

# Harnessing the Advantages of Immigration for a 21st-Century Economy:

A Standing Commission on Labor Markets, Economic Competitiveness, and Immigration

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### **Executive Summary**

It is now a cliché in the debate about US immigration policy to declare that the "system is broken." Such blanket declarations go beyond illegal immigration and cut across all of the immigration system's main components. The system neither meets US labor market needs efficiently nor minds the interests of US workers with particular success; has yet to devise a way that uses immigration to promote US economic growth and competitiveness well (at a time when most US competitors do so and more are preparing to do so); and, in all but a few instances, does not (re)unify families with anything approaching timeliness.

This paper focuses only on the system's shortcomings with regard to labor market, economic growth, and competitiveness issues. It proposes an institutional solution to address what by now amounts to systemic failure: creating a permanent and independent body situated within the executive branch and charged with recommending adjustments to immigration laws to the president and the Congress — the *Standing Commission on Labor Markets*, *Economic Competitiveness*, and *Immigration*.

The concept of a Standing Commission, first proposed by the MPI-convened Independent Task Force on Immigration and America's Future in its final report in 2006, is gaining new attention from policymakers.

If US firms and the broader US economy are to thrive in a completely unforgiving 21<sup>st</sup>-century globalized economy, labor market immigration must be viewed as a strategic resource that if carefully managed can meet labor market needs while protecting US wages and working conditions, and support economic growth and competitiveness.

Creation of the Standing Commission — an independent, bipartisan body staffed by a career professional cadre of economists, demographers, and other social scientists — would permit the US immigration system to adjust more rapidly and completely to changing economic and labor market circumstances, whether measured by responsiveness to the business cycle or to long-term shifts in US and global employment patterns.

The Standing Commission would provide timely, evidence-based, and impartial analysis and recommendations that are not now available and that are vital for informed policymaking. Its findings and recommendations would facilitate regular reviews of labor market immigration levels and visa allocations and would form the basis for making adjustments to employment-based immigration levels as circumstances require — injecting much-needed flexibility into a system currently adjusted only every few decades.

The Standing Commission would be required by statute to submit an annual report and recommendations simultaneously to the president and Congress. After a specified period for congressional consultation, unless Congress acted to maintain existing statutory baseline labor market immigration levels, the president would issue a formal Determination of New Levels, adjusting employment-based green-card quotas and preferences and temporary worker visa limits for the coming fiscal year.

## I. Introduction: Competitiveness in the 21<sup>st</sup> Century

The broad parameters that define how the US immigration system responds to meeting labor market and by implication broader economic needs were conceived in the mid-1960s. Though many of the system's provisions were updated in the Immigration Act of 1990, the US and world economies have undergone dramatic transformations since then — transformations which the current recession will only make deeper and more severe. Hence the need to align the US employment-based immigrant selection system much better with the current economic realities, and to be able to continue to do so fluidly enough so as to adapt to changing economic realities in the near-real time that intense global competition demands.

While the economic growth and prosperity benefits of globalization are easy to tick off and quantify, its challenges are less easily understood and developing the policy arsenal that can respond to them effectively has proven elusive across the board. One thing is nonetheless clear: open markets and ever-deeper economic interdependence are a potentially lethal challenge to uncompetitive firms, industries, and national economies; conversely, competitiveness is the route to prosperity.<sup>1</sup>

The core elements of competitiveness are well known:

- Educational and workforce development systems that are constantly evaluated and are
  capable of adapting so as to function effectively together and work cooperatively with
  the private sector to produce workers able to fill the jobs knowledge economies
  require;
- Social and cultural environments that value, even celebrate, work and support lifelong learning;
- Great universities that educate the thinkers, mathematicians, scientists, technologists, health professionals, and engineers who can produce the next round of scientific, social, institutional, governance, and technological innovations;
- Privately and publicly funded R&D investments that support such innovations and help take them to market;<sup>2</sup>
- Great companies with human and physical capital investment policies that are economically forward-looking and socially responsible especially with regard to investing in the communities of which they are part; and perhaps above all,

<sup>1</sup> Demetrios G. Papademetriou, Will Somerville, and Hiroyuki Tanaka, "Talent in the 21<sup>st</sup> Century Economy" in *Talent, Competitiveness and Migration*, eds., Bertelsmann Stiftung and Migration Policy Institute (Guetersloh, Germany: Bertelsmann Stiftung, 2009); and Demetrios G. Papademetriou, Will Somerville, and Hiroyuki Tanaka, "Hybrid Immigrant-Selection Schemes" in *Talent, Competitiveness and Migration*, eds., Bertelsmann Stiftung and Migration Policy Institute (Guetersloh, Germany: Bertelsmann Stiftung, 2009).

<sup>&</sup>lt;sup>2</sup> Considering the often massive costs and long time horizons of moving from concept to product to market, public/private and cross-institutional partnerships — within and increasingly *across* countries — will become even more of a fact than they are today.

 Governments that create and maintain supportive, stable, and predictable policy environments which enable all of the above to take root and grow.

Increasingly, however, one more factor has also become recognized as crucial to economic vitality and competitiveness: *international migration*. The ever-increasing number of high- and middle-income countries that now look to international migration to enhance their competitiveness is evidence of that.

