to be done. Mexico and the U.S. must increase their level of cooperation in both managing the flow of migrants as well as in creating a more secure and efficient border.

It is also necessary to revise the U.S.-Mexico institutional framework for dealing with the border and migration. A summit involving all agencies in the U.S. and Mexico dealing with security, borders, and migration should take place. The summit will not only foster a dialogue on policies and actions, but it will also create a new binational mechanism for security, migration, and border cooperation.

The second element is comprehensive reform. For security matters and given the complicated nature of the migration phenomenon, a comprehensive migration reform is necessary. This reform cannot only partially address the different challenges and problems posed by the high levels of Mexican and Central Amer-

ican migration to the U.S., it must deal with needs of both sending and receiving countries.

In addressing five major issues, the Kennedy-McCain initiative, Secure America and Orderly Immigration Act, represents a substantial change to the current status quo addressing the reality of the regional labor market. Mexican analysts and advocacy groups, such as the National Migration Institute Citizen Council, have urged the Mexican government as well as Congress to engage in the Kennedy-McCain effort for comprehensive reform.

The third element is the creation of an efficient and secure Mexican Southern border. The border between Mexico, Guatemala, and Belize is not simply porous, it is wide open. For many decades, an open Mexican Southern border didn't represent a major problem, but this is no longer the case in the post-9/11 security-oriented atmosphere.

In the year 2002, Mexican migration officials deported 138,000 persons, mostly from Guatemala, El Salvador, Honduras, and Nicaragua. Last year, the number of deportations increased to 215,000. Mexico cannot replicate the California experience of the late 1990's of trying to stop the entry of migrants by building walls and fences and highly increasing the number of border patrol agents. After a decade, it is quite clear that those policies only generated negative consequences without reducing illegal immigration.

Besides entering into a dialogue with Central America and U.S. authorities, the Mexican government has to implement a major effort to strengthen the National Migration Institute and organize the different police corps and military operating at the Southern border. Corruption among Mexican officers must be stopped, both for humanitarian and security reasons.

The fourth element is to formalize a sub-regional dialogue on migration issues. The immigration patterns of the last two decades have formed a new hemispheric sub-region composed of Mexico, the U.S., and four Central American countries—Nicaragua, El Salvador, Honduras, and Guatemala. These accelerated rates of migration explain some new dynamics that are specific to this region. The emergence of transnational young criminal gangs, such as the Mara Salvatrucha and the Barrio 18, which social ties extend from L.A. to Honduras, is one example. In this case, as in many others, it is necessary to develop sub-regional approaches to cope effectively with the specific challenges of the region.

The fifth and last element is the areas in which Mexico should engage to strengthen the possibilities of a successful migration reform in the U.S. As Ambassador Rozental was just saying, it is important to return to the circularity of the immigration pattern, improve the health and education coverage of the Mexican nationals, including those who migrate to the U.S., and improving security and border safety, and one example could be by cooperating with the U.S. on fighting the criminal organizations that smuggle immigrants and operate on both sides of the border. Thank you.

Chairman CORNYN. Thank you very much, Professor.

[The prepared statement of Ms. Clariond appears as a submission for the record.]

Chairman CORNYN. We will start now with a round of questions. Let me start perhaps, Professor, with the subject that you were

just addressing. Some have called Mexico's Southern border America's third border because the transiting of criminals, human smugglers, and other activities through that border into the United States is a security concern. What is Mexico doing to provide greater security along its Southern border and to stop Mexico from being a transit point for terrorists, drug dealers, violent gangs, and the like?

Ms. CLARIOND. Well, as I was just saying, the National Institute of Migration of Mexico has increased the number of arrests and deportations of immigrants, illegal immigrants, especially from Central America into Mexico. I think that to address, to really address the problem of the transnational gangs as the Mara Salvatrucha and even criminal drug networks, we really need to form a sub-regional dialogue to work together. We cannot try to address unilaterally these challenges because there is not going to be any forum to do it.

As we said in the report that we handed in before this hearing, in Salvador, they tried to implement a zero-tolerance policy towards the Maras. The only thing that happened was that the Maras, they started to going to Honduras, Nicaragua, Guatemala, Belize, and Mexico, and even into the U.S.

So Mexico cannot develop a unilateral policy, a zero-tolerance policy. It has to work together with Central America and the U.S. in order to really try to approach this challenge.

Chairman CORNYN. I do know that Mexico has been a good partner with the United States in developing strategies for security in many respects and we very much appreciate that partnership. At the same time, the United States cannot intervene in a sovereign nation's affairs. Regarding the violence, for example, we see happening in Nuevo Laredo and places like that—Ambassador, I would appreciate your observations on this—what can the United States do to help Mexico further secure law and order within its own borders in addition to participating in these partnerships and other efforts that we have been engaged in for some time now?

Ambassador ROZENTAL. My own feeling, Mr. Chairman, is that there—and we have just concluded a tri-national task force report on the future of North America in which we have proposed, in effect, the creation of a security perimeter around North America whereby all three countries—Canada, the United States, and Mexico—undertake a joint and shared responsibility for creating a zone within North America where issues such as those that you have mentioned are looked at and dealt with insofar as possible trilaterally.

I agree with you that sovereignty issues always play a role in how countries see what goes on within their own territories. But I think that it is clear, and from a survey that the Council that I chair undertook last year in Mexico of public opinion attitudes towards international relations and relations with the United States specifically, that Mexicans, by and large, understand that these issues need to be addressed jointly and that because they need to be addressed jointly, they require us to understand that we can have things which perhaps in principle look like sovereignty issues but that at the end of the day make our own region and our own

countries, individually and jointly, more secure and safer for the citizens within them.

It was interesting to see that Mexicans by a majority, a fairly large majority, agreed to have the stationing of U.S. law enforcement personnel within Mexican territory if it meant that they would be safer from external threats to North America by doing so.

Chairman CORNYN. Let me ask you about this concept of circularity of migration that both, Mr. Ambassador, you and the Professor both emphasized. This seems to be a subject that comes up repeatedly in our conversations with our friends in Mexico. And, it seems to be very consistent with America's national interests and the national interests of Mexico, in particular, but also with those of other countries in Central and South America. People who would come to work in the United States for a time would have the ability to cross the border during the period of their work visa. Ultimately, to the success of economies like Mexico and those of countries in Central America, people would actually return home at some point with savings and skills, not permanently emigrate to the United States.

Could you please comment on your view of that issue, Ambassador?

Ambassador ROZENTAL. Certainly, Senator. The history of migration patterns between Mexico and the United States, and I take that particular example because it is the one I know best, show that, at times—at the times when there were less, fewer obstacles to circularity, that is, to coming and going, the numbers of people who came and went, especially the ones who stayed in the United States, were much lower.

It is my understanding, and I certainly—there is no way to prove it until we try it, but the fact is that the erection of all the barriers that have been put up at the border, the fences and the operations and the enforcement measures that have been taken, have really only served to ensure that the people who do make it across, and they always do make it across, stay in the United States because it is much more difficult to come and go.

