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## U.S. Immigration Policy on Permanent Admissions

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# U.S. Immigration Policy on Permanent Admissions

## Summary

When President George W. Bush announced his principles for immigration reform in January 2004, he included an increase in permanent immigration as a key component. Some commentators are speculating the President is promoting increases in the employment-based categories of permanent immigration, but the Bush Administration has not yet provided specific information on what categories of permanent admissions it advocates should be increased and by what levels. The Bush proposal has prompted a lively debate on immigration reform.

Four major principles underlie U.S. policy on permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. These principles are embodied in the Immigration and Nationality Act (INA). The INA specifies a complex set of numerical limits and preference categories that give priorities for permanent immigration reflecting these principles. As defined in the INA, “immigrants” are synonymous with legal permanent residents (LPRs) and refer to foreign nationals who live lawfully and permanently in the United States.

During FY2002, a total of 1,063,732 aliens became LPRs in the United States. Of the total LPRs in FY2002, 63.3% entered on the basis of family ties. Additional major immigrant groups in FY2002 were employment-based preference immigrants (including spouses and children) at 16.4%, and refugees and asylees adjusting to immigrant status at 11.9%. Mexico led all countries with 219,380 aliens who became LPRs in the United States. India followed at a distant second with 71,105 LPRs. The People’s Republic of China came in third with 61,282. These three countries comprised one-third of all LPRs in FY2002.

There are significant backlogs due to the sheer volume of aliens eligible to immigrate to the United States. As of December 31, 2003, U.S. Citizenship and Immigration Services (USCIS) reports 5.3 million immigrant petitions pending. Citizens and LPRs often wait several years for the petitions for their relatives to be processed. After USCIS processes the petitions, the relatives of U.S. citizens and LPRs then wait for a visa to become available through the numerically limited categories. The brothers and sisters of U.S. citizens are now waiting over 10 years. Unmarried adult sons and daughters of U.S. citizens who filed petitions on October 1, 2000 are now being processed for visas.

The “Mass Immigration Reduction Act” (H.R. 946), which would, if enacted, reduce permanent immigration, was introduced early in the 108<sup>th</sup> Congress. It would zero out family-sponsored immigrants (except children and spouses of U.S. citizens), employment-based immigrants (except certain priority workers) and diversity lottery immigrants through FY2008. H.R. 3522 also would scale back of permanent immigration. More recently, the Immigration Reform Act of 2004 (S. 2010) was introduced. It would, if enacted, potentially yield significant increases in permanent admissions. More limited bills, H.R. 539 and H.R. 3271, would exempt spouses of LPRs from the family preference limits and treat them similarly to immediate relatives of U.S. citizens. This report will be updated to track legislative activity.

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# U.S. Immigration Policy on Permanent Admissions

## Overview

Four major principles underlie U.S. policy on legal permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. These principles are embodied in federal law, the Immigration and Nationality Act (INA) first codified in 1952. The Immigration Amendments of 1965 replaced the national origins quota system (enacted after World War I) with per-country ceilings, and the statutory provisions regulating permanent immigration to the United States were last revised significantly by the Immigration Act of 1990.<sup>1</sup>

The two basic types of legal aliens are *immigrants* and *nonimmigrants*. As defined in the INA, immigrants are synonymous with legal permanent residents (LPRs) and refer to foreign nationals who come to live lawfully and permanently in the United States. The other major class of legal aliens are nonimmigrants — such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel — who are admitted for a specific purpose and a temporary period of time. Nonimmigrants are required to leave the country when their visas expire, though certain classes of nonimmigrants may adjust to LPR status if they otherwise qualify.<sup>2</sup>

The conditions for the admission of immigrants are much more stringent than nonimmigrants, and many fewer immigrants than nonimmigrants are admitted. Once admitted, however, immigrants are subject to few restrictions; for example, they may accept and change employment, and may apply for U.S. citizenship through the naturalization process, generally after five years.

Petitions for immigrant (i.e., LPR) status are first filed with U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS) by the sponsoring relative or employer in the United States. If the prospective immigrant is already residing in the United States, the USCIS handles the entire

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<sup>1</sup> Congress has significantly amended the INA numerous times since 1952. Other major laws amending the INA are the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and Illegal Immigration Reform and Immigrant Responsibility Act of 1996. 8 U.S.C. §1101 et seq.

<sup>2</sup> Nonimmigrants are often referred to by the letter that denotes their specific provision in the statute, such as H-2A agricultural workers, F-1 foreign students, or J-1 cultural exchange visitors. CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Ruth Ellen Wasem.

process, which is called “adjustment of status” because the alien is moving from a temporary category to LPR status. If the prospective LPR does not have legal residence in the United States, the petition is forwarded to the Department of State’s (DOS) Bureau of Consular Affairs in their home country after USCIS has reviewed it. The Consular Affairs officer (when the alien is coming from abroad) and USCIS adjudicator (when the alien is adjusting status in the United States) must be satisfied that the alien is entitled to the immigrant status. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in INA.<sup>3</sup>

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs.<sup>4</sup> In FY2002, a total of 679,305 aliens (64%) adjusted to LPR status in the United States while only 384,427 arrived as LPRs from abroad. More than three-fourths (77%) of the employment-based immigrants, two-thirds (63%) of the immediate relatives of U.S. citizens, and only one-third (34%) of the other family-preference immigrants adjusted to LPR status within the United States.

