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Permanent Legal Immigration to the United States: Policy Overview

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Summary

The pool of people who are eligible to immigrate to the United States as legal permanent residents (LPRs) each year typically exceeds the worldwide level set by the Immigration and Nationality Act (INA). In an effort to process the demand for LPR visas fairly and in the national interest, LPR admissions 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. The INA further 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 or country caps.

In FY2013, just under 1 million aliens became U.S. legal permanent residents (LPRs). Of this total, 65.6% entered the United States on the basis of family ties. Other major categories of LPRs were employment-based (16.3%), refugees and asylees (12.1%), and diversity migrants (4.6%). In FY2013, Mexico was the source country of 13.6% of LPRs who were admitted or who adjusted status. Other top countries were China (7.2%), India (6.9%), the Philippines (5.5%), and the Dominican Republic (4.2%). Rather than newly arriving from abroad, 53.6% (530,802) were adjusting to LPR status from a temporary (i.e., nonimmigrant) status within the United States.

There were 4.4 million approved LPR visa petitions pending with the National Visa Center at the end of FY2013 because of the numerical limits in the INA, most of which are family-based petitions. These data do not constitute a backlog of petitions to be processed; rather, these data represent persons who have been approved for visas that are not yet available due to the numerical limits in the INA. Visas are generally available for unmarried adult children of U.S. citizens who filed in FY2006, but there are even longer waits for unmarried adult children of U.S. citizens from Mexico and the Philippines. 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 almost 24 years ago.

Most agree that revision of the system of permanent legal immigration should be one of the major components of a comprehensive immigration reform (CIR) proposal, along with increased border security and enforcement of immigration laws within the U.S. interior, reform of temporary worker visas, and options to address the millions of unauthorized aliens residing in the country. Congress is considering proposals to alter the legal immigration system—either in the form of CIR or in the form of incremental revisions aimed at strategic changes.

Some are advocating for a significant reallocation of the visa categories or a substantial increase in legal immigration to satisfy the desire of U.S. families to reunite with their relatives abroad and to meet the labor force needs of employers hiring foreign workers. Yet, proponents of family-based migration maintain that any proposal to increase immigration should also include the option of additional family-based visas to reduce waiting times—currently up to years or decades—for those already “in the queue.” Arguing against these competing priorities for increased immigration are those who favor reduced immigration, including proposals to limit family-based LPRs to the immediate relatives of U.S. citizens, to confine employment-based LPRs to highly skilled workers, and to eliminate the diversity visas.

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Four major principles currently 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 1990.¹

The critiques of the permanent legal immigration system today are extensive, but there is no consensus on the specific direction the reforms of the law should take. As the Congress considers comprehensive immigration reform (CIR), many maintain that revision of the legal immigration system should be one of the major components of a CIR proposal.² This primer on legal permanent immigration law, policies, and trends provides a backdrop for the policy options and debates that may emerge as Congress considers a revision of the legal immigration system.³

Introduction

The two 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.⁴

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.

The prospective immigrant must maneuver a multi-step process through federal departments and agencies to obtain LPR status. 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 legally residing in the United States, USCIS handles most of the process, which is called “adjustment of status” in the INA because the alien is moving from a temporary category to LPR status.⁵ If the prospective LPR has not established a lawful residence in the United States, the

¹ 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 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. 8 U.S.C. §1101 et seq.

² Other major components of CIR that are commonly mentioned are: increased border security and enforcement of immigration laws within the U.S. interior; reform of temporary worker visas; and options to address the millions of unauthorized aliens residing in the country.

³ For a discussion of the legislation under consideration, see CRS Report R43320, *Immigration Legislation and Issues in the 113th Congress*, coordinated by Andorra Bruno.

⁴ 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.