I feel that if there were sufficient opportunities for Mexicans and others to work in the United States legitimately, in an orderly fashion, according to United States laws, and to come here fairly easily, that is, to obtain visas without a 10-year waiting period or whatever it is, that there would be much less, one, illegality, and two, many fewer people who would want to remain in the United States permanently. Again, it is difficult to prove it, but I think that the history shows that that is the way it worked before the beginning of all of these programs to stop people from crossing.

Chairman CORNYN. Thank you very much.

Senator Kennedy?

Senator KENNEDY. Thank you both. Let me ask, Ambassador, why do you think all five of these points are necessary to reform the immigration laws and the sort of chaos lawlessness that now exists?

Ambassador ROZENTAL. Senator, thank you. I believe that all five are necessary because they all form part of the phenomenon. They all have to do with the issue of immigration. I mean, the first, of course, is what do you do about all the people who have yet to come

to the United States to work, who are being demanded for work here, who have job offers and who have the ability to be employed?

The second part is, of course, the several million people who are already in the United States without proper authorization, and you can't, I think, solve the first issue without addressing the second issue, among other reasons, because of the constituencies involved within the internal domestic political system of the United States and the various groups that deal with the issue.

Border security and safety not only after 9/11, but even before 9/11 was a very big issue, and what has happened in these recent weeks and months at the border with the United States on the Mexican side, although perhaps today more evident from media coverage, is not new. There has always been a degree of criminal element in the border, at the border, because of the illegality of the issues that cross the border, whether it is arms smuggling or people smuggling or illegal immigration or contraband or anything else.

The efforts that Mexico needs to make, and these are efforts which I think the United States should participate in, perhaps together even with Canada, to enhance the opportunities for its own citizens within the country, for a developing country that has so many other requirements to deal with in its social and economic structure is an issue which needs to be addressed, as well, because as long as there are areas and pockets of poverty in Mexico and states that don't give opportunity to their people, then those people will be looking for ways to move forward.

And finally, the country quota system, although on the books, in practice is not being observed. There are many more Mexicans who get legal and proper visas to come to the United States under all of the different programs that are offered for them to do that, whether it is family reunification or whatever, that if all of this was put in an orderly system and Mexicans knew that if they had a job offer here and they could come and that the visa would be available within, I don't know, 30 days if they could prove that they had a job offer and that they could come back and forward at the end of that job offer or move to another job, that there would be much less of an illegality to the system.

So from my perspective—a former Foreign Minister of Mexico called it a "whole enchilada." I wouldn't call it that, but I would say that these are very much entwined as issues in the immigration phenomenon and, therefore, need to be looked at together, including the border security and enforcement issue, which I think is very much a matter of consideration of this Subcommittee.

Senator KENNEDY. Maybe you have answered this question with the first one, but what would happen if our Congress only addressed the border security and didn't address the need for legal status of the undocumented or a legal avenue of new temporary workers? What do you think the result would be?

Ambassador ROZENTAL. Senator, I think the result would be exactly the same as we have had for the last 50 years. You would continue to have the same phenomenon of Mexicans crossing over to the United States to work. Americans, by the way, staying in Mexico to work, as well, without proper authorization. I should point out that this is not just a pure one-way street. There are

many fewer, but there are Americans who live in Mexico and work in Mexico without proper documentation.

And I think that the only way that you can address this issue and get to the root causes of it is to deal with those points in addition to enforcement. The U.S. has done nothing but to try to enforce the border up until now, and over successive immigration reform acts and all of the money and resources, human and financial, that have been put in enforcement, it has not made the slightest dent in the actual numerical issue of the migration phenomenon.

Senator KENNEDY. Professor Clariond, let me ask you, how can we best guard against the corruption, the fraud, the other illegal activities by the sort of unscrupulous recruiters and make sure the visas are available to qualified workers?

Ms. CLARIOND. We are going to start right now cities. The H2A and H2B visas that almost were allocated to Mexican workers, almost in the number of 70,000 visas last year, there is no involvement of the Mexican or the U.S. Government in allocating these visas. So they are in hands of recruiters which can lead to an increase in the possibilities of corruption and fraud. So I think that the best way to guard against this kind of illegal activities will be not to let it go in the hands of the recruiters and to form an intergovernmental task force in Mexico with the participation of labor, foreign affairs, interior, and social development ministers in order to be able to manage the demand for visas in the U.S.

Senator KENNEDY. I think that is a good suggestion. My time is up, but I would be interested in following up.

Also, Ambassador, as I mentioned, my time is up, but I hope that sometime you might be able to supplement about your reactions to that Three-to-One Program, which I would be interested in your ideas. Perhaps the Professor could give us a little summary about your own impressions on that, what you think its strengths are, its possibilities for expansion.

Thank you very much, Mr. Chairman.

Chairman CORNYN. Thank you, Senator Kennedy.

Senator Coburn has graciously allowed Senator Kyl to go first because I know you have a short amount of time to be here, Senator Kyl, so please go ahead.

Senator KYL. Thank you, Mr. Chairman. I very much appreciate that. Senator Coburn, I need to apologize to both of you. I am the Chairman of another Committee that is meeting right now just down the hall. Fortunately, it is on the same floor of the same building, but I do need to return to that.

So rather than take the time of my colleagues here, I wonder if you would be willing if I submitted a couple of questions for the record. It would give you time to think about the response to that, and I will just tell you a couple of the subject matters.

One of the things, Ms. Clariond, that you mentioned was that perhaps Mexico could do more to help the United States with interdiction and removal of the third-country nationals, sometimes known as OTMs. I am very interested in how that might be helpful.

Mr. Ambassador, I am interested in what Mexico might do to realistically work with the United States, cooperate with the United

States in a temporary worker program. The last suggestion might be part of that, and perhaps that could be expanded on.

And then, finally, the third area would deal with what recommendations you would have with respect to people who are already here illegally as contrasted with those who might participate in a guest worker program prospectively and how we would make that work.

But again, let me ask you to submit that for the record so that I don't use my colleagues' time here. I again apologize to you.

Thank you, Mr. Chairman, and thank you, Senator Coburn.

Chairman CORNYN. Thank you, Senator Kyl.

Senator Coburn?

Senator COBURN. Thank you, and thank you for your testimony.

Ambassador, a couple of questions I have. The Mexican government, I guess it was last year, stopped requiring visas for Brazilians, and since that time, we have seen a tremendously increased number of Brazilians, not necessarily the poorest but some from the lower-middle economic classes coming through Mexico as a transit. Can you explain the logic behind elimination of the visa requirement for Mexico for Brazilians who are coming in and transiting through?

Ambassador ROZENTAL. Thank you, Senator. Well, I, of course, don't represent the government and I with difficulty would be able to tell you why certain policies are government policy. I suspect that because Brazil is a sister Latin American country and because we generally have a suppression of visa regime with most of the countries in Latin America that this was not an issue.