The INA specifies that each year countries are held to a numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits. The actual number of immigrants that may be approved from a given country, however, is not a simple percentage calculation. Immigrant admissions and adjustments to LPR status are subject to a complex set of numerical limits and preference categories that give priority for admission on the basis of family relationships, needed skills, and geographic diversity, as discussed below.<sup>5</sup>

## Current Law and Policy

### Worldwide Immigration Levels

The INA provides for a permanent annual worldwide level of 675,000 legal permanent residents (LPRs), but this level is flexible and certain categories of LPRs are permitted to exceed the limits, as described below.<sup>6</sup> The permanent worldwide immigrant level consists of the following components: family-sponsored immigrants, including immediate relatives of U.S. citizens and family-sponsored preference immigrants (480,000 plus certain unused employment-based preference numbers from the prior year); employment-based preference immigrants (140,000 plus certain unused family preference numbers from the prior year); and diversity

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<sup>3</sup> These include criminal, national security, health, and indigence grounds as well as past violations of immigration law. §212(a) of INA.

<sup>4</sup> For background and analysis of visa issuance and admissions policy, see CRS Report RL31512, *Visa Issuances: Policy, Issues, and Legislation*, by Ruth Ellen Wasem.

<sup>5</sup> Immigrants are aliens who are admitted as LPRs or who adjust to LPR status within the United States.

<sup>6</sup> §201 of INA; 8U.S.C. 1151.

immigrants (55,000).<sup>7</sup> Immediate relatives<sup>8</sup> of U.S. citizens as well as refugees and asylees who are adjusting status are exempt from direct numerical limits.<sup>9</sup>

**Table 1. Legal Immigration Preference System**

Category		Numerical limit
<b>Total family-sponsored immigrants</b>		<b>480,000</b>
<i>Immediate relatives</i>	Aliens who are the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens	Unlimited
<b>Family-sponsored preference immigrants</b>		<b>Worldwide level 226,000</b>
<i>1<sup>st</sup> preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	(A) Spouses and children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>4<sup>th</sup> preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> preference
<b>Employment-based preference immigrants</b>		<b>Worldwide level 140,000</b>
<i>1<sup>st</sup> preference</i>	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers	28.6% of worldwide limit plus unused 4 <sup>th</sup> and 5 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	28.6% of worldwide limit plus unused 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference — skilled</i>	Skilled shortage workers with at least 2 years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>3<sup>rd</sup> preference — “other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 <sup>rd</sup> preference)
<i>4<sup>th</sup> preference</i>	“Special immigrants,” including ministers of religion, religious workers other than ministers, certain employees of the U.S. government abroad, and others	7.1% of worldwide limit; religious workers limited to 5,000
<i>5<sup>th</sup> preference</i>	Employment creation investors who invest at least \$1 million (amount may vary in rural areas or areas of high unemployment) which will create at least 10 new jobs	7.1% of worldwide limit; 3,000 <i>minimum</i> reserved for investors in rural or high unemployment areas

**Source:** CRS summary of §203(a), §203(b) and §204 of INA; 8U.S.C. 1153.

<sup>7</sup> For more information, see CRS Report RS21342, *Immigration: Diversity Visa Lottery*, by Ruth Ellen Wasem and Karma Ester.

<sup>8</sup> “Immediate relatives” are defined by the INA to include the spouses and unmarried minor children of U.S. citizens, and the parents of adult U.S. citizens.

<sup>9</sup> CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno.

The annual level of family-sponsored preference immigrants is determined by subtracting the number of immediate relative visas issued in the previous year and the number of aliens paroled<sup>10</sup> into the United States for at least a year from 480,000 (the total family-sponsored level) and — when available — adding employment preference immigrant numbers unused during the previous year. By law, the family-sponsored preference level may not fall below 226,000. In recent years, the 480,000 level has been exceeded to maintain the 226,000 floor on family-sponsored preference visas after subtraction of the immediate relative visas.

Within each family and employment preference, the INA further allocates the number of LPRs issued visas each year. As **Table 1** summarizes the legal immigration preference system, the complexity of the allocations becomes apparent. Note that in most instances unused visa numbers are allowed to roll down to the next preference category.

