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OF IMMIGRATION

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I would like to begin this discussion of national security implications of immigration reform in the United States with a few remarks about the concepts of national security. Specifically, the question of what is meant by saying that national security is affected by immigration should be addressed. Earlier speakers discussed national security implications of increasing or decreasing immigration as it related to population. Another area of concern relates to protection of the nation from two kinds of adverse events caused by foreign states and their agents: intimidation by external attack and internal subversion. Both are adverse because they can lead to undesired political changes in the United States. If one assumes that national security is affected by whatever makes external or internal threat more likely to occur, the next question to address is how immigration affects national security.

The first way immigration can affect national security is through the entry of agents of foreign states seeking to harm the U.S. or to advance their own interests. These agents may attempt to obtain information through espionage, to harm or intimidate the United States by terrorism and sabotage, or to undermine the health and safety of the population through drug trafficking. They may also affect government policy through direct means such as recruitment of government officials. Indirect means can also be used, such as manipulation of public opinion by front organizations.

The second way immigration can affect national security is through the entry of criminals. For example, according to some sources, the entry of the Cubans was caused in part by Fidel Castro's desire not only to get rid of those he considered undesirable but also to harm the United States.

Before addressing additional ways in which immigration can affect national security, one should ask the extent to which current immigration law and enforcement policy protect the U.S. against the entry of foreign agents and criminals. Current law requires that certain categories of aliens be denied admission to the United States and be deported if they do gain entry. Three of the thirty-three categories of exclusion in section 212 of the Immigration and Nationality Act are of particular importance. First, paragraph 27 covers aliens who are reasonably believed to be seeking entry "solely, principally, or incidentally to engage in activities which would be prejudicial to the public interests or endanger the welfare, safety or security of the United States." No alien in this category may be lawfully admitted. Paragraph 29 covers aliens who are reasonably believed to be likely to engage in two areas of activities:

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espionage, sabotage, and public disorder, or activities to control or overthrow the United States government.

The third category, paragraph 28, is the longest of the thirty-three categories. It covers aliens who are or who have been anarchists, Communists, advocates or teachers of anarchism, and persons who promote communism, and those who would promote the establishment in the United States of a totalitarian dictatorship, or the overthrow of the United States by force, violence, or other unconstitutional means. This is the most controversial of the categories. A 1977 amendment, known as the McGovern amendment, requires the State Department to recommend the waiver of this exclusion for temporary visits unless the Secretary determines that such a waiver would be contrary to the security interests of the United States. The Attorney General is not required to follow the Secretary of State's recommendations, but has almost always done so.

Each of these national security related paragraphs, especially paragraph 28, has been criticized and amendments have been proposed to each. The most recent amendment has been proposed by Congressman Barney Frank. (D., Mass.). This proposal would narrow paragraph 27 so that it only protects against direct threats to the public safety or national security. It would also narrow paragraph 29 to protect against only espionage and sabotage. Further, it would revise paragraph 28 to exclude only an alien who is an active member of an organization engaged in violence or terrorist activities.

The merits of Congressman Frank's amendment or any other proposed amendment need not be discussed at this point. It should be noted only that a representative of the State Department testified concerning the proposed repeal of the majority of paragraph 28 and stated that: "The department considers that it is prudent in terms of our national interests to retain the authority to review on a case by case basis the purpose of communists or their affiliates when they propose to travel to the United States." The witness also stated, "We thus prefer the current situation in which such membership or affiliation calls for additional scrutiny to determine what significance, if any, it may have in an individual case."

In addition to the paragraphs of the Immigration and Nationality Act that directly relate to national security, there are three paragraphs excluding aliens who have committed crimes, including a paragraph covering drug offenders. The Immigration Reform and Control Act, which will soon be debated on the Senate floor, does not amend any of these exclusion paragraphs.

The immigration laws, if effectively enforced, would offer substantial protection against the entry of foreign agents and criminals. To the extent, however, that the laws cannot or are not being enforced, such protection is unavailable. The immigration reform bill, which contains provisions that would improve the U.S.'s ability to control its borders, will have several results. First, the resources of the Immigration Service will be significantly increased. Second, a new criminal offense will be created to prosecute the transportation to the U.S. of aliens without prior authorization. This provision should help prevent another major immigration disaster such as the entry of more

than 100,000 Cubans, some of whom are believed to be responsible for the sharp crime increase in southern Florida.