I know that the United States government has been in discussions with the Mexican government about requiring visas for Brazilians. One of the things that has been done recently, and I think it is a harbinger of the type of cooperation that I think a North American security perimeter would require, is harmonization of third-country visa policies. We have done it to some extent already, but not fully, and I think that the only way to consider it in a wider scheme of things would be precisely to have an overall cooperation.

In the Ottawa meeting of the ministerial groups that reported to Presidents Bush, Fox, and Prime Minister Martin of Canada just this last Monday, one of the issues which is covered in the report is third-country national visa harmonization, and it is certainly, I think, one of the issues that needs to be looked at.

One of the things I would like to remind people that I talk to about immigration matters in North America is that Canada does not require visas from Mexicans. It is a country that Mexicans can visit freely for the amount of time that the Canadian authorities allow Mexicans to go there, and we have no undocumented or illegal immigration issue with Canada whatsoever. We have a guest worker program for agricultural sector that covers several of the provinces. There are about 10,000 Mexicans that go every year. They all come home. They are all rehired the following year. They now have a longstanding presence among their employers. Their employers want the same people to keep coming and it works very well.

That, although the numbers are obviously very different from those that could be involved in a U.S.-Mexican temporary worker program, it is certainly a possibility and it is a bilateral program. That is, both governments administer it jointly.

Senator COBURN. Would you care to guess for us the number of visas, H1 and H2 visas, that might be required to fully meet the needs that we have on our side as well as the demands coming from Mexicans and other than Mexicans on a visa program if, in fact, we had an ideal program, much like Canada has? Would you have any idea of the number of visas We have had discussions on the floor in the Senate. There has been a lot of discussion bandied around in terms of the guest worker program. Do you have any ideas as to those numbers?

Ambassador ROZENTAL. The only number that I can give you with any authority is the one that, bilaterally, Mexico and the United States have been looking at from the time that we did our binational study, and that is that it has fluctuated yearly between 300,000 and 400,000 people. We don't know how many of those people return, so that whether the universe is—are all individuals who are different or whether they come and go. But presumably, if you were to cover, from the Mexican point of view, the total amount, you would be talking about somewhere in that ballpark figure.

If you were to add the Central Americans and other countries, OTMs, as they are called, other-than-Mexican nationals, it would probably be an additional amount, although I think that, statistically, Mexicans cover about 60 percent of the numbers.

Senator COBURN. Professor Clariond, would you have an answer to that question or an estimate?

Ms. CLARIOND. I agree with Ambassador Rozental. He used—I mean, Jeffrey Pascal from the Pew Hispanic Center, his last estimates indicate that around Mexican migration to the U.S. fluctuates between 420,000 and 480,000, so if you really want to have access, give legal channels to this migration, it will have to be around that number.

Senator COBURN. Thank you very much. My time has about expired and I will yield back.

Chairman CORNYN. Thank you, Senator Coburn.

Professor, one of the burdens that illegal immigration places on taxpayers at the local level is the cost of health care. We know that it is the most expensive, least efficient form of delivery because it is in emergency rooms. The Federal Government requires an emergency room to see any patient without regard to their citizenship status, without regard to whether they have insurance or not.

In my State, Texas, 25 percent of the population is without health insurance, which means that an awful lot of people end up going to the emergency room, and many emergency rooms in large cities, like Dallas, for example, at Parkland Hospital, have to go on "divert" status. That is, they can't take any emergencies because they are full of people who are not emergencies, who don't have health care, who have nowhere else to go.

What kind of obligation would you see that Mexico and any other country that would benefit from an authorized worker program, what sort of obligations could the United States expect them to accept in terms of the health care of their own people and relieving

some of that burden off of the local taxpayers in Texas and places like that?

Ms. CLARIOND. Well, the Mexican government clearly needs to strengthen its health coverage programs. It just implemented a new program called Seguro Popular, that it is a public health program for low-income families. These are the families that do not have access to any other kind of health system, Social Security system in Mexico. The idea is to see if the Seguro Popular could be extended to migrants, Mexican migrants in the U.S.

Another idea can be to establish a bilateral or binational health coverage system with private enterprises joining in and seeing that some of these migrants can receive health care attention in Mexico, not only in the U.S.

Chairman CORNYN. Ambassador, I would be interested in your comments in that regard, as well. I think virtually every country in the world, as a condition to issuing visas or allowing people from other countries to enter that country for any extended period of time, require proof of health insurance. Would that be one of the alternatives that you think would be a reasonable requirement of temporary workers who would be admitted to the United States under such a program were it adopted?

Ambassador ROZENTAL. Senator, it works that way with our Canadian program, the Mexican-Canadian program. They are insured while they are in the United States. Mexican undocumented workers usually pay fairly large amounts to the smugglers who put them across. If you didn't have to pay that and you used that money to partially pay for health insurance while you are in the United States, I would suspect that many of them would prefer to have health insurance and prefer to have access not only to emergency room care, but to general health care.

The other possibility, and this ties in with the issue of incentives, I think Mexico and the U.S. need to find together, but Mexico needs to do its part, of course, to find incentives to keep Mexicans at home, but it also needs to find incentives for Mexicans to use Mexican educational, Mexican health, Mexican other services that are available.

Under the understanding that there would be a program which the Mexican side would be involved with or shared responsibility for, things like a binational health insurance scheme, issues relating to the Seguro Popular that Roberta mentioned, the possibility which we even discussed back when I was Deputy Foreign Minister in the prehistoric times of this century—of last century, actually—was to allow for emergency health care at the border to be provided on the Mexican side rather than on the U.S. side. Now, there is a time problem and you can't expect people to make a big trip, but at least along the border, and this specifically referred to the State of Texas, the idea that Mexicans who needed emergency health care could get it on the Mexican side rather than on the U.S. side in order to alleviate the cost to the U.S. taxpayer.

Chairman CORNYN. Thank you. Let me ask again, we talked a little bit about the circularity of migration issue and this sort of counterintuitive idea—I mean, I understand what you are saying, and I have seen this written up in a number of places, that by enhancing border security in the United States, we have actually

locked people into our country, in a sense, rather than allowed them to go back and forth.

But, we all know that we simply can't have an open border and we all know that the United States and any country has to know who is coming into their country and why. And finally, I would say we have to be able to place some reasonable limits on immigration. Any nation in its own interest has to be able to limit immigration to some rational level, recognizing that there is a tremendous demand for the labor provided by immigrants.

I want to press you maybe a little bit, Mr. Ambassador, on the security issue again because I don't know how we deal with the terrorist who wants to come across if we regard the security perimeter as only covering the three countries of the United States, Canada, and Mexico. I mean, I wouldn't expect you to want American law enforcement to go to Nuevo Laredo and intervene in those violent episodes.

I guess I am wondering a little bit, do you see a difference between the way that Americans view sovereignty in terms of what our borders mean as opposed to the way Mexicans view our border? I sense there would be some difference in perception and approach because so many of my friends from Mexico seem to view us as a North American continent, not as separate nations with sovereign borders.