Firms and governments reach out to immigrants for many reasons. Two are of particular relevance for advanced economies (and soon enough for many middle-income ones, too):

- Skill deficits and skill and locational mismatches;
- In an increasing number of instances, labor shortages due to aging populations *and* low fertility (the latter being of particular relevance to much of Europe and East Asia).

The former is of growing concern to dynamic economies and can be summed up as follows: Many states feel both that they are not producing enough of the educated workers their economies need in order to build the critical mass of talent that propels innovation and undergirds competitiveness (such as natural scientists, IT specialists, health professionals, and engineers) and/or that such professionals do not seem interested enough in staying in or moving to where the jobs are. The latter reason for which states turn to immigrants — aging — has become particularly relevant with the impending retirement of the "baby boomers" in the next two decades. (For the United States, that number approaches 80 million.) Neither set of issues is nearly as much of a "crisis" as it is made out to be. For instance, recalibrating the reward structures for high-demand occupations, focusing more on incentives for older workers to work longer, and making the employment of older workers more appealing would render the worker crisis less of one. Nonetheless, the fact remains that immigration will need to be a significant part of any comprehensive solution.

## II. A Work Visa System Resistant to Change and Out of Tune with our Needs

The US Congress has found adapting the work visa system to the new competitive realities in other than marginal ways (typically focusing on numerical ceilings) politically extremely contentious and difficult to do. As failed legislative efforts in 2006 and 2007 illustrate, efforts to revise America's immigrant-selection system produce tensions rooted in sharp differences over values and competing views and priorities with regard to our national interests. Disagreements typically spill over into larger questions about whether our immigration traditions continue to contribute to the building of a 21<sup>st</sup>-century economy; clashing social and cultural visions about the nation's future; and concerns about the costs of the immigration status quo for certain groups and for the public sector. As a result, finding the right *political* balance between family reunification and labor-market immigration while holding firm to our proud humanitarian traditions and obligations has become increasingly

difficult and the effort to redesign the work visa system ends up in repeated policy stalemates.

To be sure, managing immigration well and with an eye to maximizing economic benefits must also involve highly technical questions about the effects of immigration on job opportunities for some Americans, wages, labor markets, growth, and long-term economic competitiveness. Too few admissions or a broken selection system (in terms of both timeliness and requirements) for immigrants with needed skills and qualifications inhibit America's growth and competitiveness; too much immigration, almost regardless of skills, can create disincentives for our own young people to enter certain fields of study and work and can sidetrack or even derail education and training priorities; and too much low-skilled immigration can impede innovation, slow productivity gains, and undermine wages and working conditions for similarly situated US workers.

Rapid economic restructuring and slower but equally crucial demographic change place a premium on a flexible, responsive immigration system. The need for more nimble immigration policy is particularly compelling today as the global recession raises the stakes about getting immigration levels and needs right and focus them both on America's strategic economic renewal.

The proposed Standing Commission on Labor Markets, Economic Competitiveness, and Immigration would provide timely, evidence-based, and impartial analysis and recommendations to the president and Congress on changes to immigration levels and composition of both temporary and permanent employment visas. The United States has confronted similar problems in other highly politicized areas — policy issues that require impartiality, timeliness, sophisticated technical expertise, and a steady hand — and it has occasionally turned to independent bodies for professional advice and to streamline the policymaking response. Indeed, Congress took a similar step for determining annual refugee-admissions levels when it established the refugee consultation process in the 1980 Refugee Act.

The Standing Commission, which would be a permanent body, would have the following tasks:

 Analyze existing data on immigrants in the US economy, and manage the collection of new longitudinal data as needed. The proposed new and ongoing data collection project would be similar to the New Immigrant Survey<sup>4</sup> but with a larger sample size, multiple cohorts, and more of an explicit focus on labor markets.

http://www.migrationpolicy.org/task\_force/new\_chapter\_summary.pdf

<sup>&</sup>lt;sup>3</sup> The Standing Commission was a key recommendation of the Migration Policy Institute's Independent Task Force on Immigration and America's Future. Its final report was released in 2006. See Doris Meissner, Deborah W. Meyers, Demetrios G. Papademetriou, and Michael Fix, *Immigration and America's Future: A New Chapter* (Washington, DC: Migration Policy Institute, 2006).

<sup>&</sup>lt;sup>4</sup> The New Immigrants Survey "is a nationally representative, multicohort longitudinal study of new legal immigrants and their children to the United States based on nationally representative samples of the administrative records, compiled by the US Immigration and Naturalization Service (INS), pertaining to immigrants newly admitted to permanent residence." See <a href="http://nis.princeton.edu/">http://nis.princeton.edu/</a>.

- Create and implement a policy-focused research agenda on the labor market roles, integration trajectories, and economic impacts of *all* types of immigration<sup>5</sup>, both at the national level but most importantly at the state, regional, industrial sector, and occupational levels. The objective would be to address policy-relevant issues and thus obviate the need for Congress to rely on the unpredictable and arbitrary interests of the academy and the political and ideological agendas of most nonprofit research organizations. Perhaps more importantly, such ongoing and systematic research would allow the Commission to treat congressional changes in policy as "natural experiments" whose analysis would inform and shape additional policy adjustments.
- Provide annual recommendations for adjustments to employment-based immigration levels that would take effect unless Congress voted to change them within a specified time frame.
- Publish research reports and make datasets publicly available so as to create the foundation for ongoing academic research and better informed public debate.