⁵ INA §245 details the circumstances under which an alien can change from a nonimmigrant or other temporary status (continued...)

petition is forwarded to the Department of State's (DOS) Bureau of Consular Affairs in the home country after USCIS has approved 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 the INA.⁶

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs.⁷ As discussed more fully in the Immigration Trends section below, 53.6% of all LPRs adjusted to LPR status in the United States rather than abroad in FY2013.

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.

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.⁸ The permanent worldwide immigrant level consists of the following components: family immigration, 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 immigrants (55,000). Immediate relatives⁹ of U.S. citizens as well as refugees and asylees who are adjusting status are exempt from direct numerical limits.¹⁰

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 paroled¹¹

(...continued)

to legal permanent resident status without leaving the United States to apply for the LPR visa.

⁶ These include criminal, national security, health, and indigence grounds as well as past violations of immigration law. Section 212(a) of INA. CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

⁷ For background and analysis of visa issuance and admissions policy, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

⁸ §201 of INA; 8 U.S.C. §1151.

⁹ "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.

¹⁰ Refugees are admitted to the United States as such and then may adjust to LPR status after one year. Asylees are foreign nationals who request and receive asylum after they have entered the United States. They too, can adjust to LPR status after one year. CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno.

¹¹ "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.

into the United States for at least a year from 480,000 (the total family immigration 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. As a consequence, the 480,000 level of family immigration has often been exceeded to maintain the 226,000 floor on family-sponsored preference visas, because the number of immediate relatives is greater than 254,000 annually.

Per-country Ceilings

As mentioned above, the INA establishes per-country levels at 7% of the worldwide level.¹² For a dependent foreign state, the per-country ceiling is 2%.¹³ The per-country level is not a quota or set aside for individual countries, as each country in the world could not receive 7% of the overall limit. As the State Department describes, “(T)he country limitation serves to avoid monopolization of virtually all the annual limitation by applicants from only a few countries. This limitation is not a quota to which any particular country is entitled, however.”¹⁴

Two important exceptions to the per-country ceilings were 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 are not subject to the per-country ceiling.¹⁵ Prior to FY2001, employment-based preference immigrants were also held to per-country ceilings. The American Competitiveness in the Twenty-First Century Act 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.

Family and Employment-Based Preferences

Within each family and employment preference, the INA further allocates the number of LPRs issued visas each year. The family preferences are based upon the closeness of the family relationship to U.S. citizens and LPRs.¹⁶ The employment preferences are based upon the professional accomplishments and skills needed by U.S. employers. 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. Employment-based visa allocations not used in a given year roll-over to the family preference categories the following year, and vice versa.¹⁷

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

¹³ Macau, the former Portuguese colony that became a special administrative region of the Peoples’ Republic of China in 1999, would be considered a dependent foreign state.

¹⁴ Bureau of Consular Affairs, *Operation of the Immigrant Numerical Control Process*, U.S. Department of State, undated, p. 3, located at <http://travel.state.gov/content/visas/english/law-and-policy/bulletin.html>.

¹⁵ §202(a)(4) of the INA; 8 U.S.C. §1151.

¹⁶ For a complete discussion and analysis, see CRS Report R43145, *U.S. Family-Based Immigration Policy*, by William A. Kandel.

¹⁷ Employment-based allocations are further affected by §203(e) of the Nicaraguan and Central American Relief Act (NACARA), as amended by §1(e) of P.L. 105-139. This provision states that when the employment 3rd preference “other worker” (OW) cut-off date reached the priority date of the latest OW petition approved prior to November 19, 1997, the 10,000 OW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the (continued...)

Table I. Legal Immigration Preference System

Category		Numerical limit
Total Family-Sponsored Immigrants		480,000
<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
Family-sponsored Preference Immigrants		Worldwide Level 226,000
<i>1st preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 th preference
<i>2nd preference</i>	(A) Spouses and minor children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 st preference [77% are reserved for spouses and children of LPRs]
<i>3rd preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 st or 2 nd preference
<i>4th preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 st , 2 nd , or 3 rd preference
Employment-Based Preference Immigrants		Worldwide Level 140,000
<i>1st 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 th and 5 th preference
<i>2nd 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 st preference
<i>3rd preference—skilled</i>	Skilled shortage workers with at least two years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 st or 2 nd preference
<i>3rd preference—“other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 rd preference)
<i>4th 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>5th 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; 8 U.S.C. §1153.