Finally, the bill contains an incentive for the development of an automated entry and exit control system. This system would enable the U.S. Immigration Service to know if visitors leave the United States when they should. Even though the U.S. is in the computer age, presently an automated system with the ability to determine if and when these people leave the country does not exist. This disability was recognized during the Iranian hostage crisis when President Carter asked the Immigration Service to determine how many Iranian students were illegally in the United States. In reply, the Immigration Service threw up its hands and said, "We're sorry, Mr. President, we can't!" By implementing such a system, this problem should be negated.

There are a few additional ways in which immigration can affect national security. Unfortunately, these are less controllable by the current law, even with effective enforcement. Many aliens now within the United States do not naturalize. In other words, it may be assumed that their primary allegiance remains to their native country. Such persons may lend their political support to government policies that favor their homeland at the expense of the United States' security. Failure to adopt English as a primary language may increase this problem. Current immigration law offers no protection against this risk. Indeed, some believe that current immigration law increases this risk.

Under current law, legal immigration is now dominated by a relatively small group of countries. This same group of countries also dominates illegal immigration. This is caused by the magnet effect of jobs in the United States, the inadequate resources of the Immigration Service, and the less favorable economic conditions in the foreign homelands. The presence of these illegal aliens may act detrimentally to preserve the ties of all aliens to their homeland. There are provisions in the immigration reform bill that should reduce the illegal immigration and thus reduce this aggravating factor by prohibiting the knowing employment of illegal aliens. This may result in a reduction of the draw of U.S. employment opportunities.

One other way in which immigration can affect national security should be addressed. This factor involves countries that are the source of large numbers of immigrants. This national security consideration is indirect and affects the extent to which the source country will ally itself with the United States or with the enemies of the U.S. It also affects the strength of the source country as either a friend or a foe of the U.S. and the likelihood that such country will continue to send large numbers of illegal aliens to the U.S. There are two aspects to this factor, each of which is frequently referred to by a descriptive metaphor. The first is called "safety valve"; the second is termed "brain drain." It is frequently argued that if the United States closes the safety valve by reducing significantly the number of illegal aliens from certain countries, such as Mexico, political instability or a Communist revolution might take place in that country. Some argue that would be disastrous to the national security of the United States. On the other hand, it also seems possible that closing the safety valve will force political and economic change in the

foreign country that would lead to more favorable economic conditions and thus reduce the number of immigrants to the United States. Furthermore, other ways may exist to prevent political instability, such as wisely directed foreign aid.

The brain drain phenomenon is another reason why the safety valve argument may not be sound. Brain drain refers not only to emigration from developing nations of scientists, engineers, and other professionals, but also to the immigration of persons with energy, initiative, and manual labor skills. This kind of immigration must have an adverse effect on the economic and political development of the sending countries. The result will be a maintenance of the tendency of such countries to generate immigrants to the United States, as well as an increase in their vulnerability to political change.

The Subcommittee has proposed reducing the degree of this brain drain by requiring foreign students to return to their home countries for at least two years after they graduate from U.S. universities. This proposal is not in the present version of the immigration reform bill because of a great furor raised by the high tech industry and universities that claim they cannot survive without the foreign graduates. A high percentage of all doctorate-level graduates are foreigners, and the major universities argue that without these people they will not have the faculties and staffs to compete in the world market. After trying to compromise on this problem for four years without success, Congress decided to drop the issue this year.

In conclusion, a few things should be said about the national security implications of population size. The U.S. does have legal immigration of half a million persons a year. Within the last five years this figure has been as high as 800 thousand persons per year. These people immigrate legally and are in addition to those who enter illegally. This is not an insignificant number. In fact, it is more immigrants than the rest of the world combined accepts. One factor often ignored in the argument that even an increase in immigration can be offset by the U.S.'s declining fertility rate is that 80 percent of today's immigrants have a much higher fertility rate than the general American population. With immigrants comprising the growing part of the U.S. population, the U.S. fertility rate will likely increase. The high fertility rate will add to, not offset, the immigration problem.