Together, these functions would enable Congress to revisit the allocation of employment visas regularly and base immigration policy on a better and much more reliable understanding of the evidence about evolving needs and impacts than the current system provides. Over time, the accumulated knowledge and experience the Standing Commission would amass would make Congress' responsibilities on immigration easier to manage and its decisions better informed and much better aligned with the country's broader interests. To this end, the proposed Standing Commission should be seen as a key element of comprehensive immigration reform or, should legislation stall, a first step toward better policy solutions.

This paper sets the stage for such a Commission by addressing the following:

- The goals of employment-based/labor market immigration policy in the United States;
- The case for creating a Standing Commission to help to meet these goals; and
- How the Standing Commission would be structured and how it would operate to maximize its independence and build its technical expertise.

### III. The Goals and Effects of US Immigration Policy

For most of the nation's history, there have been three overarching elements of US immigration policy: refuge for those in need of humanitarian protection (mostly focused on religious freedom/persecution); family (re)unification for US citizens and lawful permanent residents with close family members; and meeting labor market needs.

<sup>&</sup>lt;sup>5</sup> See Appendix I for annual US admissions, by entry category.

More or less explicitly, and with uneven (and shifting) foci, these elements are reflected in policy practices dating back to the beginnings of the republic and have formed the core of the increasingly formalized US immigration laws put in place beginning with the last third of the 19<sup>th</sup> century. Over the many legislative acts since these early days of building a regulatory framework for US immigration, the goals underlying these elements have been distilled into the four separate US immigration admission streams: humanitarian (resettling refugees and offering different forms of protection to asylum seekers); family (re)unification; employment-based/labor market immigration; and diversity.<sup>6</sup>

Many people seek admission to the United States, and demand for visas deeply exceeds supply in all of the streams. As a result, how Congress allocates visas among and within these four streams fundamentally defines future American economic and demographic circumstances. The longstanding debate over these allocations encompasses core values and cultural, social, ideological, and political priorities and is beyond the scope of this paper.

Rather, our focus is on one set of policy priorities and outcomes — the effects of immigration on US labor markets and economic growth — and on the subset of immigration streams that are most directly tied to these economic outcomes: employment-based/labor market immigration, in both permanent and temporary variants. And while permanent employment-based visas account for just 15 percent of the permanent visas the United States issues each year, <sup>7</sup> they are the immigration stream dedicated to the nation's economic and labor market interests and thus should be driven by a calculus of economic costs and benefits.

These economic effects are complex. On the one hand, labor market immigration makes an immediate contribution to the US economy by allowing US firms to hire immigrant workers across the skills continuum. At the high-skilled end, foreign-born students, researchers, workers across many disciplines (but primarily in the sciences, technology, and the professions), and entrepreneurs have been at the heart of American innovation and productivity for decades. About a third of America's 20th-century Nobel Prize winners, for example, were immigrants. Immigrants also founded or cofounded a quarter of all new engineering and technology companies formed in the United States between 1995 and 2005, were responsible for a quarter of America's patents in 2006 (up from 7 percent in 1998) and made up seven out of 16 inductees into the National Inventors Hall of Fame in 2009. What is significant about the latter set of numbers is that they can be attributed to changes

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<sup>&</sup>lt;sup>6</sup> Diversity visas are awarded through a lottery system available to countries whose nationals are "underrepresented" among immigrants in the United States.

<sup>&</sup>lt;sup>7</sup> This proportion includes derivative employment-based green cards, issued to the spouses and children of immigrant workers; only about 7 percent of green cards go to labor-market immigrants per se. Roughly ten times as many temporary ("nonimmigrant") employment-based visas are issued each year as employment based green cards; see Appendix I.

<sup>&</sup>lt;sup>8</sup> James P. Smith and Barry Edmonston, *The New Americans: Economic, Demographic and Fiscal Effects of Immigration* (Washington, DC: National Academy Press, 1997).

<sup>&</sup>lt;sup>9</sup> Vivek Wadwha, AnnaLee Saxenian, Ben Rissing, and Gary Gereffi, *America's New Immigrant Entrepreneurs* (Berkeley: University of California Berkeley School of Information, 2007), 4.

<sup>&</sup>lt;sup>10</sup> Bill O. Hing, "Inventors Hall of Fame Inducts Seven Immigrants," ImmigrationProf Blog, April 3, 2009, http://lawprofessors.typepad.com/immigration/2009/04/inventors-hall-of-fame-inducts-seven-immigrants.html.

to US immigration law in 1990 that substantially expanded the number of visas available to better-skilled and educated immigrants. This lesson animates the proposal being made here.

Low-skilled immigrants have also played an important economic role in growing the US economy. Foreign-born workers, as a group, have been disproportionately concentrated in high-growth sectors of the economy. More broadly, immigrants were responsible for 58 percent of population growth over 25 years from 1980 to 2005, a period marked also by low unemployment and strong employment growth (most of the time) and slowing US fertility levels — making immigration a key source of growth in the prime-age (25 to 55) labor force. The looming retirement of the baby boom generation will only reinforce this trend.

Yet immigration is neither uniformly nor unambiguously beneficial. At a minimum, worker inflows have uneven distributional consequences. While economists remain divided about many of the details, most agree that for at least some US residents, relative wages fall as a result of immigration. In particular, low-skilled native-born workers (those without a high school degree), recent immigrants, and workers with poor language skills are most likely to suffer wage losses from immigration. <sup>14</sup>

Current US labor market immigration policies and implementation are poorly designed to address these tensions — and simply basing policy on labor market shortages determined from survey data is too blunt an instrument to accomplish the more refined policy objectives that are increasingly needed.

