Center for Immigration Studies

Backgrounder

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Be Our Guest

Trade Agreements and Visas

By Jessica Vaughan

The United States has signed on to an international framework for free trade in services that binds us to dysfunctional immigration policies, notably the professional guestworker programs. Without adjustments to both our planned treaty commitments on visas and our existing guestworker policies, continued U.S. involvement in future trade agreements could put the country on a one-way street moving toward wide open access for foreign workers under terms dictated by an international organization rather than our own democratically evolving immigration laws, with potentially disastrous consequences in professions such as nursing, technology, and even teaching. Before ratifying any new trade agreements on services, Congress must reform the temporary business and professional visa programs to allow for the legitimate conduct of trade in services without unleashing a flood of permanent guestworkers.

In July 2003, Congress ratified two new free trade agreements negotiated by the Office of the U.S. Trade Representative (USTR), adding Chile and Singapore to the growing list of nations enjoying a preferential trading relationship with the United States. The other countries receiving preferential treatment are Canada, Mexico, Israel, and Jordan. Negotiations are currently underway with a long list of other countries (See Table 1). In addition, the United States is a member of the World Trade Organization (WTO), an international body created by signatories to the General Agreement on Trade in Services (GATS), engaged in ongoing negotiations to further liberalize trade, especially trade in services. These agreements are the product of an aggressive strategy to open up foreign markets to U.S. companies and to stimulate import competition in the domestic economy, which lowers prices for consumers. They are part of an international movement to facilitate the flow of goods and services across borders, which classical international economic theory holds will make us all better off. The trade agreements also are viewed widely as a useful foreign policy tool, promoting economic development and rule of law through healthy and productive interaction with a large, prosperous democracy.

This movement toward freer trade in services has important immigration policy implications. Past free trade treaties, most notably the North American Free Trade Agreement (NAFTA), significantly increased the flow of guestworkers, hurting U.S. workers in certain job markets and professions. Thanks to last minute congressional intervention, the Chile and Singapore free trade agreements should have a less noticeable effect. But the regional and WTO negotiations currently underway are much larger in scale. Without adjustments to both our planned treaty commitments and our existing guestworker policies, these agreements could put the United States on a one-way street toward wide-open access for foreign workers under terms dictated by international organizations rather than by our own immigration laws. The consequences for U.S. workers in "service" professions such as nursing, technology, and teaching are potentially disastrous. A festering trade dispute with Canada over U.S. licensing of foreign nurses provides a glimpse of things to come. Despite the claims of high-immigration advocates that it is too late to change course, Congress is still in a position to adjust our guestworker programs to guard against their exploitation as a result of loosely negotiated trade pacts.

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Among the findings in this examination of trade agreements and guestworkers:

- Trade agreements increase the flow of guestworkers, both because of more trade and because they routinely include immigration law changes that allow more people to qualify for guestworker visas.

Table 1. Future Trade Agreements

Treaty/Countries	Status
Central American Free Trade Agreement	Negotiations to be completed 12/03
Costa Rica	
El Salvador	
Guatemala	
Honduras	
Nicaragua	
South African Customs Union	Launched 6/03
Botswana	
Lesotho	
Namibia	
South Africa	
Swaziland	
Free Trade Area of the Americas	Launched 12/94; Still in progress
25 Latin American Countries	
Ongoing Initiatives	
Australia	Negotiations to be completed 12/03
Morocco	Launched 1/03
Middle Eastern Countries	Proposed 5/03
Bahrain	USTR consulting with Congress
Proposed by Congress	
Taiwan	
New Zealand	
United Kingdom	

Source: Office of the U.S. Trade Representative, www.USTR.gov

- Guestworkers admitted as a result of trade pacts have had a noticeable effect on employment prospects and salaries for Americans in health care and computer-related fields. Eighty percent of the foreign nurses and physical therapists admitted in 2002 entered on NAFTA guestworker visas.

- U.S. trade negotiators include guestworker provisions in the treaties under the guise that they are "temporary." The reality, as expressed by guestworkers, their employers, and the statistics, is that professional guestworkers tend to be permanent. U.S. law does not discourage foreign guestworkers from staying permanently.

- The United States is more generous than it needs to be in its commitments to provide access to guestworkers. Tighter rules on duration of stay, for example, would be more in keeping with international norms.

- Provisions on H-1B visas do not belong in trade agreements. The H-1B visa covers an employment relationship, not trading activity. This interpretation is supported by WTO documents.

- The agreements the United States has signed include no provisions to allow it to protect U.S. services, workers, or providers, unlike the safeguard measures available for manufacturers of goods.

- The WTO provides a forum for other countries to challenge U.S. immigration laws as "barriers" to trade in services, and experience with other trade disputes shows that the United States does not fare well in this arena.

- Because the language in the trade agreements, especially the WTO documents, is vague, sometimes contradictory, and open to interpretation, much of the impact of the agreements depends on the degree to which the President is inclined to adopt a negotiating stance aimed at protecting U.S. services professionals from being displaced by foreign guestworkers. Thus far, this administration has not demonstrated such an interest.