Note: Employment-based allocations are further affected by §203(e) of the Nicaraguan and Central American Relief Act (NACARA), as amended by §1(e) of P.L. 105-139. This provision states that the employment 3rd preference “other workers” category is to be reduced by up to 5,000 annually for as long as necessary to offset adjustments under NACARA.

As part of the Immigration Act of 1990, Congress added a fifth preference category for foreign investors to become LPRs. The INA allocates up to 10,000 admissions annually and generally requires a minimum \$1 million investment and employment of at least 10 U.S. workers. Less

(...continued)

following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under NACARA. Since the OW cut-off date reached November 19, 1997, during FY2001, the reduction in the OW limit to 5,000 began in FY2002.

capital is required for aliens who participate in the immigrant investor pilot program, in which they invest in targeted regions and existing enterprises that are financially troubled.

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.¹⁸

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.¹⁹ **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 LPR adjustments as of FY2005. (Previously limited to 10,000)
<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 of work experience in a profession requiring two years training or experience	55,000
<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, and 240A of INA; 8 U.S.C. §1153.

¹⁸ See CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem.

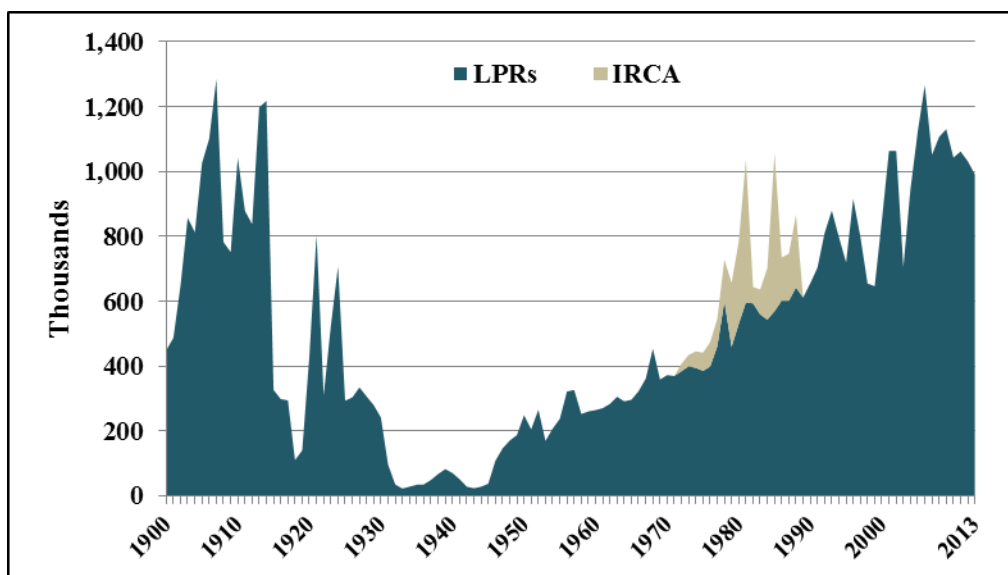
¹⁹ CRS Report R41747, *Diversity Immigrant Visa Lottery Issues*, by Ruth Ellen Wasem; and, CRS Report R42477, *Immigration Provisions of the Violence Against Women Act (VAWA)*, by William A. Kandel.