With a few exceptions,<sup>15</sup> the current system is based on employer recruitment. This approach has the strong benefits of efficiently screening potential labor market immigrants for their "fit" with US employers' needs and properly rewarding human capital endowments (skills and education) at the higher end of the labor market.<sup>16</sup>

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<sup>&</sup>lt;sup>11</sup> Lindsey Lowell, Julia Gelatt, and Jeanne Batalova, Immigrants and Labor Force Trends: The Future, Past, and Present (Washington, DC: Migration Policy Institute Independent Task Force, July 2006), http://www.migrationpolicy.org/ITFIAF/TF17\_Lowell.pdf.

<sup>&</sup>lt;sup>12</sup> Jeffery S. Passel and D'Vera Cohn, "U.S. Population Projections: 2005-2050" (Washington DC: Pew Hispanic Center, February 2008), http://pewhispanic.org/files/reports/85.pdf.

<sup>&</sup>lt;sup>13</sup> David Ellwood, *Grow Faster Together. Or Grow Slowly Apart. How Will America Work in the 21*<sup>st</sup> *Century?* (Washington, DC: The Aspen Institute, 2002), <a href="http://www.pwib.org/downloads/GrowFast.pdf">http://www.pwib.org/downloads/GrowFast.pdf</a>. <sup>14</sup> George Borjas, "The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market" (National Bureau of Economic Research [NBER] Working Paper 9755, 2003), <a href="http://www.nber.org/papers/w9755.pdf">http://www.nber.org/papers/w9755.pdf</a>; David Card, "How Immigration Affects US Cities" (Centre for Research and Analysis of Migration [CReAM] Discussion Paper No. 11/07, 2007), <a href="http://www.econ.ucl.ac.uk/cream/pages/CDP/CDP\_11\_07.pdf">http://www.econ.ucl.ac.uk/cream/pages/CDP/CDP\_11\_07.pdf</a>; Pia M. Orrenius and Madeline Zavodny, "Does immigration affect wages? A look at occupation-level evidence" (Institute for the Study of Labor [IZA] Discussion Paper No. 2481, 2006), <a href="http://www.nber.org/papers/w14188.pdf">http://www.nber.org/papers/w14188.pdf</a>. Clarifying the Empirics" (NBER Working Paper 14188, 2008), <a href="http://www.nber.org/papers/w14188.pdf">http://www.nber.org/papers/w14188.pdf</a>.

<sup>&</sup>lt;sup>15</sup> All temporary work visas, and most employment-based green cards (permanent visas), are issued based on a petition by a US employer. The exceptions are three types of visa applicants who may self-petition: EB-1(A)s ("aliens with extraordinary ability"), EB-2(B)s ("members of the professions holding advanced degrees or aliens of exceptional ability") who receive a national interest waiver of the employment requirement, and EB-5s ("employment creation" visas).

<sup>&</sup>lt;sup>16</sup> Papademetriou et al, "Hybrid Immigrant Selection Systems" in *Talent, Competitiveness, and Migration*.

However, open-ended employer recruitment has no natural mechanism to minimize negative wage and displacement effects: there is no "market" for keeping unemployment low and preserving high wages. Nor have administrative agencies found the means to ferret out, let alone prevent, violations of wage terms and other illegal and corrupt practices despite an elaborate system for establishing wage requirements and, in many instances, for certifying that a labor shortage exists prior to immigrant recruitment. As a result, these restrictions slow down the hiring process and sometimes interfere with effective foreign-labor recruitment yet are widely recognized as little more than procedural exercises that are largely ineffective in protecting American workers or wages.<sup>17</sup>

Moreover, the current system operates in a relative knowledge void with regard to the long-term contributions of employer-recruited immigrants to US growth and competitiveness, the longer-term economic and integration outcomes of workers gaining permanent immigrant status, or the interplay between immigration and education (such as how immigration affects US residents' educational choices and employers' incentives to provide training). Of course, this is more of an issue at the lower end of the skills spectrum, which represents a very small share of the total number of employment visas but a much larger share of family-based visas.

A system built largely on the combination of employer-defined demand for foreign workers and individual case-driven assessments of fair wages and labor shortages is no longer suitable for addressing the role immigration must play in US labor markets if US firms and the broader US economy are to thrive in a completely unforgiving 21st-century globalized economy. Instead, we should view labor market immigration as a strategic resource that meets labor market needs and supports economic growth and competitiveness — and that must be carefully and responsibly managed. Immigration policies should maximize opportunities to admit workers with needed or valued skills — those that best complement the skills of native workers — and should support growing and competitive sectors of the US economy across the skills spectrum. At the same time, foreign labor inflows must not come at the expense of native workers or allow employers to avoid paying proper wages and benefits or offer appropriate working conditions.