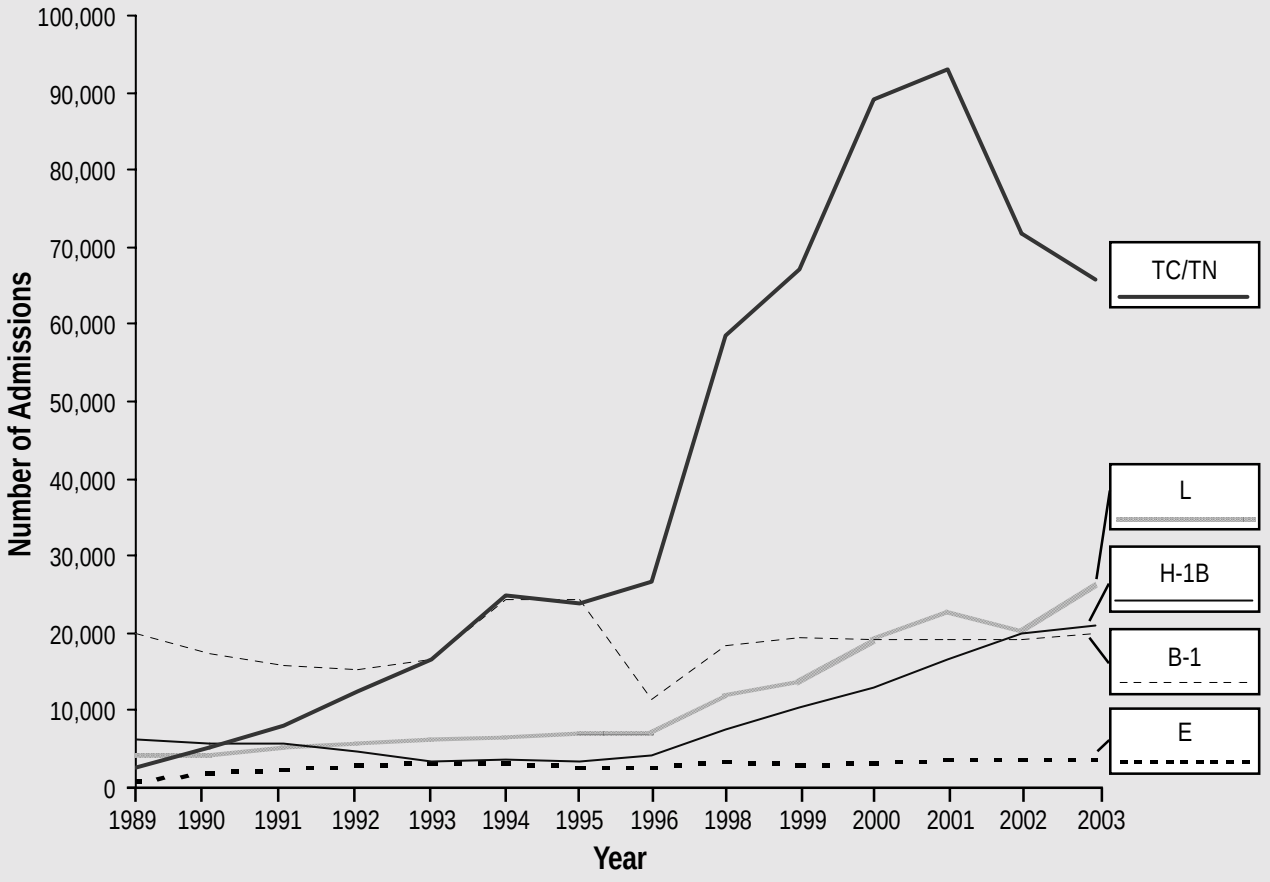
The NAFTA Experience

NAFTA was the first major trade pact signed by the United States to bring significant immigration consequences. In addition to increasing illegal immigration as farmworkers abandoned Mexican farms in the wake of competition from U.S. agricultural exports, NAFTA also increased the flow of professional guestworkers. This increase occurred for two reasons. First, the expansion of trade by definition brings additional visitors and additional use of existing guestworker categories for trade-related purposes. Secondly, and more importantly, NAFTA loosened regulations in these categories and created a new guestworker program.

In an analysis of the impact of the two U.S.-Canada free trade agreements (the Free Trade Agreement of 1989 and NAFTA, its successor) on the flow of professional workers from Canada to the United States, Canadian economist Steve Globerman found a significant increase in the flow of temporary migrants from Canada to the United States over the 1990s (See Table 2).[1] He points out that this outcome is contrary to the classical view of free trade, which holds that free trade should actually reduce incentives for international migration by leading to equalization of the factors of production. This has not happened, says Globerman, because modern multinational corporations emphasize factor mobility, and because of the existence of market imperfections, which together have caused the movement of goods and the movement of factors of production — in this case labor — to be complements, not substitutes, as the classical theory holds. This is especially true of trade in services. For example, a company exporting high-tech or complex goods or services requiring skilled maintenance or installation could hire skilled employees in the foreign market. The alternative chosen often by foreign companies in the United States is instead to relocate cheaper employees from the home country when immigration laws allow, as U.S. laws now do.

Globerman observed that the increase in the flow of Canadian guestworkers to the United States is not due merely to trade liberalization itself — that is, factor mobility and business need. It has occurred also

Table 2. Canadian Guestworker Admissions by Visa Type, 1989-2003



Note: Data for 1997 are unavailable. Source: Office of Immigration Statistics, U.S. Department of Homeland Security

Table 3. NAFTA (TN Visa) Admissions, 1996-2003

	1996	1998	1999	2000	2001	2002	2003	Total:
Canada	34,438	76,053	85,704	110,740	113,654	86,664	65,739	**572,992**
Mexico	243	824	1,737	2,720	3,341	2,366	1,268	**12,499**
Total:	**34,681**	**76,877**	**87,441**	**113,460**	**116,995**	**89,030**	**67,007**	**585,491**

Note: Data for 1997 are unavailable. Total TN admissions include workers, and their spouses and children.
Source: Office of Immigration Statistics, U.S. Department of Homeland Security

because of the fact that the free trade treaty eased the restrictions on movement of workers in several ways. In other words, the migration was not just trade-driven, but regulation-driven as well. According to Globerman, "the introduction of new visa arrangements for temporary workers under the FTA and the NAFTA has made it much easier and cheaper for skilled professionals and managers to migrate across national labor markets."[2]

The complementarity of trade and immigration would be reduced if trade laws and immigration laws were crafted independently of one another; if they were, then immigration laws could serve as a brake on increased migration caused by trade liberalization. But visas have been a part of trade agreements since the 18th century when the first treaties of friendship, commerce, and navigation were signed. The USTR to this day takes the position that temporary visas are necessary to free trade, as posted on its website: "The international mobility of business professionals — particularly as employees providing services — has become an increasingly important aspect of competitive markets for suppliers and consumers alike. Facilitating the movement of professionals allows trade partners to more efficiently provide each other with services such as architecture, engineering, consulting, and construction."[3]

The regulatory changes under the FTA and NAFTA were significant. The FTA made Canadians exempt from most guestworker visa regulations, including the need for the employing sponsor to get prior approval to hire someone from abroad. Before these agreements, Canadian professionals had to obtain an H-1B non-immigrant visa, which has an annual cap on admissions and other provisions to protect American workers. NAFTA created a new visa, the TN, which allowed Canadian citizens to simply present documents and credentials to immigration officials at the port of entry and bypass the multi-agency approval process. TN visas are renewable indefinitely and there are no limits on the number of admissions (See Appendix for more information, Page 15).

Mexicans, on the other hand, must have an employer submit petitions and the Labor Condition Attestation (a document the employer signs saying that the wages and working conditions will be the same as for Americans, among other things). Visas are limited to one year, and until September 30, 2003, were capped at 5,500 a year (now they are unlimited). Mexicans cannot apply at the port of entry; they must go to a U.S. consulate to get a visa. Table 3 illustrates the use of the TN visa since 1996.

It is difficult to determine which factor contributed more to the increases in the number of Canadian guestworkers: trade liberalization or the loosening of guestworker laws. Globerman found that the number of L-1 visas, for intra-company transferees, a category that would presumably be closely related to trade activity, bore more of a correlation to growth in trade than the other guestworker categories. The annual flow of Canadian workers has increased in all categories available except H-1B. Use of H-1B has dropped off significantly among Canadians, probably because the TN visa is so much easier to use.

NAFTA also made it easier for Canadians and Mexicans to enter in other non-immigrant categories, such as B-1 and E. The treaty opened up the use of the B-1 visa for bus drivers, truckers, repair and maintenance personnel, general professional service providers, interpreters, and tourism personnel. NAFTA also enabled Mexicans to qualify for the first time as treaty traders or investors under the E visa.