Immigration Trends

Immigration Patterns, 1900-2013

Immigration to the United States is not totally determined by shifts in flow that occur as a result of lawmakers revising the allocations. Immigration to the United States plummeted in the middle of the 20th century largely as a result of factors brought on by the Great Depression and World War II. There are a variety of “push-pull” factors that drive immigration. Push factors from the immigrant-sending countries include such circumstances as civil wars and political unrest, economic deprivation and limited job opportunities, and catastrophic natural disasters. Pull factors in the United States include such features as strong employment conditions, reunion with family, and quality of life considerations. A corollary factor is the extent that aliens may be able to migrate to other “desirable” countries that offer circumstances and opportunities comparable to the United States.

Figure 1. Annual LPR Admissions and Status Adjustments, 1900-2013



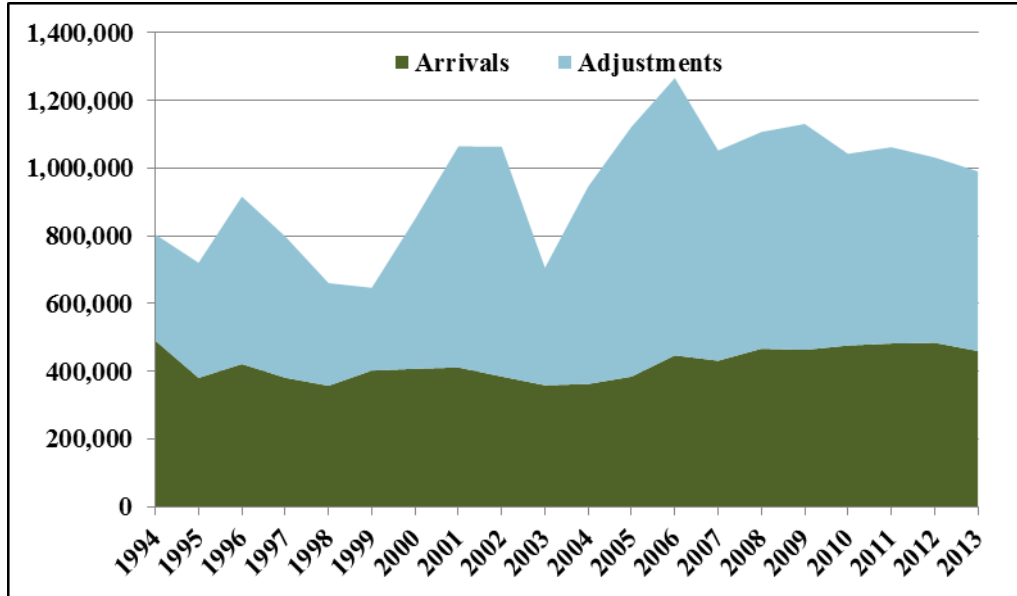
Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act (IRCA) of 1986 are depicted by year of arrival rather than year of adjustment.

The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 1** illustrates. The DHS Office of Immigration Statistics (OIS) 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.²⁰ 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

²⁰ The Immigration Reform and Control Act of 1986 legalized 2.7 million aliens residing in the United States without authorization.

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.

Figure 2. Legal Permanent Residents, New Arrivals and Adjustments of Status, FY1994-FY2013