Employers who seek to hire prospective employment-based immigrants through the second and third preference categories also must petition the U.S. Department of Labor (DOL) on behalf of the alien. The prospective immigrant must demonstrate that he or she meets the qualifications for the particular job as well as the preference category. If DOL determines that a labor shortage exists in the occupation for which the petition is filed, labor certification will be issued. If there is not a labor shortage in the given occupation, the employer must submit evidence of extensive recruitment efforts in order to obtain certification.<sup>11</sup>

## Per-Country Ceilings

As stated earlier, the INA establishes per-country levels at 7% of the worldwide level.<sup>12</sup> For a dependent foreign state, the per-country ceiling is 2%. The per-country level is not a “quota” set aside for individual countries, as each country in the world, of course, could not receive 7% of the overall limit. As the State Department describes, the per-country level “is not an entitlement but a barrier against monopolization.”

Two important exceptions to the per-country ceilings have been enacted in the past decade. Foremost is an exception for certain family-sponsored immigrants. More specifically, the INA states that 75% of the visas allocated to spouses and children of LPRs (2<sup>nd</sup>A family preference) are not subject to the per-country ceiling.<sup>13</sup> Prior to FY2001, employment-based preference immigrants were also held to per-country ceilings. The “American Competitiveness in the Twenty-First Century Act

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<sup>10</sup> “Parole” is a term in immigration law which means that the alien has been granted temporary permission to be present in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when the terms of their parole expire, or if otherwise eligible, to be admitted in a lawful status.

<sup>11</sup> See CRS Report RS21520, *Labor Certification for Permanent Immigrant Admissions*, by Ruth Ellen Wasem.

<sup>12</sup> §202(a)(2) of the INA; 8 U.S.C. 1151.

<sup>13</sup> §202(a)(4) of the INA; 8 U.S.C. 1151.

of 2000" (P.L. 106-313) enabled the per-country ceilings for employment-based immigrants to be surpassed for individual countries that are oversubscribed as long as visas are available within the worldwide limit for employment-based preferences. The impact of these revisions to the per-country ceilings is discussed later in this report.

The actual per-country ceiling varies from year to year according to the prior year's immediate relative and parolee admissions and unused visas that roll over. In FY2003, the per-country ceiling was set at 27,827 and in FY2002 was 25,804. According to the Department of State's Bureau of Consular Affairs, the ceiling for FY2004 is expected to be about 30,000. Processing backlogs, discussed later in this report, also have inadvertently reduced the number of LPRs in FY2003. USCIS was only able to process 161,579 of the potential 226,000 family-sponsored LPRs in FY2003, and thus 64,421 LPR visas are rolling over to the FY2004 employment-based categories.<sup>14</sup>

## Other Permanent Immigration Categories

There are several other major categories of legal permanent immigration in addition to the family-sponsored and employment-based preference categories. These classes of LPRs cover a variety of cases, ranging from aliens who win the Diversity Visa Lottery to aliens in removal (i.e., deportation) proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship. **Table 2** summarizes these major classes and identifies whether they are numerically limited.

**Table 2. Other Major Legal Immigration Categories**

Non-preference immigrants	Numerical limit	
<i>Asylees</i>	Aliens in the United States who have been granted asylum due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	No limits on receiving asylum, but 10,000 limit on LPR adjustments
<i>Cancellation of Removal</i>	Aliens in removal proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship	4,000 (with certain exceptions)
<i>Diversity Lottery</i>	Aliens from foreign nations with low admission levels; must have high school education or equivalent or minimum two years work experience in a profession requiring two years training or experience	55,000

<sup>14</sup> Telephone conversation with DOS Bureau of Consular Affairs, February 13, 2004.

Non-preference immigrants	Numerical limit	
<i>Refugees</i>	Aliens abroad who have been granted refugee status due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	Presidential Determination for refugee status, no limits on LPR adjustments
<i>Other</i>	Various classes of immigrants, such as Amerasians, parolees, and certain Central Americans, Cubans, and Haitians who are adjusting to LPR status	Dependent on specific adjustment authority