"Temporary" Guestworkers

In the case of Canadians, Globerman found that the increase in temporary immigration seemed to result in more permanent immigration: "A growing percentage of Canadians entering the United States under various temporary visas are converting their status to permanent residents. It is possible that the substantially stronger American labour market is encouraging Canadians who would otherwise return to Canada after participating in the U.S. market to remain indefinitely."[4]

Certainly most, some say two-thirds, of the people who are able to obtain temporary work visas view them as a ticket to permanent residence. [5] Employers, too, for the most part view workers on temporary visas as permanent employees. A survey of

American companies hiring Canadians via TN visas found that employers consider the period of employment to be indefinite.[6] This is true of other guestworker employers, too. Referring to H-1B workers, Intel human resources attorney Patrick Duffy recently said, "These are not temporary workers to us. The H-1B visa is just one step in making these workers U.S. workers. Hopefully they'll stay with Intel . . .the rest of their lives."[7]

Although originally intended to enable U.S. employers to temporarily fill jobs demanding skills in short supply in this country, in recent years, laws on guestworker visas have evolved to facilitate their use as a shortcut to a green card. Most guestworker visas are good for six years or more (unlimited for TNs and Es), and applicants need not pretend to be planning to return to their home country to qualify, as is the case non-employment visas. In 1990, one employment-based green card category (Employment First Preference) was re-worked to more easily accommodate applicants from two temporary visa categories.[8]

Immigration statistics confirm that many guestworkers remain here permanently. In 2002, more than 100,000 people adjusted status, or received a green card, from guestworker or business visitor status. Over the last three years, more than 280,000 have become permanent residents after temporary U.S. employment (See Table 4). Hundreds of thousands more are in the queue to adjust. Clearly, guestworkers have become a permanent fixture in the U.S. labor force.

Jobs Taken by Guestworkers

While NAFTA guestworkers fill a wide variety of professional jobs in the United States, they have had a significant impact on certain professions, notably health care. In some professions, the number of TN admissions is comparable to, or even greater than, the number of admissions in the better-known and globally-available H-1B program (See Table 5).

Table 4. Guestworker Adjusters

Year	Admissions
2000	63,894
2001	108,859
2002	108,497
Total:	**281,250**

Source: Office of Immigration Statistics, U.S. Department of Homeland Security

For example, though the TN program generates only about one-fifth as many admissions as the H-1B, and is open to only two countries, it brings in about 80 percent of the "health assessment and treatment" category, which covers nurses and physical therapists. In 2002, about 7,500 total nurse admissions were recorded, with 5,900 coming on TN visas, and most of the rest (900) on religious worker visas. This is despite the fact that there is already a special category for registered nurses (H-1A), which was used only 340 times in the year.

More than 10 percent of TN admissions in 2002 were to computer, mathematical, and operations research scientists (7,966), which is about the same as the number being admitted under H-1B (8,535).

These numbers are bound to increase rapidly in the next few years, as limits have been lifted on Mexican professional entries and as Chileans and Singaporeans take advantage of the new H-1B1. The Mexican state of Chihuahua has already started recruiting nurses for a Mexican headhunter with contracts to provide 3,000 nurses to hospitals in four U.S. states.[9]

A Blank Check for USTR

Despite their noticeable domestic impact, the changes to immigration law wrought by free trade agreements are made largely outside the usual legislative process, with only *pro forma* input from the public, or even from lawmakers with authority over immigration law. This is because free trade agreements are negotiated under the Trade Promotion Authority (TPA), or "fast track" process. TPA was passed by Congress in August of 2002, and it is in force until June 1, 2005. If Congress does not repeal TPA, it continues until July 1, 2007. TPA gave the President the authority to negotiate trade agreements and present them to Congress for expedited consideration (within 90 days). Congress may not amend the agreements, only vote them up or down. Before commencing any new negotiations, the President must inform the appropriate Congressional committees about its negotiating objectives, which must comply with a set of 17 "principle negotiating objectives" (Section 2102 of the Trade Act of 2002). Private industry, labor, and other interest groups also have the opportunity to provide formal input through trade advisory committees.

The principle negotiating objective of the United States regarding trade in services as stated in TPA is "to reduce or eliminate barriers to international trade in services including regulatory and other barriers that deny national treatment and market

access or unreasonably restrict the establishment or operation of service suppliers." This objective sounds impressive, but is wide open to interpretation on many critical practical questions such as, are visa laws enacted by Congress to be considered "regulatory barriers," and, if so, what level of control is "unreasonable?"

The USTR claims publicly that each free trade agreement is approached individually "to determine if the inclusion of a chapter on temporary visas will benefit U.S. trade in services and, if so, whether a section on temporary entry of professionals is needed in the agreement."[10] Yet USTR officials admit privately that they consider U.S. guarantees on guestworker admissions to be critical to the agreements as a matter of general principle. "The point is to nail down access so that it cannot be changed," said one senior trade agreement negotiator off the record.

First Test of TPA

By the time the Chile and Singapore Free Trade Agreements (hereafter FTAs), the first to be negotiated and adopted under TPA, hit Capitol Hill in July of 2003, it was clear that some members of Congress were having TPA buyer's remorse, at least with respect to the latitude taken by USTR on guestworker provisions.

The Chile and Singapore agreements state that each country shall grant temporary entry to professionals to "engage in a business activity" or to perform training. The FTAs spell out the rules for entry in four categories corresponding to the U.S. visa categories B-1, E, H-1B, and L. The treaties freeze existing regulations, stating that neither party may impose additional conditions such as labor certification, numerical limits, or other regulations beyond what is currently in force.

The original agreement negotiated by USTR also created a new visa category for Chilean and Singaporean guestworkers, offering an additional 1,400 visas annually for Chilean professionals and an additional 5,400 visas for Singaporean professionals.

It is unclear why USTR felt it was in the U.S. interest to include any language on temporary professionals in these FTAs. Both Chile and Singapore already have very liberal regulations for foreign temporary professionals, so access for U.S. citizens is not a problem.[11] Visa demand historically has been very low; in 2002, INS recorded only 728 H-1B admissions from Singapore and 428 from Chile, out of 198,000 total beneficiaries. According to a diplomat who participated in the negotiations, Singapore was "ambivalent" about the matter of access for its professionals to the United States.

When the treaty details became known, labor advocates began objecting to the agreements. In its report issued on February 28, 2003, the Labor Advisory Committee, made up of 58 union representatives and experts from an array of industries, unequivocably panned the FTAs and asked Congress to reject them. The Committee based its thumbs-down partly on the contention that the Administration had overstepped its negotiating authority and trampled on Congressional toes with respect to immigration law, compromising protections for U.S. workers in the process. With regard to the provisions on foreign guestworkers, "The negotiating objectives that Congress laid out for USTR in TPA do not include even one word on temporary entry. There is no specific authority in TPA to negotiate new visa categories or impose new requirements on our temporary entry system," said the report. It went on, "Immigration policy is a sensitive political issue, and changes in immigration policy have traditionally been the result of intense, open negotiations between workers, employers, immigration advocates, and elected members of Congress. These issues simply do not belong in fast-tracked trade agreements negotiated by executive agencies."[12]

With the future scope of the H-1B program already a source of controversy and mounting unemployment in the high-tech sector, where many of these guestworkers are employed, Republicans and Democrats on the House and Senate Judiciary Committees, at the urging of the AFL-CIO and low-immigration groups, balked at the prospect of admitting even more foreign professionals. During its review of the FTAs in July 2003, the House Judiciary Committee insisted that the new professional worker visas provided by these treaties be counted under the existing H-1B cap as H-1B1 visas, and not result in higher guestworker admissions.