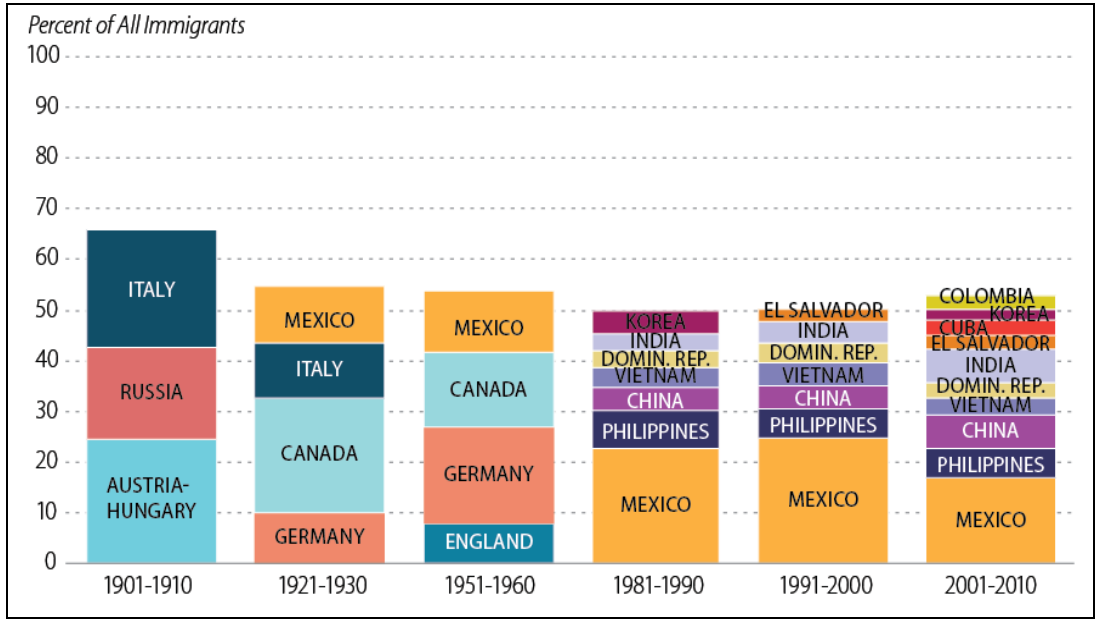


Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics (multiple years).

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs before they arrive in the United States. In the past decade, the number of LPRs arriving from abroad has remained somewhat steady, hovering between a high of 481,948 in FY2012 and a low of 358,411 in FY2003. Adjustments to LPR status in the United States have fluctuated over the same period, from a low of 244,793 in FY1999 to a high of 819,248 in FY2006. As **Figure 2** shows, most of the variation in total number of aliens granted LPR status over the past decade is due to the number of adjustments processed in the United States rather than visas issued abroad.

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 3** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades. The figure illustrates that immigration at the close of the 20th century was not as dominated by 3 or 4 countries as it was earlier in the century. These data suggest that the per-country ceilings established in 1965 had some effect. As **Figure 3** 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 20th century, immigrants from seven to nine countries comprised about half of all LPRs and this pattern has continued into the 21st century.

Figure 3. Top Sending Countries (Comprising at Least Half of All LPRs): Selected Periods



Source: CRS analysis of Table 2, *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, FY2010.

Although Europe was home to the countries sending the most immigrants during the early 20th century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20th century and into the 21st century. Other top sending countries from FY2001 through FY2010 are the Dominican Republic, El Salvador, Colombia and Cuba (Western Hemisphere) and the Philippines, India, China, South Korea and Vietnam (Asia).