Ambassador ROZENTAL. Thank you, Senator. No, I am not one of those that feels very strongly either way. I think we have a North American sub-region. We have set up a North American Free Trade Agreement. We have free movement of goods. We have a fair amount of free moment of services. I think that, eventually, as a long-term goal, an open border or a free movement of people should be a long-term goal.

I think it is obviously unrealistic to expect that to happen today or even in the next 15 or 20 years, but hopefully when Mexico is a developed country, when the economy and the social structure of Mexico are such that they are more in line with the U.S. and Canada, there is no reason why we couldn't have a similar situation as to what the Europeans have, and that is a fair amount of freedom of movement both for jobs as well as for other legitimate activities.

The issue of stopping terrorists and undesirables, if you like, from my perspective, would work better if it were done on the other perimeters of our region than if it is done at the land borders, which are already extremely congested, saturated, where you have the issue of the trade and the commercial traffic that goes through. You mentioned Nuevo Laredo. Sixty percent of our bilateral trade goes through truck traffic in Nuevo Laredo, as you well know.

If you concentrate all of the resources that you are today concentrating on the fight against terrorism and securing the U.S. homeland and you don't worry about what is going on on the Southern border of Mexico or the Northern borders of Canada or the entranceways, gateways into the airports and seaports, you are, in effect, only doing half of the job.

And my point is that you work in looking at North America as a region and then you transfer part—not all, but part of the security mechanism to the outer perimeter through third-country na-

tional visa harmonization, watch lists, sharing of databases, for example, deciding that before you issue a visa to come into North America in the U.S. Consulate in Paris or in Tehran, you consult the Mexicans and the Canadians as to whether they have any information on that individual, things of that sort which can increase security and increase the protection that you give to the region. That doesn't address the issue within the region, but it does address part of the issue outside.

Chairman CORNYN. Thank you.

Senator Coburn?

Senator COBURN. I just had one question. It is kind of a personal note and it is to ask motivation rather than anything, in your opinion. As an obstetrician, I have delivered lots of foreign babies in my practice in Oklahoma, most of which are Hispanic, but not all Mexican. Is there part, because of our citizenship requirements of birth, if you are born in this country, does that play a role at all in motivation for coming across the border? You know, this is a more frequent occurrence in this country, and, of course, there is chain migration associated with that in that if you are born here to an illegal alien, you are still a U.S. citizen.

Is that part of the motivation? Is that ever in the thinking, or is that just a happenstance of those that are here, in your opinion?

Ambassador ROZENTAL. Senator, I think it certainly is a phenomenon that exists. I think it exists much more along the Mexican border, in Mexican border cities, especially Tijuana and some other places, where more well-to-do Mexican women go to have their deliveries in the United States for that reason. But I do not think that it plays a very dramatic or important role in the general migration phenomena.

Senator COBURN. If my daughter were pregnant and delivered in Mexico, would she be a Mexican citizen?

Ambassador ROZENTAL. Yes, she would.

Senator COBURN. The child would? Thank you.

Chairman CORNYN. Ambassador Rozental and Professor, I read with interest about a mortgage program for Mexican migrants where Mexican migrants living in the U.S. can obtain mortgages to buy homes in Mexico. Supporters of the program argue that it will increase the standard of living of the families of migrants in Mexico and it will reinforce migrants' roots in their native country.

What steps do you think Mexico and other countries can take to increase economic opportunity at home to maintain ties to one's homeland in a way that promotes the circularity of migration you are talking about and prevents the severance of ties on a permanent basis with their home country such that they are more likely to permanently emigrate to the United States? Professor, would you like to take a stab at that first, please?

Ms. CLARIOND. Yes. Thank you, Senator. The Mexican government recently has implemented a program on transnational mortgage, as you were saying, to make housing available for low-income families. So I think it will, as part of any temporary worker program between Mexico—that Mexico cooperates with the U.S., it will be—the Mexican government can broaden this program and make it accessible for Mexican immigrants to come back, as an incentive to come back and be able to own their own house and their

family—for their family. This really, as we all know, owning a home is part of strengthening your ties to your community of origin. So I think this will provide to be an important economic incentive for migrants, Mexican migrants in the U.S. to go back.

Chairman CORNYN. Ambassador, one proposal that I am familiar with—that I learned about from Senator Phil Gramm, my predecessor—I embraced in a bill I sponsored last year. It would allow the withholding from a worker's pay (someone who works on a temporary basis in the United States and would not be eligible for Social Security through the United States or Medicare) sums that would ordinarily be withheld, and it would put them in a separate account for the worker. The sums would only be made available to the worker upon return to his/her country of origin. The belief is that this would provide yet another incentive for the worker to return home by providing him/her with some capital—savings that would be beneficial to the worker and to the country of origin because it could be used to buy a home, start a small business, or otherwise contribute to the economic development of that country. Do you see that as one potential approach that we could use, or are there positives or negatives associated with that?

Ambassador ROZENTAL. Thank you, Senator. The Social Security Administration in this country and the Mexican Social Security Institute signed an agreement back in June of last year, a so-called totalization agreement, which allows Mexicans who work both in the United States and in Mexico to be able to retire and get Social Security benefits from both under this agreement. It works also for Americans who work in Mexico. It also avoids dual Social Security taxation, which is an issue that people who work in both countries have to deal with.

That agreement, which was negotiated and signed by both governments, is still pending submission to this Senate and also pending submission to the Mexican Congress for ratification. Once it is ratified, it will go a long way towards doing exactly what you mentioned.

Whether you could also add to that the possibility of a withholding for a savings account, an IRA-type system where you would have something for when you went back home, I think is certainly a feasibility. The number one use in Mexico of remittances sent by Mexican migrant workers home is for the purchase of a home.

Chairman CORNYN. I know occasionally, I hear people say that one reason why Mexico and other countries are not committed to immigration reform in the United States is because these countries depend on the remittances sent from workers here in the United States. I think that is wrong. I disagree with those who argue that because if you would estimate that the remittances, the amount of money actually sent, let us say from the United States to Mexico, which I think is in the $16 to $17 billion range per year, represents the savings rate by immigrants, let us say it is ten percent of one's earnings, Mexico might be the beneficiary from an economic standpoint of that $16 or $17 billion, but it represents an additional 90 percent of economic activity which is taking place in the United States and not in Mexico. So, I have a little difficulty with the argument.

Thus, I might just ask, Ambassador, this question. What other steps do you believe that Mexico can take on its own or with help from the United States to develop its economy and create jobs and opportunities in that country so that, as both President Fox and Secretary Derbez have said, Mexicans can achieve their life's dreams in their country of origin?

Ambassador ROZENTAL. I think there are two aspects to the question, Senator. The first aspect is the question of the incentives that the Mexican government as such can put on the table for Mexicans to stay in Mexico or return to Mexico if they are not in Mexico or if they travel or take jobs elsewhere.

And the other aspect, of course, has to do with how Mexicans themselves see this phenomenon of circularity. I mentioned earlier that the way it used to work, before all of the obstacles came about, was that most Mexicans would go seasonally into the United States and work in the agricultural sector to do seasonal work and then go home and have jobs the rest of the year. Today, the category of migrants that come from Mexico has changed considerably. They are no longer predominately agricultural workers. Today, they work in the service sector, they work in a whole series of areas of the U.S. economy that are not limited to agriculture.