That same month, a bipartisan group of three prominent senators, Sen. Dianne Feinstein (D-Calif.), Sen. Jeff Sessions (R-Ala.), and Sen. Bob Graham (D-Fla.), sent a letter to President Bush requesting that he re-negotiate the agreements to eliminate the immigration provisions. But in the end, the objectors could not muster the votes to derail the treaties, and the FTAs passed both chambers by margins of two to one.

The group of doubting senators, led by Sen. Feinstein, has kept up the drumbeat of disapproval. Soon after the Senate approved the FTAs, four senators, Feinstein, Patrick Leahy (D-Vt.), Jim Jeffords (I-Vt.), and Edward Kennedy (D-Mass.), introduced a bill to suspend the applicability of TPA to trade agreements that include any immigration law provisions (S. 1481). Several weeks later, Feinstein succeeded in

Table 5. Occupation of Guestworkers, Fiscal Year 2002

Occupation	Visa Type and Total Issuances			
	H-1B (Professionals)	L-1 (Transferees)	TN (NAFTA)	Total
All Occupations	**370,490**	**313,699**	**73,694**	**757,883**
Executive, Administrative, and Managerial Occupations	**84,944**	**122,406**	**12,652**	**220,002**
Professional Specialty	**112,336**	**52,694**	**35,587**	**200,617**
Engineers	59,184	32,180	9,493	100,857
Writers, artists, entertainers, and athletes	13,898	12,509	1,136	27,543
Computer, mathematical, and operations scientists	8,535	2,710	7,966	19,211
Natural scientists	4,775	2,196	2,671	9,642
Health assessment and treatment occupations (nurses, etc.)	1,682	269	7,293	9,244
Teachers (college and university)	6,218	154	1,219	7,591
Health diagnosing or treating occupations (doctors, etc.)	4,887	528	1,015	6,430
Teachers (except college and university)	4,926	207	420	5,553
Architects and surveyors	3,224	497	1,293	5,014
Lawyers and judges	2,853	905	746	4,504
Social scientists and urban planners	1,452	377	1,000	2,829
Social, recreation, and religious workers	263	105	641	1,009
Vocational and educational counselors	230	50	402	682
Librarians, archivists, and curators	209	7	292	508
Marketing and sales personnel	**14,068**	**13,336**	**410**	**27,814**
Technologists and technicians	**12,310**	**4,261**	**5,898**	**22,469**
Administrative support, including clerical	**3,077**	**2,496**	**424**	**5,997**
Service occupations (Household, food service, etc.)	**1,691**	**1,464**	**298**	**3,453**
Precision production, craft, & repair occupations	**1,656**	**1,497**	**186**	**3,339**
Operators, fabricators, and laborers	**1,080**	**1,199**	**110**	**2,389**
Farming, forestry, and fishing occupations	**268**	**121**	**109**	**498**
Other	**1,014**	**66**	**459**	**1,539**
Occupation unknown or not reported	**138,046**	**113,766**	**17,954**	**269,766**

Note: Figures are admissions for Fiscal Year 2002 and reflect the number of entries, not individuals.
Source: Office of Immigration Statistics, U.S. Department of Homeland Security

persuading the Senate Appropriations Committee to vote unanimously in favor of an amendment to the bill containing the USTR appropriations that would deny them the authority to negotiate immigration provisions in trade pacts. Said Feinstein: "As our experience with trade agreements with Chile and Singapore has shown, fast-track procedures offer no guarantees that the president or the USTR will ultimately respect the opinions and advice of senators and members of the House of Representatives."[13]

One source involved in the maneuverings characterized these actions as broadcasting "a message to the White House to never again send Congress a trade agreement with immigration provisions." But is that message getting through to the USTR? Recent statements from the office are not reassuring. First of all, USTR does not concede even that provisions in trade pacts on guestworkers have anything to do with immigration policy per se; officials are adamant that USTR addresses only "temporary entry," not "immigration." Secondly, USTR maintains that the agreements already "strike a careful balance between the needs of the U.S. service industry to provide competitive services while preserving the right of Congress to legislate on immigration policy."[14] This statement implies that a goal of the Administration in negotiating trade pacts is to guarantee the ability of U.S. companies in the services sector to lower costs by importing cheaper labor. This goal is definitely not on the list of congressionally approved negotiating objectives.

Big Promises

The Chile and Singapore FTAs served as a loud wake-up call for Congress on the degree to which it had empowered USTR to affect immigration law. While Congress succeeded this time in blocking provisions that would have resulted in higher levels of guestworkers, other important questions remain unresolved. To what extent has Congress already surrendered its power to regulate guestworker programs? Can it change its mind? And why do trade agreements include language on H-1B visas at all? These questions will be played out in the months to come as USTR moves toward completion of agreements with Central American and other Latin American countries. The stakes are even higher in the ongoing WTO negotiations, now involving 145 other nations, many of which already send large numbers of guestworkers to the United States.

The ongoing WTO negotiations are a spin-off of the General Agreement on Trade in Services (GATS), the first set of multilateral rules on international trade in services, signed in 1994. The WTO administers the rules of the treaty, works to propel continuing negotiations, and settles disputes. The United States and all signatories have committed to certain "Basic Principles" of trade in services such as market access, national treatment, and Most Favored Nation treatment. It identifies four ways of trading in services, including migration, or the "movement of natural persons," as it is known in WTO parlance. The movement of people is covered by Protocol 3 of GATS — which entered into force on January 30, 1996 — and various annexes. Members were required to state which service sectors would be open for competition and under what circumstances. In 2000, members agreed to launch a new set of negotiations, known as the Doha Development Agenda, with the goal of reaching a new set of agreements by January 1, 2005, committing members to work toward even greater liberalization of trade in services. Service providers are defined as people working in jobs as varied as architects, midwives, and construction workers, and many more types of jobs (See www.wto.org or www.ustr.gov for a comprehensive list). For its part, the United States essentially committed to freeze its regulations on B-1, E, H-1B and L visas, and impose no further limits on conditions or entry.

The scope of this agreement is obviously huge. Its language, including the most basic characterization of "movement of natural persons" as a type of services trade, is often vague, sometimes provisional, sometimes contradictory, and very subject to interpretation. It has raised ominous questions of national sovereignty and the wisdom of voluntarily subjecting U.S. laws to the approval of an international organization.