FY2013 Admissions

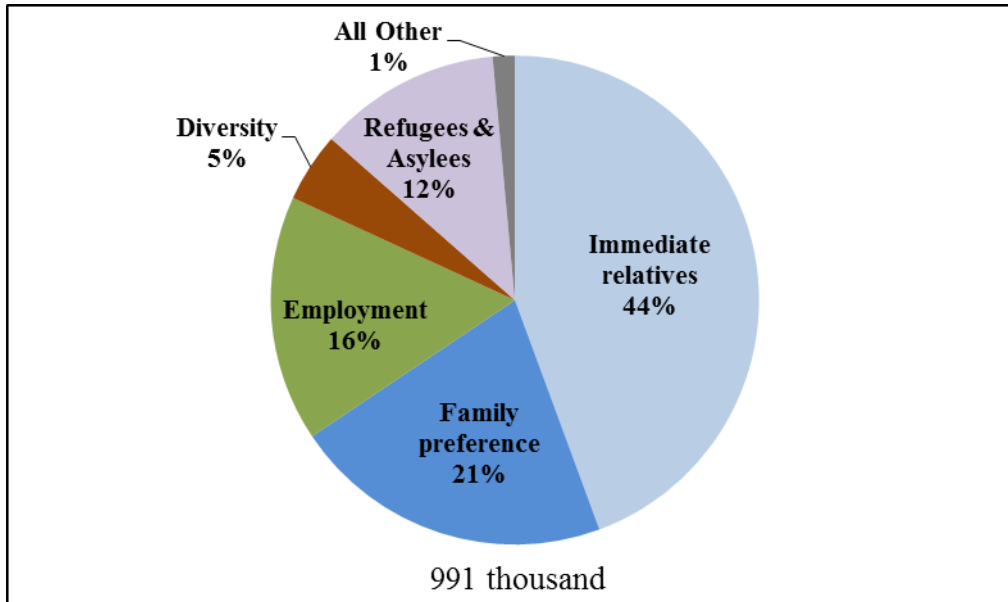
In FY2013, just under 1 million aliens became LPRs. Of this total, 65.6% entered on the basis of family ties. As **Figure 4** presents, other major categories were employment-based LPRs (16.3%), refugees and asylees (12.1%), and diversity migrants (4.6%). Immediate relatives of U.S. citizens accounted for 44.4% of all LPRs in 2013. More specifically, spouses of U.S. citizens were 25.1%, parents of U.S. citizens were 12.1%, and children of U.S. citizens (including adopted orphans) were 7.2% of LPRs.

In FY2013, Mexico was the source country of 13.6% of LPRs who were admitted or who adjusted status. Other top countries were China (7.2%), India (6.9%), the Philippines (5.5%), and the Dominican Republic (4.2%). These top five countries made up 37.4% of all LPRs who were admitted or who adjusted status in FY2013. Similarly, the leading regions of birth for LPRs in FY2013 were Asia (40.4%) and North America²¹ (31.9%), accounting for almost three quarters of the LPRs in FY2013.²²

²¹ North America includes the Caribbean and Central America as well as Mexico and Canada.

²² DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2013*, Table 10.

Figure 4. Legal Permanent Residents by Major Category, FY2013



Source: U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2013, 2014*.

In FY2013, USCIS adjusted 530,802 aliens to LPR status, which was 53.6% of all LPRs. The lowest number of foreign nationals adjusted in the United States was in FY2003, when USCIS was just standing up as an agency after the creation of DHS. Most (86.9%) of the employment-based immigrants adjusted to LPR status within the United States in FY2013. Half (52.8%) of the immediate relatives of U.S. citizens also did so that year. Only 10.4% of the other family-preference immigrants adjusted to LPR status within the United States in FY2013.²³

Approved Visa Petitions Pending

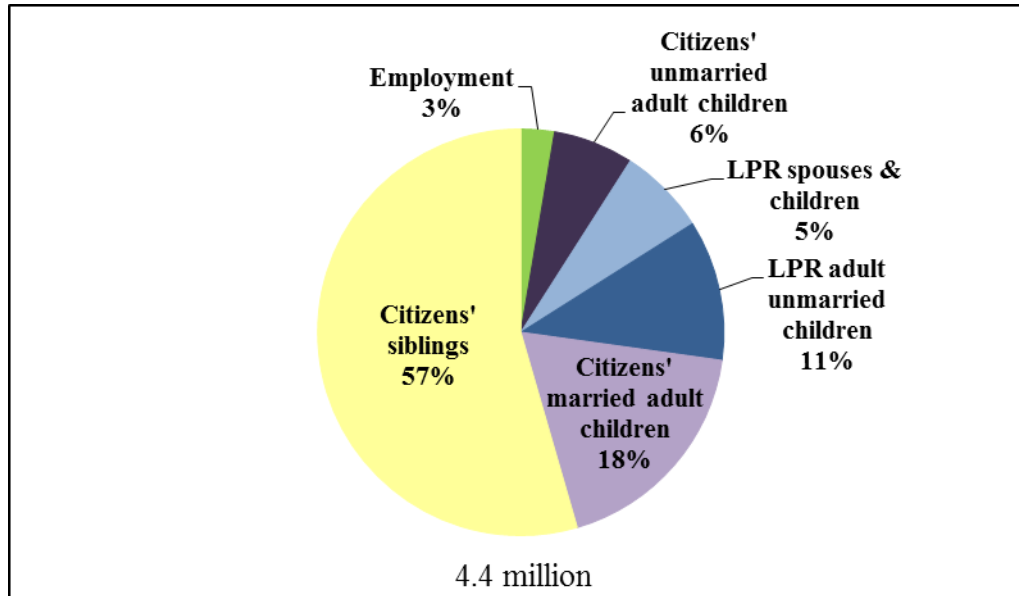
The pool of people who are eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by U.S. immigration law. At the end of each fiscal year, the Department of State publishes a tabulation of approved visa petitions pending with the National Visa Center.²⁴ These data do not constitute a backlog of petitions to be processed; rather, these data represent persons who have been approved for visas that are not yet available due to the numerical limits in the INA. The National Visa Center caseload is the data that drive the priority dates published in the *Visa Bulletin* each month.²⁵