And they also probably would be better off if they were able to deal with their skills in both countries, and many of them do, and many of them risk the travail of crossing the border and risking being caught and deported and going back again because the number of reincidences that the Border Patrol and the U.S. Immigration Service documents is rather high, which, in effect, again indicates that they are looking at this as almost a bilateral labor market in which they would like to be able to work a certain period of time, whether it is a few months of a year or a few years of a decade in the United States and then be able to go home, because that is where their families are, that is where their ties are, in some cases that is where they own property.

Again, the circularity issue, the interruption of circularity, I think to a great extent has led to the fact that the system doesn't work the way it used to.

On the incentive issue, there are incentives of a financial nature. Senator Kennedy and yourself, you mentioned the Three-for-One Program. This is a program that President Fox put into place to match remittances with federal, state, and local—which is why it is called three-to-one—dollars with investment in infrastructure, infrastructure being job creating on the one hand and also giving development opportunities to these regions of Mexico that generally are poorer.

Employment incentives—you will be able, presumably, under an agreement that those who came back to Mexico would have some sort of a fast track into the job market, to be able to get employment in an easier way and through a government-sponsored scheme where they would be able to enter the job market in Mexico in a better system.

Educational incentives—Mexicans who came to the United States and worked here and picked up skills while they were here could then go back to Mexico with educational incentives to be able to either continue their training and their skill building or go into the

educational system beyond high school and beyond what the average Mexican goes through.

And then there are the pension and Social Security incentives. There is the mortgage incentive that we talked about for homebuilding. There are a whole series of issues that could be on the table.

Again, all of these, I think, are conditioned on the bilateral nature of the discussion. As I said at the outset, the bilateral part of the discussion was interrupted fundamentally at 9/11 and has not really resumed as far as immigration is concerned since then.

Chairman CORNYN. Well, thank you very much, Mr. Ambassador and Professor. Thank you for your time and testimony on this important subject.

We will leave the record open until 5:00 p.m. next Thursday, July 7, for members to submit additional questions in writing or additional documents for the record.

With that, and with my thanks, this hearing is adjourned.

[Whereupon, at 3:35 p.m., the Subcommittee was adjourned.]

[Submissions for the record follow.]

SUBMISSIONS FOR THE RECORD

A Case for Sub-Regional Engagement—Mexico-Central America and the United States—in Creating a More Favorable Migration Environment

Presented by Rafael Fernandez de Castro and Roberta Clariond, Professors at the Technological Autonomous Institute of Mexico (ITAM, in its Spanish acronym)

Testimony before the Immigration, Border Security, and Citizenship Sub-Committee of the U.S. Senate

Hearing on "The Need for Comprehensive Immigration Reform: Securing the Cooperation of Participating Countries"
June 30, 2005

We firmly believe that the status quo on migration between Mexico and the United States is no longer acceptable. Moreover, since the infamous terrorist attacks of 9-11, the conditions have only been aggravated. Because of the current situation, we appreciate the opportunity to share our ideas with the Senate Sub-Committee on Immigration, Border Security, and Citizenship. These hearings evidence the willingness of the Sub-Committee to begin a dialogue with Mexico and its citizens.

It is necessary to act promptly to develop a new migration paradigm on Mexican and Central American migration to the United States. Almost 75 percent of the current migration flow to the United States comes from Mexico and Central America. Therefore, I will focus the majority of my testimony on these areas.

In Mexico and Central America, we fully appreciate the efforts of this Sub-Committee to promote a migration reform. This testimony consists of five elements that we believe should be considered in the migration debate that is taking place in this legislative chamber: shared responsibility, comprehensive reform, Mexico's Southern border, sub-regional engagement for migration affairs, and areas of Mexican involvement.

1. *Shared responsibility.* The new migration status quo should be based on shared responsibility between the receiving country –the U.S.– and the countries with intense rates of migration –Mexico, El Salvador, Guatemala, Honduras and Nicaragua.

   The current limited dialogue and cooperation between Mexico and the United States on migration matters makes no sense. Mexico and the United States are highly integrated and sophisticated trade and economic partners. This level of cooperation and communication should extend into migration affairs. A good example of this lack of cooperation on migration affairs is the lack of management of the H2A (visas for agricultural workers) and H2B (visas for service workers). Last year, the U.S. granted 28,683 agricultural visas and 31,774 service visas to Mexican workers. Unfortunately, there was practically no involvement of the Mexican and U.S. governments on allocating these visas. U.S. private recruiters are in charge of the

entire recruiting process and the travel arrangements of the workers. Very often, these profitable recruiters collude with migrant smugglers or *coyotes*. Typically, there are very little or no security checks on the recruiters or on the recruited workers.

There is an urgency to change the paradigm in which Mexico and the United States operate on migration matters. Traditionally, U.S. migration policy has been considered as a domestic issue; thus, U.S. authorities have unilaterally managed migration affairs. For its part, Mexico for many years had a policy of not having a policy. During the Fox and Bush administrations, there have been timid steps to engage in new migration dialogue and cooperation. Much more has to be done.

Mexico and the United States must increase their level of cooperation in both managing the flow of migrants, as well as in creating a more secure and efficient border. There is a pressing need to decrease border regulations at the U.S.-Mexico border. The U.S.-Canada border is an appropriate example to follow.

It is also necessary to revise the U.S.-Mexico institutional framework for dealing with the border and migration. After 9-11 the U.S. undertook a major transformation of its governmental structures with the creation of the Home Land Security Department. These major changes have implicated important bureaucratic disruptions. Mexico, on the other hand, has kept most of its governmental structures intact. Because of these differences, there are obvious institutional and practical problems for bilateral coordination. After 9-11, an efficient bilateral coordination on security and border matters is a priority. Therefore, **a summit involving all the agencies in the U.S. and Mexico dealing with security, borders, and migration** should take place. The summit would not only foster dialogue on policies and actions, but it would also create **a new bi-national mechanism for security, migration, and border cooperation.**

2. *Comprehensive Reform*. For security matters and given the complicated nature of the migration phenomenon, a comprehensive migration reform is necessary. This reform cannot only partially address the different challenges and problems posed by the high levels of Mexican and Central American migration to the United States; it must deal with needs of both sending and receiving countries.

   At the outset of his presidency, President Vicente Fox initiated a conversation with President Bush on the subject of a comprehensive migration agreement. The window of opportunity for that agreement closed with 9/11. Nevertheless, the Fox proposal helped to create a consensus among Mexican analysts, business persons, and policy makers for the need of a broad change in the U.S.-Mexico status quo. This explains why the Kennedy-McCain initiative, "Secure America and Orderly Immigration Act," has been welcome in Mexico and in some Central American countries, such as El Salvador.