The GATS did endorse "the members' right to regulate and introduce new regulations on the supply of services in pursuit of national policy objectives," and the right to determine which service sectors would be opened. However, it also says that these regulatory measures must not "nullify or impair the benefits," that is, access, of any other country.

Fear of Commitments

Despite the uncertainty of its applications, U.S. membership in the WTO already is having a chilling effect on congressional efforts to reform professional guestworker programs. Proponents of liberal admissions policies have warned Congress that U.S. commitments under GATS prohibit it from changing the H-1B and L visa regulations in a way that would constrain admissions or put further conditions on

applications, despite widespread public interest in such actions. Testifying at a Senate immigration subcommittee hearing on L visa reforms in July, 2003, immigration lawyer Stephen Yale-Loehr said: "In considering any changes to the L visa category, Congress should be aware that some international free trade agreements contain immigration provisions. . . . Significantly, all three free trade agreements prohibit the parties from imposing or maintaining numerical restrictions relating to temporary entry of intra-company transferees. . . . Any legislation by Congress imposing a numerical limit on L visas might be considered a violation of these three free trade agreements."[15]

The USTR does not agree necessarily with that interpretation, nor with another oft-heard claim that U.S. laws cannot be changed without re-negotiating the entire agreement. While maintaining that free trade agreements are "a balance of rights and concessions," a senior USTR official insists that signatories keep complete sovereignty over their affairs. To make the point, the USTR web site offers excerpts from an op-ed written by two Heritage Foundation scholars: "The United States will always have the ultimate say over what our domestic laws provide. No future agreement could grant an international organization the power to change our laws." And, "Congress may at any time override an entire agreement by a simple statute."[16]

These statements are overly simplistic, and do not reflect the complex balance of "rights and concessions" to which the United States has agreed. If there is a dispute, which often happens when a country enacts a policy that its trading partner believes is contrary to the agreement, depending on the agreement and circumstances, the dispute resolution body can tell (and in fact has told) a country what to do. In a widely watched case that reached a head in December 2003, the WTO succeeded in coercing the United States into reversing tariffs it had imposed to protect the U.S. steel industry, by authorizing European and Asian nations to devise retaliatory tariffs aimed at politically sensitive regions of the United States. A news analysis in *The New York Times* remarked on the significance of the case: "Mr. Bush's decision to comply fully with the [WTO] ruling helped establish the trade organization's authority, showing that even the world's largest economic power, and the nation that spurred its creation, had to bend to its rulings."[17]

The WTO is sensitive about the question of sovereignty and a country's right to change its laws. The web site has a page devoted to countering the top 10 "misunderstandings" about the WTO, and Number One on the list is "The WTO does NOT tell governments what to do." Except when there is a dispute, the text continues a few paragraphs later. "If a government has broken a commitment, it has to conform." [18]

Changing a policy or law could very well amount to "breaking a commitment." For example, if Congress were to decide to alter the laws on guestworkers, such as by limiting the number of L-1s or imposing a labor market test, that would be counter to the Singapore and Chile agreements, and possibly NAFTA. In one sense, the two Heritage Foundation scholars are right; no one can tell Congress not to change U.S. laws. However, the action could trigger a trade dispute, if one of our partners felt injured by the new law.

Such a scenario is plausible. Singapore, for example, is a growing destination for technology-related off-shoring practices. In August 2003, just days after the Singapore FTA cleared Congress, Hewlett-Packard announced it was making Singapore its sole hardware development center for a key product.[19] These off-shoring activities depend on the L-1 visa program for initial training of staff and placement of liaisons stationed in the United States. If Singapore decided it was injured by a change in policy that limited the number of L-1s, it could bring a complaint before the dispute settlement panel provided for in the treaty. This panel would consist of three trade experts, one named by each country and one selected from an established international list, consisting mainly of current or former trade negotiators and diplomats. As a USTR official explained it, if the panel ruled against the United States, it would not necessarily have to change its law, but it would have to compensate Singapore in some way, such as by providing alternative access to service providers. In such a scenario, the United States would almost certainly pay some price for the change.

United States Has Not Fared Well

It is hard to predict how the United States might fare in a trade dispute over guestworker laws, but a report recently issued by the GAO provides some insight.[20] The investigation was launched in response to Congressional concerns that some WTO dispute resolution panels were compromising the United States' ability to protect domestic industries from being injured by unfair trade practices. Some members had also expressed concern that WTO rulings had "created new obligations for WTO members beyond those found in the WTO agreements." The GAO analyzed eight years of WTO dispute settlement activity, from 1995-2002, focusing on trade remedy cases. Trade remedies are

measures a country adopts after determining that a domestic industry has been harmed or threatened by imports. It found that the United States was a defendant in a disproportionate number of these cases (about half), while it rarely challenged other countries' practices. Though only a small number of all trade remedies were ever challenged (4 percent), the United States had 12 percent of its remedies challenged.

The GAO found that the WTO generally was unsympathetic to its members' domestic determinations (a finding by a government agency that a domestic industry is being harmed). Further, while the WTO usually upheld the trade remedies imposed, on two occasions it rejected a U.S. law. The report found that, "as a result of the 14 cases in which the United States was a defendant, two U.S. laws, one regulation, and three practices were changed or are subject to change. In addition, the rulings in nine of those cases necessitated the one-time revision to, or removal of, 21 U.S. trade measures."[21] Over the same period, no other country's laws or regulations were affected (though seven remedies were revised or removed).

Service Providers Not Protected

There is one important difference between the activities that were the subject of the trade disputes investigated by the GAO and the kind of activities involved in a dispute that might be triggered by a change in U.S. laws on guestworkers. So far, most, if not all, trade disputes have arisen over a country's desire to protect a domestic industry from the importation of foreign goods. The guestworker rules in trade agreements are designed to facilitate trade in services, and there are no provisions for domestic safeguards in this area, either in the Chile and Singapore agreements, or in the WTO framework. According to a USTR official, the reason the treaties do not provide for the imposition of safeguards is that no one can figure out what a legitimate remedy or safeguard would be, or how it could be implemented. He also suggested that USTR sees no need for such safeguards: "Trade in services necessarily involves the movement of people, and that is in the U.S. interest."

Canada to Test U.S. Resolve

A trade dispute is festering on the horizon that could force these still-hypothetical issues into the real world. The complaint comes not from a developing nation seeking to expand its technology services sector, but from Canada, one of our oldest trading partners.

The subject of the Canadians' ire is a newly-finalized set of regulations requiring that foreign health care workers coming to work in the United States be appropriately credentialed and demonstrate adequate English language skills. The law says that foreign health care workers must first obtain a certificate, known as VisaScreen, verifying that their education, training, licensing, experience, and English skills are comparable to those of American health care workers. The rule applies to nurses, physical therapists, physician assistants, occupational therapists, speech language pathologists, and medical technologists and technicians.