²³ DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2013*, Table 7.

²⁴ U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2013*.

²⁵ For further specifications of the data that DOS factors into the visa priority dates, see U.S. Department of State, Visa Office, *Annual Numerical Limits for Fiscal Year 2014*, located at <http://travel.state.gov/content/visas/english/law-and-policy/statistics/immigrant-visas.html>.

Figure 5. Approved LPR Visa Petitions Pending November 2013



Source: U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2013*.

The family-based preference categories dominate the approved visa petitions pending. **Figure 5** presents approved petitions for the 4.4 million LPR visas pending with the National Visa Center at the end of FY2013, by preference category.²⁶ Over half (57%) of all approved petitions pending were 5th preference (i.e., brothers and sisters of U.S. citizens). Children of U.S. citizens with approved LPR visas pending totaled 24% (i.e., 6% unmarried and 18% married). Family members of LPRs totaled 16% of the 4.4 million approved visa petitions pending.

As **Figure 5** indicates, the employment-based preferences account for only 3% (111,604) of the 4.4 million LPR visas pending with the National Visa Center as of November 1, 2013. This figure of 111,604 reflects persons registered under each respective numerical limitation (i.e., the totals represent not only principal applicants or petition beneficiaries, but their spouses and children entitled to derivative status under the INA).

Caveat on the Queue

Trends in applications for immigration benefits drawn from USCIS' Performance Reporting Tool (PRT) suggest that USCIS has not yet forwarded a substantial portion of the LPR caseload to the National Visa Center.²⁷ Similarly, the I-485 Inventory that USCIS maintains on all employment-based adjustment of status cases pending suggests that there might be a significant number of employment-based LPR petitions that are in the "pipeline."²⁸ USCIS does not formally report

²⁶ U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2013*.

²⁷ The Performance Reporting Tool (PRT) is the USCIS System for capturing and reporting field office and service center performance data. It is comparable to the Performance Analysis System (PAS) used by the former Immigration and Naturalization Service. For an example, see <http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/N-400%20and%20Application%20for%20Benefits/applications-for-benefits-2013-june.pdf>

²⁸ The USCIS maintains a system of approved employment-based I-485 petitions, (i.e., the Application to Register (continued...))

how many LPR petitions are awaiting approval and how many approved LPR petitions are pending.²⁹

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.³⁰

Family-Based Visa Priority Dates

As **Table 3** evidences, relatives of U.S. citizens and LPRs are waiting in backlogs for a visa to become available. Brothers and sisters of U.S. citizens now can expect to wait over 12 years, with even longer waits for siblings from Mexico and the Philippines. “Priority date” means that unmarried adult sons and daughters of U.S. citizens who filed petitions on June 8, 2007, are now being processed for visas (with older priority dates for certain countries as noted in **Table 3**). Married adult sons and daughters of U.S. citizens who filed petitions over 10 years ago (December 8, 2003) 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 over 23 years ago.³¹