## IV. The Case for a Standing Commission on Labor Markets, Economic Competitiveness, and Immigration

Getting immigration policy right, therefore, has increasingly important implications for the economy as relatively small differences in education, skills, or experience can lead to big

<sup>&</sup>lt;sup>17</sup> Demetrios G. Papademetriou and Stephen Yale-Loehr, *Balancing Interests: Rethinking US Selection of Skilled Immigrants* (Washington, DC: Carnegie Endowment for International Peace, 1996); Rebecca Smith and Catherine Ruckelshaus, "Solutions, Not Scapegoats: Abating Sweatshop Conditions for All Low-Wage Workers as a Centerpiece of Immigration Reform," *New York University Journal of Legislation and Public Policy* 10, no. 3 (2007): 555-602,

http://www.law.nyu.edu/ecm\_dlv1/groups/public/@nyu\_law\_website\_\_journals\_\_journal\_of\_legislation\_a nd\_public\_policy/documents/documents/ecm\_pro\_060753.pdf.

differences in market outcomes. Today's labor market immigration is poorly designed to accomplish most of the aims articulated in this analysis. Four problems stand out:

- Reliable information about how immigration influences even shapes US labor markets is not systematically gathered, analyzed, disseminated, and fed back constantly so as to inform and adjust immigration policy accordingly.
- Immigration laws are inflexible, infrequently modified, and unresponsive to shifts in labor market and broader economic needs.
- Congress does not have a reliable, let alone streamlined, process to systematically
  evaluate labor market immigration trends and to use the information as the basis for
  updating employment-based visa allocations.
- Unless the administration uses its little known "national-interest waiver," or is able to persuade very talented (and hence sought-after) foreigners to accept the uncertainty that comes with living on a nonimmigrant visa, there is no legal mechanism for quickly and efficiently accessing the global talent pool. Yet one can imagine the necessity of meeting a strategic economic need, such as building quickly the critical mass of scientists that can help realize the president's vision of "energy independence." And even then, the numerical limitations of the category and other impediments (such as per country limitations) will likely make accessing those visas cumbersome.

The impact of different types and levels of immigration on US labor markets is complex and contested, even among professional economists. Most members of Congress and executive branch decision makers cannot be expected to delve into the research, especially considering that "evidence" and "results" are highly ambiguous, inconsistent, not always on point, and often intended to promote ideological positions. Instead, US policymakers need regular access to the results of high quality, policy-relevant, and ongoing analysis across a large array of topics. Such information is simply not available.

First, a full analysis of which immigrants fare best (according to their socioeconomic characteristics, the work they perform, and the category through which they entered the country) requires longitudinal data. Building on the existing model of the New Immigrant Survey, data on multiple cohorts of new immigrants, with sufficient sample size to disaggregate analysis to regional, state, occupational, and industry levels, would allow a greatly improved understanding of how immigrants assimilate into the US labor market. The Standing Commission would also be expected to make use of all existing government data including the US Current Population Survey (CPS), American Community Survey (ACS), and the Longitudinal Employment and Household Dynamics (LEHD), which links employer data from unemployment records to Census Bureau data on households.

Second, current research on the impacts of immigration largely comes from the academy and nonprofit sectors. As noted earlier, many of the products of both types of institution are problematic and, in any event, do not amount to the systematic, wide-ranging, and "just-in-time" research results the government often requires. A properly staffed body such as the Standing Commission could coordinate research (conducted in-house and commissioned from outside researchers) in order to ensure that important policy questions are being answered as and when required.

In other words, creating a Standing Commission on Labor Markets, Economic Competitiveness, and Immigration would establish a body charged with carrying out research and analysis that is not now available and that is vital for informed policymaking. The Commission's findings and recommendations to the president and Congress would facilitate regular reviews of labor market immigration levels and visa allocations and form the basis for making adjustments as circumstances require. In this way, greater flexibility could be introduced into the system with the numbers of permanent employment visas, for example, being revised much more regularly than the current two- to three-decade interval.

In contrast with previous one-time "blue-ribbon panels" like the Hesburgh and Jordan Commissions, <sup>18</sup> an expert commission would create a resource for ongoing reviews by Congress of labor market and all immigration. By providing high-quality data and evidence-based recommendations specifically related to labor market immigration and its economic effects, a Standing Commission is also likely to raise the level of discourse and knowledge within Congress and the executive branch, as well as among the range of stakeholders engaged in the immigration policy debate. Several other industrialized states have successfully done so with their labor immigration bodies (see Box 1).

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<sup>&</sup>lt;sup>18</sup> The Hesburgh Commission, formally known as the Select Commission on Immigration and Refugee Policy, was established by Congress in 1978; the Jordan Commission, formally the US Commission on Immigration Reform, was established by the Immigration Act of 1990. Both were charged with evaluating US immigration policy and making recommendations to Congress regarding its implementation and effects. See the final reports: US Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest* (Washington, DC: Government Printing Office, 1981); US Commission on Immigration Reform, *Becoming an American: Immigration and Immigrant Policy* (Washington, DC: Government Printing Office, 1997).

#### **Box 1. The International Experience**

Several governments maintain lists of "shortage occupations," typically drawn up by departments of labor or their equivalent. *Australia*'s Department of Education, Employment, and Workplace Relations, *Canada*'s Human Resources Development Department and *New Zealand*'s Department of Labor maintain extensive information and occupations and use them to prioritize immigrant inflows.

The *Netherlands* has an advisory committee that provides analytical support to government without advising on occupational shortages. The committee produces special reports on specific issues such as asylum, citizenship, and the administration of the visa system. Its recommendations are subsequently debated in parliament.