The law was passed in 1996 (Section 343 of IIRAIRA) in the wake of federal investigation into widespread exploitation of foreign nurses, following one of the largest immigration-related Department of Labor prosecutions in history, against the owner of a chain of nursing homes in Oklahoma and Texas. This individual was convicted of conspiring to sponsor nurses on temporary visas, and then exploiting them in a variety of ways after their arrival.[22]

At the time, nurses were admitted on H-1A non-immigrant visas, a category created in 1989 to alleviate a perceived nursing shortage. That program admitted more than 25,000 foreign nurses over four years, before it ended in 1995. In 1999 Congress created the H-1C visas, which is limited to 500 visas a year, with no more than 50 per state. In the meantime, thousands of Canadian nurses began taking U.S. nursing jobs using the TN visas created under NAFTA. Between 5,000 and 7,000 nurses have entered the United States each year since 1994, with just over 5,800 nurse admissions recorded in 2002.[23] The Canadian Nursing Association has estimated that Canada has lost about 10 percent of its nurses.[24] Very few U.S. nurses go the other way.

According to the Employment Training Administration of the U.S. Department of Labor, which oversees the labor certification process for guestworkers, nursing is a "permanent shortage profession." Hospitals around the country are reporting shortages of RNs around 20 percent,[25] and foreign nurse recruiting has become big business.[26] U.S. nurse advocates maintain instead that the shortage is manufactured by big hospitals trying to cut costs, and artificially perpetuated by deliberately limiting enrollment at U.S. nursing schools.[27]

Stephanie Tabone, Director of Practice at the Texas Nursing Association, says that exploitation of foreign nurses is still widespread and that the continued influx is causing noticeable wage depression for nurses in certain areas of the country. "Hospitals can bring in even very experienced nurses from abroad, and call them

entry level, so they can get away with paying them less." Even a sub-standard U.S. salary would be appealing to Canadians for a variety of reasons.[28]

Section 343 was applied promptly to all health care workers arriving as immigrants. But the INS and State Department delayed applying the rules for temporary health care workers until July 2003, with the final rules to go into effect July 2004. This delay was due, in part, to threats from the Canadian government that it would launch a trade complaint, according to Cheryl Peterson, Senior Policy Fellow for International Affairs at the American Nurses Association, and a member of the USTR Labor Advisory Committee. "When the law was passed in 1996, the Canadians said that as soon as the regulations were issued, they would file a complaint," charging that the credentialing requirement amounted to a trade barrier. Despite the obvious need to credential health care workers, this charge has been echoed by others in the international trade community.

For its part, Canada has adopted strong laws to protect its domestic nurses. Nationally, nurses may only be admitted if there is a labor shortage, or if the nurse is pursuing "enterprise" opportunities, such as investment.[29] Only Canadian citizens and permanent residents may practice nursing in Ontario or Quebec.

Overly Generous in Visa Offers

Such clashes between the United States and its trading partners are likely to become a staple of foreign affairs as the services trade liberalization agenda is gradually expanded. The scope of the international trade agenda to which the United States has signed on is vast, and will challenge many sectors of the economy, including the government's own procurement policy. And, as a WTO member, the United States has committed to continuing to participate in the effort to further liberalize trade in services.

The Doha Development agenda set a goal of reaching a new set of agreements by January 1, 2005. These negotiations are proceeding under what is called the "request/offer" system, whereby countries submit requests for commitments from other countries and make offers of commitments on access to markets. The requests were due June 30, 2002 and the offers were due March 31, 2003.[30]

The United States has made a generous offer concerning foreign guestworkers. It proposes to guarantee B-1 businessmen a stay of at least 90 days, intra-company transferees a stay of at least five years, H-1B professionals a stay of at least three years, and an indefinite stay for treaty traders/investors. This offer merely sets a minimum guaranteed period of stay in the category; current U.S. law permits even longer stays: six months to a year for Bs, seven years for Ls, and six years or more for H-1Bs.

In comparison, the vast majority of WTO countries who limit the stay of business visitors limit them to three months. Of those who limit the stay of intra-company transferees (50 countries), the maximum stay is five years. The largest number of countries with a time limit on intra-company transferees (18 countries) made the limit three years.[31]

At least six countries have numerical limits on the number of intra-company transferees who may be admitted (the United States does not). Fifteen countries require them to be paid a minimum wage (the United States does not). Several countries refuse visas in this category if there is a labor dispute (the United States does not have this protection for domestic workers in this category). A few countries have even more onerous restrictions for transferees, such as work permits or residency requirements; three countries require work permits even for ordinary short-term business visitors.

Thus, many of the proposed changes to the L visa program currently before Congress are comparable to the practices of fellow WTO members, and should not be considered particularly reactionary in the international context. But in its Doha Round offer, the USTR has already attempted to shut the door to these reforms by making commitments to the WTO membership based on current law, with all its flaws. Then again, according to the WTO rules, countries supposedly may withdraw their commitments. If a member does so, however, it risks igniting a trade dispute. While at first glance it might seem that another country would have a hard time demonstrating it was harmed by a revision to U.S. law, especially if that revision was not out of line with the policies of other countries, it would, in fact, be up to a WTO dispute resolution tribunal to decide.

H-1Bs Do Not Belong

The inclusion of guarantees on H-1B admissions and conditions in the U.S. offer is also significant and well beyond what the GATS treaty expects of its members. The original Uruguay Round negotiations addressed only the intra-company transferee and short-term business visitor categories (in U.S. law, L and B visas). These are the two categories most closely associated with international trade (the United States also has the E category for treaty traders and investors). The scope of

the negotiations was expanded at the behest of six members of the WTO: Australia, Canada, the European Union, India, Norway, and Switzerland.

According to the GATS Annex on movement of natural persons, the commitments therein apply only to those seeking temporary entry: "This Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Member," nor to regulations on citizenship, residency, or permanent employment.[32] The WTO bureaucracy acknowledges that "temporary" can be a slippery concept. An explanatory note issued by the WTO Secretariat says: "There is no agreed definition in the literature of what constitutes 'temporary' presence; nor is there a definition, or a specified time frame in the GATS."[33]

According to this language, the GATS does not apply to guestworkers in the H-1B category. That category was created to allow U.S. employers to hire foreign professionals who enter expressly for employment, often in a job that is considered permanent, even if the guestworker's status is not. H-1Bs are paid by the U.S. company, and they are considered employees, not transfers or short-term visitors. The H-1B visa has no inherent connection to international trade; it is simply a way for a company to fill a job.

The U.S. offer also includes limitations on foreign service providers, such as licensing requirements and other conditions on practice in health care, financial services, law, and other professions, many of which follow state laws or professional standards of practice. Theses standards may also be threatened by GATS. Article VI.4, on Domestic Regulations, established in 1995, commits member countries to work to establish "disciplines" on the conditions service providers must meet in order to operate in a market. The treaty says these rules must not be "more burdensome than necessary." This process is not handled with a scheduling system, as access issues are, so presumably the interpretation will be left up to the WTO dispute tribunals. This article is to become legally binding by January 1, 2005.