**Source:** CRS summary of §203(a), §203(b), §204, §207, §208, §240A of INA; 8U.S.C. 1153.

## Admissions Trends

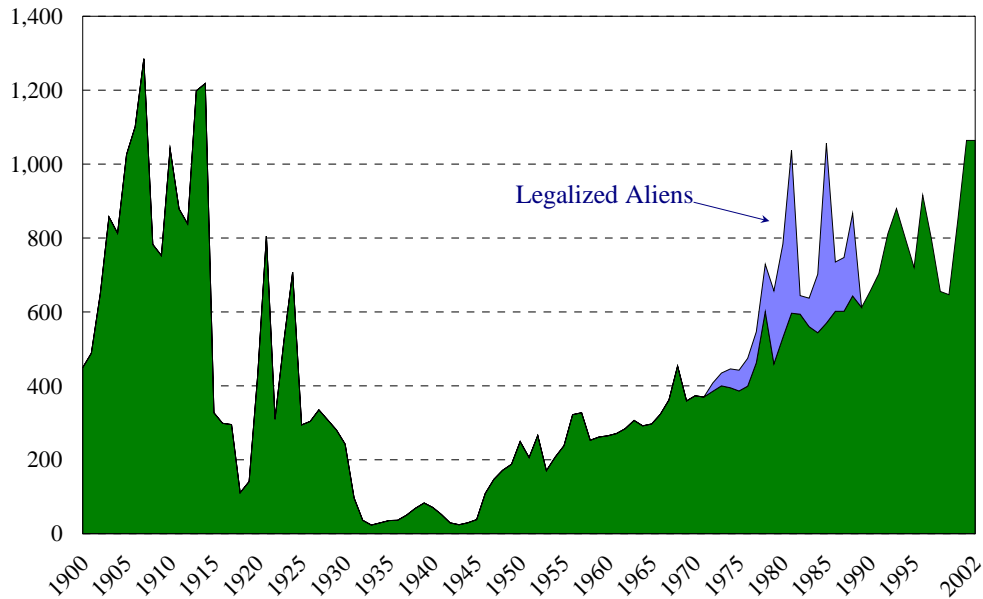
### Immigration Patterns, 1900-2002

The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 1** illustrates. However, the annual admissions have not reached the peaks of the early 20<sup>th</sup> century. The USCIS data present those admitted as LPRs or those adjusting to LPR status. The growth in immigration after 1980 is partly attributable to the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, that was augmented considerably by legalized aliens.<sup>15</sup> The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980.

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<sup>15</sup> The Immigration Reform and Control Act of 1986 legalized several million aliens residing in the United States without authorization.

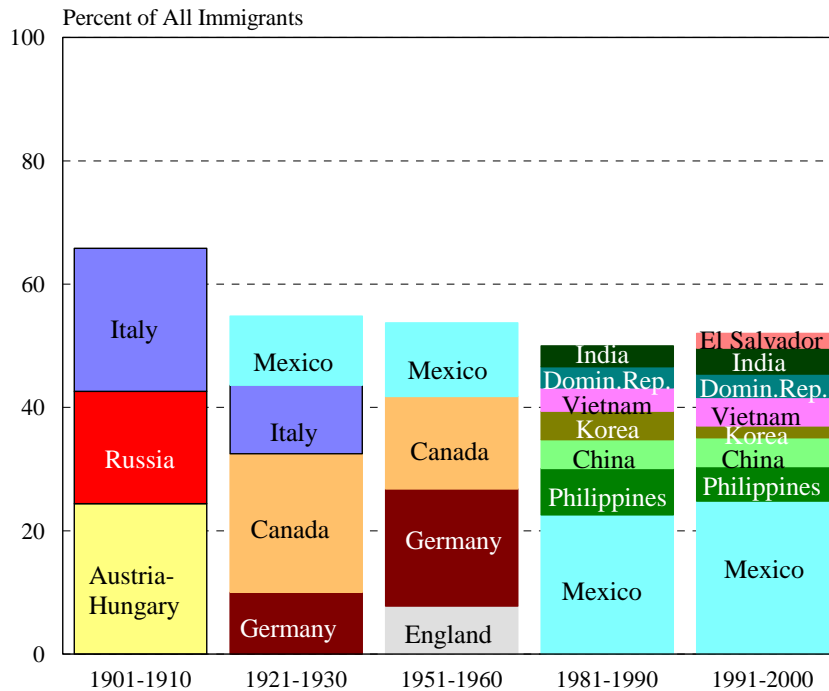
**Figure 1. Annual Immigration Admissions and Status Adjustments, 1900-2002**



**Source:** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, FY2002 (Oct. 2003). Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival.

In any given period of United States history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 2** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades and illustrates that immigration at the close of the 20<sup>th</sup> century is not as dominated by a few countries as it was earlier in the century. This finding suggests that the per-country ceilings established in 1965 had some effect. As **Figure 2** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20<sup>th</sup> century, immigrants from seven to eight countries comprised about half of all LPRs.

**Figure 2. Top Sending Countries (Comprising More Than Half of All Immigrants): Selected Decades**



Source: CRS analysis of Table 2, *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, FY2002 (Oct. 2003).

While Europe was home to the countries sending the most immigrants during the early 20<sup>th</sup> century, Mexico has been a top sending country for most of the 20<sup>th</sup> century. In addition, Asian countries — notably the Philippines, India, China, and Vietnam — have emerged as top sending countries today.

### FY2002 Admissions

During FY2002, a total of 1,063,732 aliens became LPRs in the United States. The largest number of immigrants are admitted because of a family relationship with a U.S. citizen or resident immigrant, as **Figure 3** illustrates. Of the total LPRs in FY2002, 63.3% entered on the basis of family ties. Immediate relatives of U.S. citizens made up the single largest group of immigrants, as **Table 3** indicates. Family preference immigrants — the spouses and children of immigrants, the adult children of U.S. citizens, and the siblings of adult U.S. citizens — were the second largest group. Additional major immigrant groups in FY2002 were employment-based preference immigrants