In *Spain*, the High Council on Immigration Policy was established in 2001 to coordinate policymaking among the various state actors with responsibility for immigration. Among other functions, it gathers information and provides analysis on the likely impact of proposed policies.

The *United Kingdom*'s Migration Advisory Committee (MAC) has a wider mandate. It was established in 2006 to provide "independent and evidence-based advice to government," primarily about shortage occupations, although it is also called upon to "advise on other matters relating to migration." Indeed, its mandate is growing as it gains credibility, and it has now been asked to address wider questions around the impact of immigrants' dependents, the impact of relaxing employment restrictions on Romanian and Bulgarian workers, and proposals to restructure the visa system.

There is tentative evidence that MAC has raised the level of the debate by setting out a framework within which employers, unions, and other advocates can make their arguments about immigration and produce evidence about their sectors. <sup>19</sup> In other words, data are increasingly supporting basic economic arguments and are helping policymakers to take account of immigration's impact in a more systematic way.

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<sup>&</sup>lt;sup>19</sup> See Migration Advisory Committee, *Skilled, Shortage, Sensible: The recommended shortage occupation lists for the UK and Scotland* (London: Migration Advisory Committee, September 2008), 85.

## V. What Would a Standing Commission Do (and Not Do)?

Congress would continue to have the responsibility to decide US immigration policy, including setting overall immigration levels; allocating visas among immigrant and nonimmigrant employment and employment-related categories; setting family- and refugee-admission levels and categories; and establishing preference systems and nonimmigrant-visa criteria.

Immigration is not, and never will be, a purely technical issue. Thus, even if knowledge of its economic impacts were greatly improved, there would still be critical policy choices to make. For example, how should we prioritize overall growth as opposed to per capita growth or the distributional impacts of immigration on different groups? Is it in our long-term interest to support some industries with labor market immigration more than others? Policymakers cannot rely on independent experts alone to identify the "optimal" amount or type of immigration, since there is no single correct answer that is independent of values and policy preferences.

Nonetheless, while decisions about immigration policy will inevitably transcend economic costs and benefits and touch upon deeper questions of how immigration defines us as a nation, many issues *can* be quantified. The Standing Commission would eventually provide systematic, detailed, credible, and evidence-based analysis of the costs, benefits, and economic impacts of all aspects of immigration — analyses that we currently lack.

The mandate of a Standing Commission should thus be to analyze the labor market impacts of immigration and propose adjustments in employment-based immigration levels and requirements that meet employers' needs and promote America's economic growth and competitiveness while minimizing job displacement and wage depression. Judgments can be made about immigrants' overall contributions, their progress in the labor market, and the impacts on native workers — including the locational and career paths of native workers who previously worked in industries now dominated by immigrants.

The Standing Commission, therefore, would have two primary tasks:

- Gathering and analyzing key data on immigration and US labor markets, and
- Making specific recommendations to the president and Congress regarding adjustments in the levels and kinds of labor market immigration. <sup>20</sup>

How would the Standing Commission conduct its analysis? One method that has been practiced (and in many cases abandoned) by governments across the world is "shortage analysis," described in detail in Box 2. While shortage analyses will have a place in the process of creating an overall assessment of immigration's role in the labor market, it should not form the basis for setting visa limits. This is because, in brief, a shortage analysis assumes that at any given point in time, the United States' labor market "needs" are both identifiable

 $<sup>^{20}</sup>$  Such an analytic capacity and procedure for adjusting levels would be especially critical should Congress rethink US temporary worker programs.

and static. Both assumptions are highly questionable. Shortage analysis is also fraught with methodological difficulties and fails to account for the fundamentally dynamic process by which the labor market adjusts to changes in labor supply.

The underlying economic and methodological flaws in shortage analysis suggest the need to go beyond shortages to emphasize additional priorities: immigrants' potential for success in the US labor market and America's strategic economic interests. Using newly available longitudinal data on immigrants (with information on their visa category), alongside other datasets such as the CPS, ACS, and LEHD, the Commission would track the progress of immigrants over time, identifying those who perform best and the circumstances under which they do so. These immigrants are likely to have the greatest capacity to contribute to the US economy over long periods of time (including, for example, in key science, technology, health, engineering, and related fields). And since they are also likely to be those who can integrate successfully, the approach serves a dual economic and social purpose.

At the same time, recommendations for adjusting labor market immigration levels would be based on systematic analysis of long-term economic and demographic changes, as well as shorter-term considerations of the economic cycle.

#### Box 2. Shortage Analysis: How It Works and Why It Is Problematic

In economic terms, a "labor market shortage" occurs when demand for a certain type of worker exceeds supply at the prevailing wage. In theory, labor shortages should not persist for long: wages should adjust upwards, increasing the supply of workers and reducing demand until the two are level. Some vacancies can be persistently difficult to fill, however, especially in cases where a job is in undesirable locations and/or requires lengthy or onerous training; where an occupation is expanding faster than domestic supply can respond; or where domestic workers find jobs inherently unattractive.

Shortage analysis is used in several countries as a way of identifying specific occupations that "need" immigrants. The analysis typically relies on administrative or survey data to identify occupations with low unemployment, rapidly rising wages, rising employment levels, or large numbers of vacancies. In some cases, such as in Canada before it grew its points system in the 1990s to its current high levels and in the United Kingdom today, statistical analysis of indicators like these is combined with qualitative data (such as interviews with employers) and subjective judgments — for example, about the ease with which native workers can be trained to fill certain jobs, or the existence of global labor markets in a given industry. The final product is a list of occupations deemed to suffer shortages, for which immigration is prioritized (or to which labor immigration is exclusively limited).