In addressing five major issues, the Kennedy-McCain bill, can be considered a comprehensive reform. The Kennedy McCain bill seeks to:

A. Create a three year guest worker program.
B. Allow access for undocumented immigrants in the U.S. to enter the guest worker program and eventually earn permanent residence after paying a $2,000 fine.
C. Support tougher law enforcement with the creation of a new electronic work authorization system.
D. Create a public-private foundation to promote citizenship and to fund civics and English language lessons for immigrants.
E. Encourage economic incentives for temporary workers to return home by requiring foreign governments to enter into migration agreements with the U.S. to help control the circular flow of their nationals to the U.S.

Mexican analysts and advocacy groups, such as the National Migration Institute Citizen Council, have urged the Mexican government as well as congress to engage in the Kennedy-McCain effort for comprehensive reform. Since migration has become a high priority for every political force and political party in Mexico, there is a generally positive attitude in Mexico for a U.S.-based comprehensive approach to migration reform.

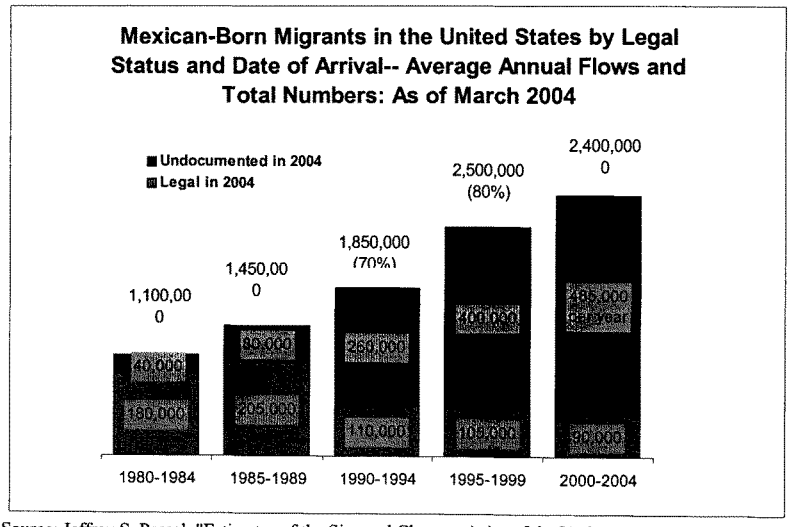
3. *The creation of an efficient and secure Mexican Southern Border.* The border between Mexico and Guatemala and Belize is not simply porous, it is wide open. Historically, there has been a high economic interdependence between southern Mexico and Northern Guatemala. This resembles the case of the U.S.- Mexico Northern border. For example, the city of Tapachula, Chiapas, is highly dependent on the Guatemalan agricultural and service workers, as well as trade with Guatemala. For many decades an open Mexican Southern border did not represent a major problem. But this is no longer the case in the post-9/11 security-oriented atmosphere.

   In the year 2002, Mexican migration officials deported 138,000 persons, mostly from Guatemala, El Salvador, Honduras and Nicaragua. Last year the number of deportations increased to 215,000. This can be explained by two factors: the economic depression in Central America caused by the late 1990s natural disasters, such as Hurricane Mitch of 1998, and the 9/11 security requirements. Mexican officials have strengthened their efforts to stop undocumented migrants coming not only from Central America, but also from many other countries, including some considered by Washington to be high terrorist risks.

   Mexico can not replicate the California experience of the late 1990s of trying to stop the entry of migrants by building walls and fences and highly increasing the number of border patrol agents. After a decade, it is quite clear that those policies only brought about negative consequences.

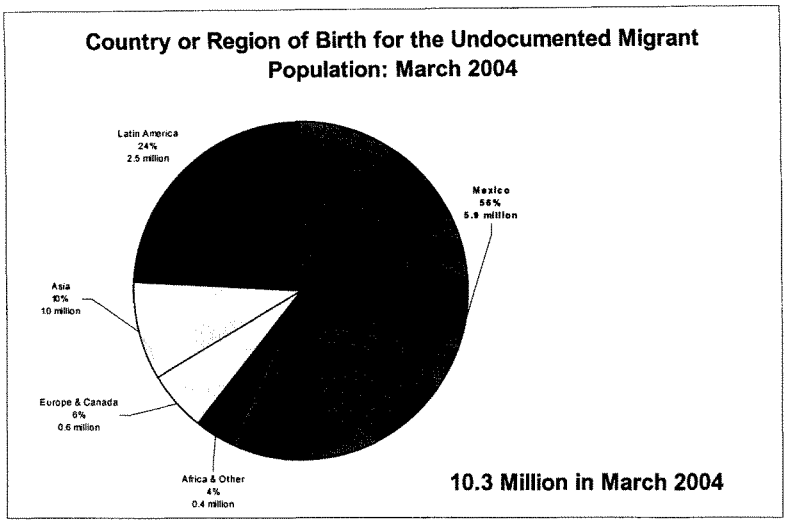
Besides entering into a dialogue with Central American and U.S. authorities, the Mexican government has to implement a major effort to strengthen the National Migration Institute and organize the different police corps and the military operating at the Southern border. Corruption among Mexican officers must be stopped, both for humanitarian and security reasons.

4. *Formalize a* ***sub-regional dialogue on migration issues.*** The migration patterns of the last two decades have formed a new hemispheric sub-region composed of Mexico, the United States, and four Central American countries –Nicaragua, El Salvador, Honduras and Guatemala. Mexico and these four Central American countries account for almost 75 percent total migration coming into the United States. In the past two decades, and especially in the previous one, the migration rate from these countries to the United States has accelerated. In the chart below, Jeffrey Passel, from Pew Hispanic Center, indicates the growing numbers of Mexican born migrants.



Source: Jeffrey S. Passel. "Estimates of the Size and Characteristics of the Undocumented Population." Pew Hispanic Center Report. March 21, 2005, pp. 7-8. Estimates based on March 2004 Current Population Survey. Includes an allowance for persons omitted from the CPS.

The chart below shows estimates of the unauthorized migrant population as of March 2004 subdivided the country/region of birth. Of these, about 5.9 million (56%) are from Mexico. The rest of those of Latin American origin are mainly from Central America and account for another 2.5 million or about one quarter of the total.



These accelerated rates of migration explain some new dynamics that are specific to this sub-region. The emergence of transnational young gangs, such as la Mara Salvatrucha and the Barrio 18, is one example. These gangs represent a threat to the security of the entire sub-region. The gangs have been surprisingly resistant to national efforts to cope with them. When the government of the former president of El Salvador, Francisco Flores, implemented a policy of zero tolerance (*mano dura*), the Mara Salvatrucha spread to Honduras, Guatemala, and Mexico. In addition, some of its leaders returned to the United States. In this case as in many others, it is necessary to develop sub-regional approaches to cope effectively with the specific challenges of this region.

5. *Areas in which Mexico should engage to strengthen the possibilities of a successful migration reform in the United States.*

- *Return to the circular patterns of migration.* The Mexican government as well as the business community should aspire for the economic conditions and implement the proper incentives to motivate migrants to return to Mexico. The willingness of Mexican workers to return is the core of a successful temporary worker program. Mexican financial officials should seek the cooperation of their U.S. counterparts to create savings accounts with tax preferential rates and a retirement system tailored for migrants.