The NAFTA experience offers some insight into how this might play out. A similar provision on licensing requirements was included in NAFTA. According to Cheryl Peterson of the American Nurses Association, the various state licensing organizations worked in good faith to try to coordinate their requirements. One result was VisaScreen. The Canadian system was supposed to be similarly centralized but, instead of harmonizing regulations, several provinces took the opportunity to install new, more restrictive requirements that had not existed before, such as residency and language requirements. The end result was that the U.S. regulations got harmonized in good faith, while Canada's barriers grew higher than before.

Other countries are also positioning themselves to use the WTO agreements as a way to force changes in U.S. immigration law to the benefit of their citizens. "Easier movement of professionals across borders under the GATT [sic] regime is driving our business model," states one Indian headhunter.[34] India's government is in the process of liberalizing its accounting rules as part of the WTO negotiations, giving U.S. and other countries' firms access to its markets. Indian firms, whose costs are a fraction of those in industrialized countries, will then receive reciprocal access to U.S. and other markets. Meanwhile, another Indian recruiter has asked its government to launch a complaint in the WTO to demand an end to what they consider to be overly restrictive trade practices by the U.S. educational establishment, i.e. certification and language requirements, so that more Indian teachers will be allowed to work in the United States.[35]

The Indian government has already complained about the recent lowering of the H-1B cap from 195,000 to 65,000 visas a year. The president of India's largest trade group of software and business services companies, whose 850 members have applied for nearly 300,000 H-1B visas over the past three years, has announced that it plans to push the WTO to create a new professional guestworker category that will have no limits on the duration of stay, essentially creating a new form of indefinitely temporary visa equivalent to the TN visa for Mexicans and Canadians.[36]

Coming Attractions: CAFTA and FTAA

Frustrated with the glacial pace of the WTO negotiations, the Bush administration has displayed a preference for bilateral and regional trade agreement negotiations, purportedly as a way to spur the WTO negotiations forward more rapidly. Next in the pipeline are the Central American Free Trade Agreement (CAFTA) and the agreement to create the Free Trade Area of the Americas (FTAA).

By agreement of all the participating countries, the CAFTA documents are being kept under wraps and unavailable to the public until the conclusion of the negotiations, which is scheduled for December 2003. The USTR has indicated that the agreement will be based on the text of the Chile FTA.

The draft FTAA documents have been published, but they clearly are still a work in progress (See www.ftaa-alca.org/alca_e.asp). The most recent draft, dated November 21, 2003, includes language committing the countries to guarantee admission to businesspersons, traders and investors, intra-company transferees, and professionals and technicians. Notably, the draft agreement forbids numerical limits, labor certification, or other similar regulations to limit the entry of transferees.

At this point it is difficult to determine if the section on "Professionals and Technicians" is meant to guarantee entry for professionals on a short-term basis, presumably using the B visa, or entry for a longer period, presumably using the H-1B visa, or perhaps H-1B1. The draft forbids countries from requiring advance approval of the visa, such as a petition, and forbids numerical limits on these visitors. It does not yet specify which professions will be covered, the duration of stay, or other provisions that would distinguish the B short-term business visitor from the H-1B guestworker. The draft says that these details will be negotiated in the future.

Recommendations

U.S. involvement in an international organization dedicated (in part) to making it easier for foreign service providers to set up shop can only be bad news for U.S. immigration policy, not because trade in services is inherently bad, but because our immigration policies are not up to the task. Under current law, the notion of a "temporary guestworker" is a charade; neither the U.S. employer nor the foreign worker considers the arrangement to be temporary. But the "temporary" label enables U.S. trade negotiators and other policymakers to use the guaranteed availability of these visas as a throwaway bargaining chip, with potentially disastrous consequences for American professionals unlucky enough to have to compete in the markets affected.

The trend toward bilateral and regional agreements as an alternative to the glacial movement of the WTO negotiations is preferable, because the United States enjoys more leverage, although congressional and public input is still severely limited under TPA.

Rather than scrapping U.S. involvement in trade liberalization, for those uncomfortable with the immigration consequences, it makes far more sense to clean up our immigration laws to accommodate for changes on the trade front. This is possible to accomplish even within the bounds of what the United States has already promised:

- New guestworker categories are unnecessary. Creation of the TN has led to "me too" requests from other countries, but should be resisted.

- Align our trade-related, non-immigrant visa regulations to those of other countries, particularly with respect to duration of stay. Business visitors should get no more than 90 days; Intra-company transferees should get no more than five years; and Treaty Traders and Investors should be required to re-apply every three years, re-document their trading activities, and demonstrate that the United States has not become their permanent home. The Department of Homeland Security should collect information on the E category to ensure that it is working as intended.

- Until reliable safeguards are negotiated, strict numerical limits should be imposed on all guestworker categories. Because of the unpredictability of the WTO dispute resolution process, numerical limits should be adopted in all guestworker categories as a permanent safeguard against unnecessary harm to domestic services providers.

- The law should require all guestworker visa applicants to demonstrate that they are not abandoning their residence and/or ties abroad. This change is in accord with trade agreements already signed, and would bring consistency to U.S. non-immigrant visa regulations.

- Intra-company transferee (L) regulations should be tightened to reduce fraud and weaknesses in the program that enable it to be used as a regular employment visa category, rather than for high-level transferees within multinational companies. These changes are essential if the United States is to lock in access under this category. The most promising reforms proposed are eliminating the specialized knowledge category, the blanket certification, and the sub-contracting of workers.

- H-1B visas should be removed from the purview of trade agreements. This visa program is intended to meet the staffing needs of U.S. employers, and has nothing to do with trade. Although they are already part of the U.S. Doha commitments, according to the WTO, commitments can be modified or withdrawn. Due to the impact of H-1B guestworkers on the U.S. labor market and the absence of safeguards in the treaty for trade in

services, it would be prudent not to lock in on any H-1B commitments. One solution would be to eliminate the H-1B program entirely, in favor of a streamlined employment visa program. This would allow U.S. businesses to continue to hire foreign talent as needed and acknowledge that the workers are here to stay, while at the same time subjecting them to the labor market tests, numerical limits, and background checks that are a part of the permanent employment visa program.

Even with these reforms, Congress should think carefully before agreeing to freeze for perpetuity any immigration regulations, especially given the unpredictability of the international dispute resolution process. Experience shows that demand for access to the United States is so great that individuals and visa brokers in other countries would soon exploit every weakness in our visa laws to gain entry. The United States must have the option of protecting its domestic service providers should any new trade agreement unleash a flow of new guestworkers, such as nurses, teachers, bus drivers, or software specialists. All treaty signatories should have the opportunity to deal with unforeseen events, and the current agreements do not provide for that now, at least not without a heavy price.

The trade agreements, particularly the Doha agreements, require an unreasonable degree of commitment in immigration law beyond what is necessary to achieve more open markets. USTR will have to work harder in the current rounds to convince Congressional skeptics that it is capable of producing an agreement that does not leave the home front unguarded as it furthers our global trade ambitions.