However, even the most sophisticated analyses have substantial failings. The first is timeliness. Labor force surveys such as the US Census Bureau's Current Population Survey become available with a time lag (especially if several months of data are required in order to obtain sufficient sample size for analysis of detailed occupational groups). Analysts must then conduct an extensive evaluation that includes collecting qualitative data. The result is an inevitable lag between the data used and the production of a shortage-occupation list.

A second problem is how to define occupational categories. Labor force data classify groups of workers into occupational categories according to the tasks performed and the skills required. However, the smallest usable occupational groups often do not overlap with genuine skill groups: a given occupation could include some skills that are scarce and some that are not. This is especially true of highly skilled work that requires very specific skills and knowledge, and where high unemployment can coexist with shortages of workers with unique abilities. As a result, occupational categories introduce substantial inaccuracy into the shortage list.

The next set of problems is methodological: which indicators imply that a shortage exists? Low unemployment may appear to be a good indicator. But in addition to true labor shortages, low unemployment may also reflect seasonal variation, cyclical patterns, and short-term shifts in the occupational mix. By contrast, the immigration used to fill these temporary shortages is often permanent. The same applies to rapidly rising wages, which can reflect temporary changes in the demand for labor or productivity gains that occur for reasons unrelated to labor shortages.

Measuring vacancies obviates some of these problems, since vacancies are a more direct measure of employer demand than wages or unemployment. However, vacancy rates vary among occupations depending on the turnover rate (i.e., occupations with rapid employee turnover will have higher vacancy rates, even if there is no labor shortage). Perhaps more importantly, vacancies are not a fixed quantity: they depend on how many people employers expect to be available. As one study on employer recruitment puts it, employers want "what they think they can get." In other words, in a dynamic economy, employers respond to changes in the labor supply by hiring more or fewer workers, and jobs are created when workers are available to do them. <sup>22</sup>

The bottom line: it is probably smarter to focus on attracting immigrants who can integrate well and contribute economically in the short as well as the long term, instead of trying to target immigration flows on labor shortages identified in survey data. Not only is it very difficult to identify shortages and fill them in a timely manner; it is also not clear that filling shortages should even be a primary goal of immigration policy — except on a case-by-case basis.

All of the Commission's data and analyses would be made publicly available in the form of its annual reports and recommendations. Data collection efforts managed by the Commission would also result in public use datasets available to the research community in order to further work in the field. The ultimate goal of establishing such an institutional

 $\underline{\text{http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/andersonandruhs2}}\\ \underline{008}$ 

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<sup>&</sup>lt;sup>21</sup> Bridget Anderson and Martin Ruhs, "A Need for Migrant Labour? The Micro-Level Determinants of Staff Shortages and Implications for a Skills-Based Immigration Policy" (paper prepared for the Migration Advisory Committee, September 2008),

<sup>&</sup>lt;sup>22</sup> Ethan G. Lewis, "Local, Open Economies Within the US: How Do Industries Respond to Immigration?" (Federal Reserve Bank of Philadelphia Working Paper No 04-1, December 2003).

capacity and commitment would be to improve our ability to select and admit the immigrants who will contribute most to the US economy and society.

Over time, we expect the Commission's research to raise the integrity of America's immigration policy in the eyes of Congress and the public. In addition, stakeholders on all sides of the issue would start from a common source of baseline information about immigration and US labor markets when debating major policy changes. As the Commission's contributions and body of work grew, we would expect its recommendations to be increasingly influential.

## VI. How Should a Standing Commission Be Structured and Operate?

Congress confronts numerous policy problems which, like immigration, are politicized and involve complex technical or analytic considerations. Examples include closing military bases, analyzing alternative trade initiatives, ratifying trade agreements, and setting monetary policy. In these and other cases, Congress has devised various mechanisms for delegating authority to other bodies in an effort to professionalize policymaking and to insulate itself from certain crippling aspects of the political process.

In creating a Standing Commission, Congress should pursue three goals:

- Independence. The Commission must be insulated from the interests of any particular constituency and political pressures from Congress and executive-branch agencies to shape its research agenda and findings. At the same time, it must have reliable access to high-level leadership in these branches and essential data gathered by the Departments of Homeland Security and Labor and the Census Bureau, among others.
- Expertise. The Commission's credibility will depend on its professionalism and the quality of its work and staff expertise. 23
- *Bipartisanship*. Commission members should be evenly divided between the two political parties, with a chair appointed by the president.

To accomplish these goals, the Standing Commission should be a permanent, independent government agency within the executive branch, comprised of five members who serve staggered five-year terms, renewable once. Members should be appointed by the president with the advice and consent of the Senate. The chair would have a two-year, renewable term. No more than three members could be from the same political party. The Attorney General and the Secretaries of Homeland Security, Labor, State, Commerce, Health and Human Services, and Agriculture should be *ex officio* members.

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<sup>&</sup>lt;sup>23</sup> Congress frequently relies on independent bodies to provide professional expertise in sensitive policy areas. Examples include the U.S. International Trade Commission and the U.S. Sentencing Commission.