- *Improve the health and education coverage of the Mexican nationals including those who migrate to the United States.* One of the most

controversial aspects of the migration debate in the U.S. centers on the costs to the tax payer associated with migrant health and education. Mexico should aim to strengthen its health coverage programs such as the *Seguro Popular*, a public health program for low income families not covered by traditional private or public programs. In addition, Mexico should seek to develop a bi-national health insurance plan. Private firms in both countries have already shown interest.

In regards to education, there is a lot Mexico can do. This spans from basic reform to strengthening the learning of English as a second language, to the use of new technology in classrooms, especially the internet, to collaboration with U.S. school districts that have a high concentration of Spanish speaking migrants.

- *Improving security*. The initiative created at the recent summit in Waco, Texas, The Security and Prosperity Partnership of North America, has outlined a series of measures that should be taken by the three North American countries to strengthen the security of the region. In some situations, such as the Mexican Southern border, as argued above, Central America should be taken into consideration and included in regional security measures.

- *Border safety*. Finally, the Mexican government should engage in some activities to prevent the numerous accidents at the U.S.-Mexican border. For example, it could prevent the entrance of Mexican nationals into dangerous zones, such as some areas on the Arizona-Sonora border. In addition, Mexican authorities should strengthen cooperation with their U.S. counterparts regarding the deportation of those know as OTMs (other than Mexicans). The two countries could also cooperate on the expansion and institutionalization of the program for voluntary repatriation to the interior of Mexico.

U.S. Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship
U.S. Senator John Cornyn (R-TX), Chairman

"The Need for Comprehensive Immigration Reform: Securing the Cooperation of Participating Countries."

Thursday, June 30, 2005, 2:30 p.m., Dirksen Senate Office Building Room 226

This hearing of the Senate Subcommittee on Immigration, Border Security and Citizenship shall come to order. I want to thank Chairman Specter for scheduling today's hearing, and thank you, Senator Kennedy, for working with me on this hearing.

Today we continue a series of hearings examining the need for comprehensive reform of our immigration system. These hearings have shown that our nation's immigration and border security system is badly broken and leaves our borders unprotected, threatens our national security, and makes a mockery of the rule of law. The system has suffered from years of neglect, and in a post-9/11 world, we cannot tolerate this situation any longer.

National security demands a comprehensive solution to our immigration system – and that means *both* stronger enforcement and reasonable reform of our immigration laws. For far too long, the debate over immigration has divided Americans of good will into one of two camps – those who are angry and frustrated by our failure to enforce the rule of law, and those who are angry and frustrated that our immigration laws do not reflect reality.

But both camps are right. This is not an either/or proposition. We need stronger enforcement *and* reasonable reform of our immigration laws.

First, we must recognize that, in the past, we simply have not devoted the funds, resources, and manpower to enforce our immigration laws and protect our borders. As history demonstrates, reform without enforcement is doomed to failure. No discussion of comprehensive immigration reform is possible without a clear commitment to, and a substantial escalation of, our efforts to enforce the law. Recognizing this necessity, on May 26th Senator Kyl and I released the border enforcement portion of our legislation which address those areas of border security that need improvement.

But increased enforcement alone will not solve the problem. Any reform proposal must serve *both* our national security *and* our national economy. It must be both capable of securing our country and it must also be compatible with growing our economy. Our current, broken system provides badly needed sources of labor, but through illegal channels.
As an example, Border Patrol Commissioner Robert Bonner has previously testified before this subcommittee that the vast majority of those the border patrol apprehends are migrant workers simply coming here to work. He testified that "... the Border Patrol is still dealing with a literal flood of people on a daily basis ... most of whom are attempting to enter this country in order to work."

While the situation we face at the borders represents a substantial and unacceptable risk to our national security, it also demonstrates why we cannot simply close our borders or round up and remove millions of people. We do not have the resources, the facilities, or the ability to identify, locate and apprehend 10-12 million undocumented workers. And securing our nation's borders at

the expense of weakening our economy by choking off or removing needed sources of labor is *not* an acceptable alternative.

Any comprehensive solution must address both concerns so that law enforcement and border security officials can focus their greatest energies on those who wish to do us harm – not those who wish only to help themselves and their families through work. Our economy would badly suffer if we removed millions of workers from our national workforce - just as it would suffer if we eliminated entire stocks of natural resources from our national inventory. Our economy would be strengthened if all workers could simply come out of the shadows, register, pay taxes, and participate fully in our economy.

Today's hearing will focus on the fundamental issue of the level of cooperation the United States can expect from countries that will benefit from comprehensive immigration reform. Workers in this country come from many diverse countries. Essential to successful immigration reform will be increased cooperation on border security, efforts to combat human trafficking and alien smuggling, and stepped-up crime prevention from any country that sends workers to our nation.

We are addressing these types of issues with Mexico and Canada. The United States, Mexico and Canada have entered the Security and Prosperity Partnership agreement designed to develop a common security strategy and promote economic growth. According to this week's announcement, border security remains a central theme of this partnership. I hope that this partnership continues to identify additional security initiatives that our countries can jointly pursue and, that this initiative can serve as a model to address security concerns that relate to other countries.

In addition to assisting with border security, sending countries should further develop strategies which will bridge the development gap between our country and theirs so that its citizens will not want to leave their country. For instance, Mexico's leaders have made clear that it is in their best interests to keep their citizens in their country. Foreign Minister Derbez has said that "[T]he Mexican government has to be able to give Mexicans … the opportunity to generate the wealth that today they produce in other places." And President Fox has stated that "Every person has the right to find in his own country the economic, political and social opportunities that allow him to reach a full and dignified life."

I could not agree more with these statements. Other countries need for its young, energetic risk takers and hard workers ultimately to come back home, and particularly to come back home with the capital and savings and skills they acquire when they work in the United States. They need these people to come back to their home country, buy a house, start a business, so that these small business owners, these potential entrepreneurs, can help strengthen the middle class.

Today's hearing will explore the relationship of these issues to implementing successful immigration reform. Ultimately, comprehensive immigration reform will require the active cooperation of participating countries because we will have to have better management, communication, and coordination between our governments to achieve our goals of protecting our national security and strengthening our national economy.

With that, I will turn the floor over to Senator Kennedy for any statement he cares to make.

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Testimony by Ambassador Andrés Rozental* to the U.S. Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security and Citizenship

June 30, 2005

Since the beginning of the Fox Administration in 2000, Mexico made a major change to its views on the immigration relationship with the United States. After many years of considering the flows of Mexicans into the US to work and live as an essentially American issue, the Fox government decided to actively propose and work for a bilateral immigration agreement with its Northern neighbor. Under this new approach, the Mexican Government adopted a five-point strategy in its discussions with the new Bush Administration. Although 9/11 abruptly put these discussions on hold, it is worthwhile summarizing and recalling what the Mexican position was at the time because it hasn't changed in substance since then.