Endnotes

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[8] See Jessica Vaughan, *Shortcuts to Immigration: The 'Temporary' Visa Program is Broken*", Center for Immigration Studies, January 2003.

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[11] U.S. citizens wishing to travel to Singapore for business need no visa, just a return ticket and adequate funds to support the trip. The visa is usually good for 30 days. Employers may request an "employment pass", or work permit, to hire a foreign worker. The availability of these passes is widely promoted by the government and private recruiters. American business people need no visa to travel to Chile, and will be awarded a stay of 90 days, renewable. Work visas good for two years (renewable) are issued upon presentation of a notarized contract and supporting documents.

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[31] Tables 10 and 11 in *Presence of Natural Persons* (Mode 4), "Background Note by the Secretariat" (98-4927), December 8, 1998. See www.wto.org

[32] "Annex on movement of natural persons supplying services under the Agreement," at www.wto.org/english/tratop_e/serv_e/8-anmvnt_e.htm.

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[34] "Max launches com to train nurses for U.S. jobs," *Economic Times of India*, October 16, 2003.

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Appendix. Guestworker Categories Covered by Trade Agreements

Treaty Nationals (TN) -- 2003 Admissions: 67,000
Created by NAFTA and available to Canadian and Mexican workers in prescribed professions. Bachelor's degree is required. Unlimited annual admissions. Renewable indefinitely. No labor certification or prevailing wage requirement. Canadians process at border; Mexicans apply at U.S. consulates.

Business Visitors (B-1) -- 2003 Admissions: 4,206,000
Designed to permit the temporary entry of foreign business people who are paid by a foreign company and who are not entering the U.S. labor market. Duration of stay can be up to six months, with a possible extension to one year. NAFTA liberalized the rules under which Canadians and Mexicans enter in this category, allowing bus drivers, truckers, repair and maintenance personnel, general professional service providers, interpreters and tourism personnel to qualify.

Under the Chile and Singapore FTAs, the United States may not require a labor market or wage test for this visa, nor establish a cap on admissions from Chile or Singapore.

Treaty Trader and Treaty Investor (E) -- 2003 Admissions: 169,000
Open to nationals of countries that have signed trade treaties with the United States to spur foreign investment and job creation here. Intended for those carrying on "substantial" trade in goods or services or investing significant amounts of capital in a business. The visa holder should be an executive, supervisor, or have "essential skills." Unlimited duration of stay. No numerical limits. No evidence available on the extent to which the E program actually creates jobs for Americans or the amount of foreign investment generated.

Because the E visa program offers an unlimited stay and the regulations are complex and difficult to enforce, it is vulnerable to fraud and abuse as a backdoor immigration route and/or source of cheap labor.

The Chile and Singapore FTAs are likely to result in increased admissions in the category, and commit the United States to forego any labor market tests or numerical limits on E visas. Future trade agreements will also expand admissions.

Intracompany Transferees (L) -- 2003 Admissions: 303,000
Intended for managers, executives, and those with specialized knowledge who work for multi-national companies with a presence in the United States. Duration of stay is five to seven years. No limit on annual issuances. No requirement that the company try to find a U.S. worker first, pay a prevailing wage, or refrain from laying off U.S. workers. Holders may adjust to permanent residency, and need not demonstrate non-immigrant intent to receive a visa. Easy transition to a green card (See "Shortcuts to Immigration," by Jessica Vaughan, Center for Immigration Studies *Backgrounder*, January 2003).

Issuances have risen dramatically in recent years, from 80,000 in 1997 and peaking at 120,000 in 2001 (not including Canadians, who do not require an L visa to be transferred to the United States). Some multi-national companies used the visa to replace U.S. staff with foreign staff working at far lower salaries. Some foreign-owned consulting firms provide cut-rate technology services by bringing in thousands of foreign workers on L visas to work for U.S. clients as sub-contractors in the place of regular U.S. employees (See testimony of Patricia Fluno, Michael Galdea, and Beth Verman before the U.S. Senate Sub-committee on Immigration, at http://www.senate.gov/~judiciary/hearing.cfm?id=878).

This year four bills have been introduced in Congress to reform the L visa program. Proposals include banning the use of L visa holders from working on the site of a company other than the sponsoring employer, capping annual issuances to 35,000, requiring employers to pay visa holders the "prevailing wage," and reducing the permitted duration of stay to a maximum of five years.

Professional Workers (H-1B) -- 2003 Admissions: 359,000
Allows U.S. companies to hire on a temporary basis foreign professionals with skills in short supply in this country. Lawmakers have struggled in recent years to ensure that H-1B workers do not displace U.S. workers, to reserve its use for bona fide skilled worker shortages or temporary staffing needs that cannot be filled by U.S. professionals.

Annual cap of 65,000 visas (down from a temporary increase to 195,000) except for workers at educational or non-profit organizations, who are admitted in unlimited numbers. In 2002, the exempt workers represented 40 percent of the total number of H-1B visas approved.

This visa program has become controversial in recent years due to the concentration of H-1B technology workers, which many believe has contributed to high unemployment in that sector. Fraud is widespread. According to a recent GAO report, the DHS lacks key data on H-1B workers, hampering its oversight of the program.

The Chile and Singapore FTAs added a sub-category with a guaranteed level of admissions within the overall cap for those countries.

Chile and Singapore Professionals (H-1B1)
Created by Congress in the implementing legislation for the Chile and Singapore FTAs as an alternative to the USTR-negotiated "W" visa, which would have been equivalent to the TN visa. Guarantees 1,400 visas annually for Chile and 5,400 for Singapore. Rules are similar to H-1B and include a labor condition attestation, but they are issued in one-year increments, renewable indefinitely, like TN visas. After six years, the visa is again counted against the annual cap. Congress aimed to deter use of the visas as a stepping-stone to a green card by requiring applicants to convince immigration authorities that they intend to return home, something not now required of H-1Bs.

Immigration officials are still working out the details, but say that the plan is for 6,000 to 7,000 petition approvals to be set aside for Chileans and Singaporeans each year, beginning on October 1, 2003. Those numbers that do not end up being used by Chileans and Singaporeans will become available to applicants from other countries in the first 45 days of the next fiscal year.

Source: Office of Immigration Statistics, U.S. Department of Homeland Security

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Backgrounder

Be Our Guest

Trade Agreements and Visas

By Jessica Vaughan

The United States has signed on to an international framework for free trade in services that binds us to dysfunctional immigration policies, notably the professional guestworker programs. Without adjustments to both our planned treaty commitments on visas and our existing guestworker policies, continued U.S. involvement in future trade agreements could put the country on a one-way street moving toward wide open access for foreign workers under terms dictated by an international organization rather than our own democratically evolving immigration laws, with potentially disastrous consequences in professions such as nursing, technology, and even teaching. Before ratifying any new trade agreements on services, Congress must reform the temporary business and professional visa programs to allow for the legitimate conduct of trade in services without unleashing a flood of permanent guestworkers.

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