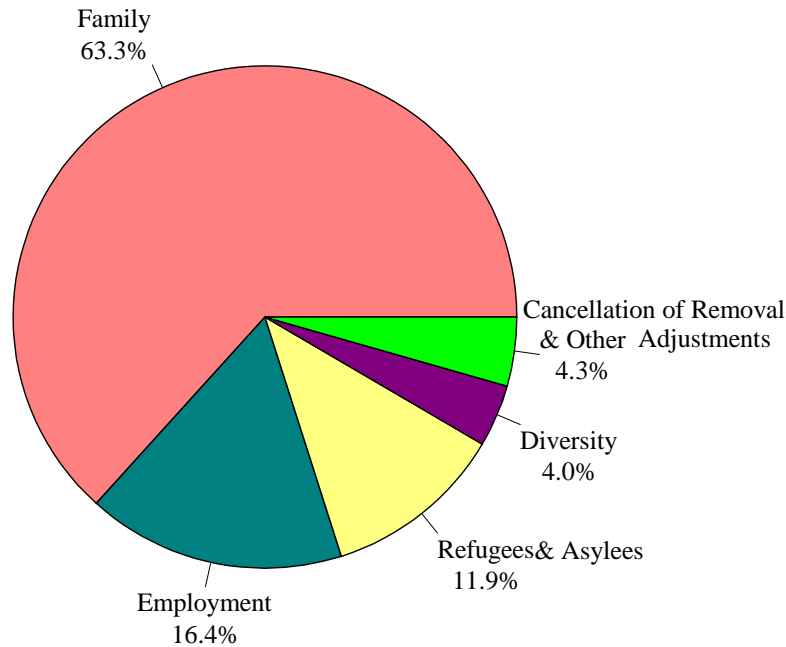
**Table 3. FY2002 Immigrants by Category**

<b>Total</b>	<b>1,063,732</b>
Immediate relatives of citizens	486,748
Family preference	187,069
Employment preference	174,968
Refugee and asylee adjustments	126,084
Diversity	42,829
Other	45,977

**Source:** FY2002 Statistical Yearbook of Immigration.

(including spouses and children) at 16.4%, and refugees and asylees adjusting to immigrant status at 11.9%.<sup>16</sup>

**Figure 3. Legal Immigrants by Major Category, FY2002**



**1.1 million**

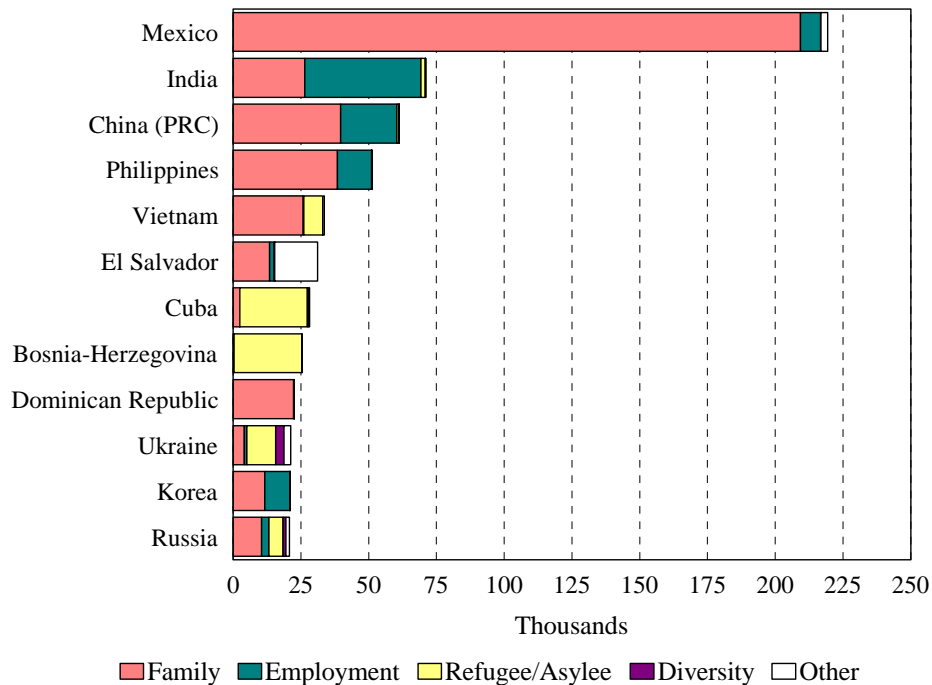
**Source:** CRS presentation of FY2002 data from the DHS Office of Immigration Statistics.

As **Figure 4** presents, Mexico led all countries with 219,380 aliens who became LPRs in FY2002. India followed at a distant second with 71,105 LPRs. The People's Republic of China came in third with 61,282. These three countries comprise one-third of all LPRs in FY2002, and each exceeded the per-country ceiling for preference immigrants, benefitting from special exceptions to the per-country ceilings. Mexico did so as a result of the provision in INA that allows 75% of family second preference (i.e., spouses and children of LPRs) to exceed the per-country ceiling, while India and China exceeded the ceiling through the exception to the employment-based per-country limits.