Firstly, Mexico believes that any new immigration reform that doesn't take into account the millions of Mexicans that are already living and working in the US without documents won't work. The existence of a permanent underclass of foreign individuals who are outside the law has been one of the most serious issues in the immigration debate. These people are basically residents of the US, but don't have any of the rights or obligations that green card holders have. They live as part of US society, but are excluded from most of its benefits. Equally, they can't be held accountable for many of the duties that they would normally owe as full fledged legal residents, in spite of the fact that they pay taxes deducted by their employers and are generally law-abiding members of the community. However, they live in permanent fear of being discovered and deported and this leads many of them to break even more laws than those related to how they entered the country in the first place.

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* Andrés Rozental was a career Mexican diplomat for over 30 years before retiring and entering the private sector. He co-chaired the 2001 Carnegie Endowment-ITAM Task Force on Immigration with "Mac" McLarty, which set the stage for many of the proposals President Fox put on the bilateral immigration agenda. He is the founding and current President of the Mexican Council on Foreign Relations, an independent, nonprofit civil "think tank" that debates and analyzes foreign policy issues. He also served as Vicechair of the Independent Task Force on the Future of North America which just released its final report in May. He holds the lifetime rank of Eminent Career Ambassador of Mexico. From 2000 to 2001 he was a Special Envoy for President Vicente Fox.

Secondly, an immigration reform has to deal with those workers that have yet to enter the US and become part of the labor market. Most of these go because of a permanent demand in the US for jobs that are either unfilled by Americans or legal residents, or that are more suited to non-US workers. Recent estimates put this category of migrants at around 400,000 per annum, some of whom stay on in the country but some of whom also return to Mexico. One of the major shifts in the immigration paradigm is that this category today is no longer made up primarily of agricultural workers without jobs at home, but increasingly comprises service providers that are employed at least part of the time and who seek to go to the US mainly to make and save more money. For this group, the ability to come and go is essential, yet ever-increasing efforts to impede the circularity of their movement across borders has resulted in their being forced to remain in the US and join the first category of resident undocumented aliens.

A third element of the strategy relates to a proposal to remove Mexico and Canada from the overall immigration country quota system. As neighbors and Nafta partners, both countries have a unique relationship with the US. There are many visa categories that could be added to the Nafta visa that would allow for a greater number of people to travel to the US but that currently can't be used because of the quota system. Increased effective visa opportunities would act as a deterrent to illegality.

The fourth pillar of Mexican policy relates to border security. It is abundantly clear that the illegality of migrant worker crossings has spawned an extremely powerful and pervasive network of gangs, smugglers and other organized criminals who not only prey on Mexicans trying to cross, but are also involved in additional activities outside the law such as drug trafficking, arms dealing, etc. As we have seen just in the last few months, the situation at the border with the US has reached crisis proportions. Unless and until both governments bite the bullet and reach an understanding on an all-encompassing joint border security initiative —with adequate funding and infrastructure— the violence and criminal activity at the border will remain unabated.

Finally, the fifth part of the strategy is the need for major developmental programs to raise the standards of living and employment opportunities for those Mexican citizens who live in the poorest part of the country and come from areas that provide the lion's share of migrants. The Fox administration has made some progress in this regard with special programs designed to complement remittances with infrastructure investment (the 3 x 1 program), raise educational standards and

design policies for these economically and socially depressed regions. However, the efforts undertaken so far have not made a sufficiently large impact on the growth equation. The US has an important role to play as well on this issue as can be seen from the Partnership for Prosperity initiative, but it needs to be augmented and widened in its application.

The strategy outlined above came in large measure from President Fox's overriding foreign policy goal at the outset of his single six-year term to do two things: improve the relationship with the US and remove as many irritants as possible, and fulfill a campaign promise that his government would as a priority defend the interests of those Mexicans living and working in the US. Unfortunately, the events of 9/11 put a temporary stop to the meetings between Cabinet-level working groups that had been discussing and negotiating various aspects of these proposals. To this day, their bilateral nature remains a critical element which the Bush administration has been reluctant to pursue, but which from my point of view is essential if any successful reform of the immigration relationship is to take place. This is an important point: unilateral measures relating to immigration which are adopted by the US without consultation and agreement with Mexico are doomed to fail in the same way that past amnesties and immigration law reform neither stemmed the flow of undocumented workers, nor alleviated the mistreatment and abuse that many of them suffer while in the US.

Now that the Executive and Legislative branches in Washington have expressed the intention of pursuing immigration reform, it is especially important that Mexico be engaged in the process. This is for two main reasons: if there is no cooperation from the source country on either a guest worker program, or an earned regularization scheme, I cannot see how the US on its own will be able to deal with the enormous operational complexities involved. Secondly, Mexico has to be made to play its part in ensuring that whatever system is set up becomes the single avenue for people wanting to go to the US to work. This means that as part of the bargain, the Mexican government would have to undertake an obligation to ensure that orderly and legal movement across the border becomes the norm, and that measures are taken to dissuade people from going differently. Of course, this presupposes having enough visas, whether temporary or permanent, to give to Mexicans who have job offers in the US, who want to reunite with their families already there or who seek to legitimately move from one country to the other as tourists, students, teachers, businessmen, etc.

I believe that if there were sufficient avenues for Mexicans to move relatively freely between our two countries when able to prove that they have legitimate

reasons to do so, a large proportion of the undocumented flows would cease. Obviously it is unrealistic to expect Mexico to accomplish what the US itself — notwithstanding billions of dollars and thousands of enforcement personnel— has been unable to accomplish, ie the elimination of all undocumented crossings. However, Mexican authorities will have to assume their shared responsibility to make the system work and unless there are bilateral agreements to frame that cooperation, it will continue to be easy for the Mexican side to revert to its traditional rhetoric of saying that this is a US problem.

In addition to joint efforts at the land borders and airports, more needs to be done in securing the perimeter of all of North America, from the Canadian arctic to the frontier with Central America. Many of the migrant workers who enter the US from Mexico are Guatemalans, Hondurans and Salvadorans who use Mexico as a gateway to the US. With the current inability of Mexico to exercise adequate control at its southern border, an opportunity arises to work together with the US and Canada to create a Schengen-type zone that transfers the major security and immigration functions to the outer perimeter of our three nations, thus allowing resources and manpower to be focused on the genuine threats to our security coming from abroad. Although there is no possibility yet for a European-style free movement of people regime throughout North America, this should definitely be a long-term goal. Once the development gap between Mexico and its two NAFTA partners is reduced, it should be possible to have a more open immigration regime involving all three countries.

In the meantime, I strongly believe that Mexico and the United States need to work together on immigration, just the way they have done so productively in recent years on other bilateral issues. There will come a time, perhaps in the not too distant future, when Mexico's economic and social lag, together with an ageing population and changing demographic profile, will result in a shortage of labor to go to the US. In the meantime, it behooves both governments and civil societies to address the immigration issue sensibly, realistically and bilaterally.

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