The Standing Commission would be required by statute to submit an annual report and recommendations simultaneously to the president and Congress. After a specified period for congressional consultation, unless Congress acted to maintain existing statutory baseline labor market immigration levels, the president would issue a formal Determination of New Levels, adjusting employment-based green-card quotas and preferences and temporary worker visa limits for the coming fiscal year.

The Standing Commission would also publish the data and analysis underlying its recommendations, making the information immediately available to the president, Congress, and the public. In these ways, the Standing Commission's work would be analogous to that of the Census Bureau or the Bureau of Labor Statistics, which serve decision makers and agencies charged with allocating social services program funds or economic policymaking, for example.

A career professional staff of economists, demographers, and other social scientists would support the Commission's work. The staff and budget should be sufficient to ensure high-quality work.

### VII. Conclusion

The US immigration system fails to treat labor market immigrants as the strategic resource they can represent. The system is also extraordinarily slow to adjust to changing economic and labor market circumstances, whether measured by responsiveness to the business cycle or to long-term shifts in US and global employment patterns.

A Standing Commission on Labor Markets, Economic Competitiveness, and Immigration would address both of these problems by providing policymakers and stakeholders with reliable, pertinent information to inform immigration debates. By recommending adjustments to statutory levels and allocations of labor market visas on a regular basis, it would create a process and framework for more flexible and responsive immigration policies.

## **VIII. Appendix**

Appendix I. Annual Totals of Labor-Market and Other Visas, 2006 to 2008

	2006	2007	2008
Immigrant admissions (Green cards)	1,266,129	1,052,415	1,107,126
Immediate relatives of US citizens	580,348	494,920	488,483
Family-sponsored preferences	222,229	194,900	227,761
Employment-based preferences	159,081	162,176	166,511
Primary EB visa-holders <sup>a</sup>	66,655	70,088	70,742
Diversity	44,471	42,127	41,761
Humanitarian <sup>b</sup>	254,575	155,839	180,568
Other <sup>c</sup>	5,425	2,453	2,042
Nonimmigrants workers <sup>d</sup>			
Primary <sup>e</sup>	1,743,584	1,984,688	2,028,719
Derivative	351,790	392,745	381,228

Source: US Department of Homeland Security, *Yearbook of Immigration Statistics: 2008* (Washington, DC: US Department of Homeland Security Office of Immigration Statistics, 2009).

<sup>&</sup>lt;sup>a</sup> Excludes spouses and children of primary EB visa holders.

b Includes refugees, parolees, asylees, and immigrants benefitting from Cancellation of removal, the Nicaraguan Adjustment and Central American Relief Act, and the Haitian Refugee Immigration Fairness Act.

<sup>&</sup>lt;sup>c</sup> Includes children born to alien residents and those DHS classifies as "other."

d Nonimmigrant-visa data counts the number of admissions, including multiple admissions per visa holder in many cases. Data on the exact number of nonimmigrant visa holders are not available.

<sup>&</sup>lt;sup>c</sup> Excludes spouses and children of primary nonimmigrant visa holders except for E visa holders, which includes admissions of spouses and children.

### **About the Authors**



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Demetrios G. Papademetriou is President of the Migration Policy Institute (MPI), a Washington-based think tank dedicated exclusively to the study of international migration. He is also the convener of the Transatlantic Council on Migration and its predecessor, the Transatlantic Task Force on Immigration and Integration (co-convened with the Bertelsmann Stiftung). The Council is composed of senior public figures, business leaders, and public intellectuals from Europe, the United States, and Canada. Dr. Papademetriou also convenes the Athens Migration Policy Initiative (AMPI), a task force of mostly European senior immigration experts that advises EU Member States on immigration and asylum issues, and the Co-Founder and International Chair Emeritus of Metropolis: An International Forum for Research and Policy on Migration and Cities.

He holds a PhD in Comparative Public Policy and International Relations (1976) and has taught at the universities of Maryland, Duke, American, and New School for Social Research. He has held a wide range of senior positions that include Chair of the Migration Committee of the Parisbased Organization for Economic Cooperation and Development; Director for Immigration Policy and Research at the US Department of Labor and Chair of the Secretary of Labor's Immigration Policy Task Force; and Executive Editor of the International Migration Review.

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#### **Doris Meissner**

Doris Meissner, former Commissioner of the US Immigration and Naturalization Service (INS), is a Senior Fellow at the Migration Policy Institute (MPI) where she directs MPI's work on US immigration policy. She also contributes to the Institute's work on immigration and national security, the politics of immigration, administering immigration systems and government agencies, and cooperation with other countries.

Ms. Meissner has authored and co-authored numerous reports, articles, and op-eds and is frequently quoted in the media. She served as director of MPI's Independent Task Force on Immigration and America's Future, a bipartisan group of distinguished leaders. The group's 2006 report and recommendations address how to harness the advantages of immigration for a 21st century economy and society.

From 1993 to 2000, she served in the Clinton administration as Commissioner of the INS, then part of the US Department of Justice. She first joined the Department of Justice in 1973 as a White House Fellow and Special Assistant to the Attorney General. She served in various senior policy posts at Justice until 1981, when she became Acting Commissioner of INS and then Executive Associate Commissioner, the third-ranking post in the agency.

In 1986, she joined the Carnegie Endowment for International Peace as a senior associate. Ms. Meissner created the Endowment's Immigration Policy Project, which became MPI in 2001.

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