The top 12 immigrant-sending countries depicted in **Figure 4** accounted for 57% of all LPRs in FY2002. The top 50 immigrant-sending countries contributed 89% of all LPRs in FY2002. **Appendix A** provides detailed data on the top 50 immigrant-sending countries by major category of legal immigration.

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<sup>16</sup> The largest group in the "other category" are aliens who adjusted to LPR status through cancellation of removal and through §202 and §203 of the Nicaraguan and Central American Relief Act of 1997.

**Figure 4. Top Twelve Immigrant-Sending Countries, FY2002**

**Source:** CRS presentation of FY2002 data from the DHS Office of Immigration Statistics.

## Backlogs and Waiting Times

### Visa Processing Dates

According to the INA, family-sponsored and employment-based preference visas are issued to eligible immigrants in the order in which a petition has been filed. Spouses and children of prospective LPRs are entitled to the same status, and the same order of consideration as the person qualifying as principal LPR, if accompanying or following to join (referred to as derivative status). When visa demand exceeds the per-country limit, visas are prorated according to the preference system allocations (detailed in **Table 1**) for the oversubscribed foreign state or dependent area. These provisions apply at present to the following countries oversubscribed in the family-sponsored categories: Mexico, the Philippines, and India. Due to P.L. 106-313's easing of the employment-based per-country limits, no countries are currently oversubscribed in the employment-based categories.

**Table 4. Priority Dates for Family Preference Visas**

Category	Worldwide	India	Mexico	Philippines
Unmarried sons and daughters of citizens	Oct. 1, 2000	Oct. 1, 2000	Oct. 15, 1994	June 15, 1990
Spouses and children of LPRs	May 15, 1999	May 15, 1999	Nov. 1, 1996	May 15, 1999
Unmarried sons and daughters of LPRs	May 8, 1995	May 8, 1995	Dec. 15, 1991	May 8, 1995
Married sons and daughters of citizens	Oct. 1, 1997	Oct. 1, 1997	Jan. 22, 1995	Feb. 1, 1990
Siblings of citizens age 21 and over	May 8, 1992	Jan. 22, 1991	May 8, 1992	Feb. 22, 1982

**Source:** U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin for March 2004*.

As **Table 4** evidences, relatives of U.S. citizens and LPRs are waiting in backlogs for a visa to become available, with the brothers and sisters of U.S. citizens now waiting over 10 years. “Priority date” means that unmarried adult sons and daughters of U.S. citizens who filed petitions on October 1, 2000 are now being processed for visas. Prospective family-sponsored immigrants from the Philippines have the most substantial waiting times before a visa is scheduled to become available to them; consular officers are now considering the petitions of the brothers and sisters of U.S. citizens from the Philippines who filed 22 years ago.

## Petition Processing Backlogs

Distinct from the visa priority dates that result from the various numerical limits in the law, there are significant backlogs due to the sheer volume of aliens eligible to immigrate to the United States. As of December 31, 2003, USCIS reports 5.3 million immigrant petitions pending.<sup>17</sup> Of these pending cases, 1.9 million are immediate relative and family preference petitions. The current processing dates for immediate relative, family preference, and employment-based LPR petitions are presented in **Appendix B** for each of the four USCIS Regional Service Centers.

Even though there are no numerical limits on the admission of aliens who are immediate relatives of U.S. citizens, such citizens petitioning for their relatives are waiting at least a year and in some parts of the country, more than two years for the paperwork to be processed. Citizens and LPRs petitioning for relatives under the family preferences are often waiting several years for the petitions to be processed. **Appendix B** is illustrative, but not comprehensive because some immigration petitions may be filed at USCIS District offices and at the National Benefits Center.

<sup>17</sup> According to USCIS, other immigration-related petitions, such as applications for work authorizations or change of nonimmigrant status, filed bring the total cases pending to over 6 million. Telephone conversation with USCIS Congressional Affairs, Feb. 12, 2004.

Aliens with LPR petitions cannot visit the United States. Since the INA presumes that all aliens seeking admission to the United States are coming to live permanently, nonimmigrants must demonstrate that they are coming for a temporary period or they will be denied a visa. Aliens with LPR petitions pending are clearly intending to live in the United States permanently and thus are denied nonimmigrant visas to come temporarily.<sup>18</sup>

## Current Issues and Legislation

### President Bush's Proposal

When President George W. Bush announced his principles for immigration reform in January 2004, he included an increase in permanent legal immigration as a key component. The fact sheet that accompanied his remarks referred to a “reasonable increase in the annual limit of legal immigrants.”<sup>19</sup> When the President spoke, he characterized his policy recommendation as follows:

The citizenship line, however, is too long, and our current limits on legal immigration are too low. My administration will work with the Congress to increase the annual number of green cards that can lead to citizenship. Those willing to take the difficult path of citizenship — the path of work, and patience, and assimilation — should be welcome in America, like generations of immigrants before them.<sup>20</sup>

Some commentators are speculating the President is promoting increases in the employment-based categories of permanent immigration, but the Bush Administration has not yet provided specific information on what categories of legal permanent admissions it advocates should be increased. Details on the level of increases the Administration is seeking also have not been provided.

The President featured his immigration reform proposal in the 2004 State of the Union address, and it has sparked a lively debate. Most of the attention has focused on the new temporary worker component of his proposal and whether the overall proposal constitutes an “amnesty” for aliens living in the United States without legal authorization.<sup>21</sup>

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<sup>18</sup> §214(b) of INA. Only the H-1 workers, L intracompany transfers, and V family members are exempted from the requirement that they prove that they are not coming to live permanently.

<sup>19</sup> The White House, *Fact Sheet: Fair and Secure Immigration Reform*, Jan. 7, 2004. Available at [<http://www.whitehouse.gov/news/releases/2004/01/20040107-1.html>].

<sup>20</sup> President George W. Bush, “Remarks by the President on Immigration Policy,” Jan. 7, 2004. Available at [<http://www.whitehouse.gov/news/releases/2004/01/20040107-3.html>].

<sup>21</sup> For discussion of the temporary worker issue, see CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

## Legislation in 108<sup>th</sup> Congress

Legislation reforming permanent immigration comes from a variety of divergent perspectives in the 108<sup>th</sup> Congress. The sheer complexity of the current set of provisions makes revising the law on permanent immigration a daunting task. This discussion focuses only on those bills that would revise the permanent immigration categories and the numerical limits as defined in §201-§203 of the INA.<sup>22</sup>

On January 21, 2004, Senators Chuck Hagel and Thomas Daschle introduced legislation (S. 2010) that would, if enacted, potentially yield significant increases in legal permanent admissions. The Immigration Reform Act of 2004 (S. 2010), would among other provisions:

- no longer deduct immediate relatives from the overall family-sponsored numerical limits;
- treat spouses and minor children of LPRs the same as immediate relatives of U.S. citizens (exempt from numerical limits); and
- reallocate the 226,000 family preference numbers to the remaining family preference categories.

In addition, many aliens who would benefit from S. 2010's proposed temporary worker provisions would be able to adjust to LPR status outside the numerical limits of the per country ceiling and the worldwide levels.

Several bills that would offer more targeted revisions to permanent immigration are being offered in the House. Congressman Robert Andrews introduced H.R. 539, which would exempt spouses of LPRs from the family preference limits and thus treat them similar to immediate relatives of U.S. citizens. Congressman Richard Gephardt likewise included a provision that would treat spouses of LPRs outside of the numerical limits in his “Earned Legalization and Family Unity Act” (H.R. 3271). Congressman Jerrold Nadler introduced legislation (H.R. 832) that would amend the INA to add “permanent partners” after “spouses” and thus would enable aliens defined as permanent partners to become LPRs through the family-based immigration categories as well as to become derivative relatives of qualifying immigrants.

Legislation that would reduce legal permanent immigration was introduced early in the 108<sup>th</sup> Congress by Congressman Thomas Tancredo. The “Mass Immigration Reduction Act” (H.R. 946) would zero out family sponsored immigrants (except children and spouses of U.S. citizens), employment-based immigrants (except certain priority workers) and diversity lottery immigrants through FY2008. It also would set a numerical limit of 25,000 on refugee admissions and asylum adjustments. Congressman J. Gresham Barrett introduced an extensive revision of immigration law (H.R. 3522) that also includes a significant scaling back of permanent immigration.

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<sup>22</sup> For discussion of other major immigration legislation, see CRS Report RL32169, *Immigration Legislation and Issues in the 108th Congress*, coordinated by Andorra Bruno. Other CRS reports on the reform of other immigration provisions are available at [<http://www.crs.gov/products/browse/is-immigration.shtml>].

### Appendix A. Top Fifty Sending Countries in FY2002 by Category of LPR

Country of birth	Total	Family sponsored preferences	Employment-based preferences	Immediate relatives	Refugee and asylee	Diversity programs	Cancel of removal	Other
Mexico	219,380	58,602	7,492	150,693	100	6	2,016	471
India	71,105	11,402	42,885	15,077	1,558	93	27	63
China (PRC)	61,282	11,799	20,713	27,911	693	118	22	26
Philippines	51,308	12,060	12,566	26,470	68	4	76	64
Vietnam	33,627	12,810	297	12,984	6,926	3	5	602
El Salvador	31,168	4,748	1,670	8,763	187	1	15,705	94
Cuba	28,272	973	38	1,499	24,893	425	4	440
Bosnia-Herzegovina	25,373	24	65	235	25,033	14	-	2
Dominican Republic	22,604	10,873	229	11,418	25	4	17	38
Ukraine	21,217	96	928	4,074	10,601	3,028	16	2,474
Korea	21,021	2,164	9,241	9,573	7	3	10	23
Russia	20,833	97	2,714	10,468	5,089	1,180	32	1,253
Haiti	20,268	6,732	141	7,436	769	—	24	5,166
Canada	19,519	735	9,530	8,825	26	78	4	321
Colombia	18,845	2,453	1,622	14,300	380	1	69	20
Guatemala	16,229	2,302	845	7,788	353	10	4,878	53
United Kingdom	16,181	627	7,511	7,847	23	88	3	82
Jamaica	14,898	4,803	557	9,503	6	3	10	16
Pakistan	13,743	2,930	3,334	5,871	467	1,081	24	36
Iran	13,029	1,684	1,514	4,292	4,806	695	13	25
Poland	12,746	3,147	2,546	4,405	54	2,486	53	55
Peru	11,999	2,013	1,095	7,675	402	732	65	17
Nicaragua	10,850	414	45	1,225	281	—	18	8,867
Ecuador	10,602	1,824	1,248	7,224	43	218	34	11
Yugoslavia (former)	10,401	172	350	1,088	8,556	160	70	5
Guyana	9,962	6,653	267	3,013	8	14	5	2
Taiwan	9,836	2,858	3,182	3,152	2	625	5	12
Brazil	9,474	271	3,437	5,554	40	127	23	22
Germany	8,961	124	2,253	4,215	1,889	439	7	34
Japan	8,301	150	2,885	4,872	5	365	2	22
Nigeria	8,129	433	937	3,996	442	2,279	23	19

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Country of birth	Total	Family sponsored preferences	Employment-based preferences	Immediate relatives	Refugee and asylee	Diversity programs	Cancel of removal	Other
Ethiopia	7,574	198	124	1,349	1,897	3,994	10	2
Honduras	6,461	1,368	409	4,425	116	5	122	16
Hong Kong	6,090	3,755	1,083	1,035	105	74	—	38
Trinidad and Tobago	5,771	1,580	732	3,402	3	35	10	9
Bangladesh	5,492	738	1,014	2,436	180	1,106	6	12
Venezuela	5,259	348	1,200	3,349	253	93	6	10
Iraq	5,196	273	228	1,201	3,434	54	5	1
Romania	4,903	236	982	2,561	85	981	51	7
Egypt	4,875	481	699	2,242	269	1,161	10	13
Somalia	4,537	18	16	183	4,084	233	3	—
Ghana	4,256	362	216	2,353	101	1,217	3	4
Thailand	4,175	378	445	2,702	498	134	4	14
Jordan	3,980	1,004	265	2,608	32	55	9	7
Lebanon	3,966	940	522	2,319	101	50	26	8
South Africa	3,880	96	2,251	1,286	6	233	1	7
Israel	3,857	239	1,347	2,031	18	196	6	20
France	3,824	141	1,621	1,908	15	125	2	12
Croatia	3,805	13	156	290	3,315	22	9	—
Albania	3,768	131	83	812	170	2,566	2	4
Argentina	3,685	250	979	2,294	58	84	7	13
<b>Total</b>	<b>946,517</b>	<b>178,522</b>	<b>156,509</b>	<b>432,232</b>	<b>108,472</b>	<b>26,698</b>	<b>23,552</b>	<b>20,532</b>

**Source:** CRS analysis of data from the U.S. Department of Homeland Security, *FY2002 Statistical Yearbook of Immigration*, 2003.

## Appendix B. Processing Dates for Immigrant Petitions

Immigrant category	Regional service centers			
	California	Nebraska	Texas	Vermont
Immediate relatives	February 14, 2003	July 17, 2002	August 22, 2001	April 2, 2003
Unmarried sons and daughters of citizens	July 19, 2001	April 4, 2001	October 22, 1998	January 4, 1999
Spouses and children of LPRs	March 5, 1999	April 4, 2001	October 22, 1998	January 4, 1999
Unmarried sons and daughters of LPRs	April 6, 1998	April 4, 2001	October 22, 1998	January 4, 1999
Married sons and daughters of citizens	April 6, 2001	April 4, 2001	October 22, 1998	January 4, 1999
Siblings of citizens age 21 and over	April 6, 1998	April 4, 2001	October 22, 1998	January 4, 1999
Priority workers — extraordinary	January 9, 2003	May 14, 2003	January 13, 2003	June 7, 2002
Priority workers — outstanding	February 19, 2003	March 11, 2003	January 13, 2003	June 10, 2002
Priority workers — executives	February 11, 2003	April 21, 2003	January 13, 2003	December 24, 2003
Persons with advanced degrees or exceptional abilities	May 5, 2003	April 2, 2003	January 16, 2003	January 6, 2003
Skilled workers (at least two years experience) or professionals (B.A.)	March 5, 2003	May 26, 2003	February 10, 2003	March 22, 2003
Unskilled shortage workers	February 26, 2003	April 23, 2003	February 13, 2003	March 22, 2003
“Special immigrants”	December 1, 2003	August 1, 2003	August 4, 2003	September 25, 2003
Employment creation (invest at least \$1 million)	Not available	Not available	Not available	Not available

**Source:** CRS presentation of USCIS information dated Feb. 12, 2003; available at [<http://www.egov.immigration.gov/graphics/cris/jsps/index.jsp?textFlag=N#>].