Amidst these long queues, the spouses and children of LPRs (second preference A) have the most recent priority date: March 1, 2013. Ten years ago, the spouses and children of LPRs faced a four-year queue. Two years ago, that preference category had a priority date of June 15, 2010, which amounted to almost a two and-a-half-year wait. The number of approved pending petitions for spouses and children of LPRs dropped from 332,636 at the end of FY2011 to 238,417 at the end of FY2013. It is unclear whether this decline represents a diminishing demand for these visas, USCIS delays in submitting approved petitions to the National Visa Center, or a backlog of petitions in the “pipeline” that have yet to be processed and approved.

(...continued)

Permanent Residence or Adjust Status) that are pending, which provides another source of data on the number of approved employment-based LPRs. Known as the I-485 Inventory, these data are available by preference category and by top countries. These I-485 data include the employment-based petitioners who plan to adjust status within the United States. http://www.uscis.gov/sites/default/files/files/nativedocuments/EB_I-485_Pending_Inventory_as_October_01-2013.pdf

²⁹ For further discussion and analysis on numerical limits and backlogs, see CRS Report R42048, *Numerical Limits on Employment-Based Immigration: Analysis of the Per-Country Ceilings*, by Ruth Ellen Wasem; and congressional distribution memorandum, *Approved Legal Permanent Resident Petitions Pending for 2012*, by Ruth Ellen Wasem, May 2, 2012, available upon request.

³⁰ Bureau of Consular Affairs, *Visa Bulletin For November 2014*, U.S. Department of State, No. 74, Vol. IX, 2014.

³¹ For more analysis of the family-based visa queue, see CRS Report R43145, *U.S. Family-Based Immigration Policy*, by William A. Kandel.

Table 3. Priority Dates for Family Preference Visas, as of November 2014

Category	Worldwide	China	India	Mexico	Philippines
Unmarried sons and daughters of citizens	June 6, 2007	June 8, 2007	June 8, 2007	July 8, 1994	Nov. 1, 2004
Spouses and children of LPRs	Mar. 1, 2013	Mar. 1, 2013	Mar. 1, 2013	Sep. 22, 2012	Mar. 1, 2013
Unmarried sons and daughters of LPRs	Jan. 1, 2008	Jan. 1, 2008	Jan. 1, 2008	Sep. 8, 1994	Jan. 1, 2004
Married sons and daughters of citizens	Dec. 8, 2003	Dec. 8, 2003	Dec. 8, 2003	Nov. 1, 1993	June 8, 1993
Siblings of citizens age 21 and over	Feb. 8, 2002	Feb. 8, 2002	Feb. 8, 2002	Feb. 15, 1997	May 1, 1991

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin* for November 2014.

Employment-Based Visa Priority Dates

As of November 2014, the priority workers (i.e., extraordinary ability) visa category is current, as **Table 4** presents. The advanced degree visa category is current worldwide, but those seeking advanced degree visas from China have a priority date of December 8, 2009, and from India have a February 15, 2005, priority date. Visas for professional and skilled workers have a worldwide priority date of June 1, 2012, except for those workers from India and the Philippines, who have longer waits.³²

Table 4. Priority Dates for Employment Preference Visas, as of November 2014

Category	Worldwide	China	India	Mexico	Philippines
Priority workers	current	current	current	current	current
Advanced degrees/ exceptional ability	current	Dec. 8, 2009	Feb. 15, 2005	current	current
Skilled and professional	June 1, 2012	Jan. 1, 2010	Nov. 3, 2003	June 1, 2012	June 1, 2012
Unskilled	June 1, 2012	July 22, 2005	Nov 22, 2003	June. 1, 2012	June 1, 2012
Special immigrants	current	current	current	current	current
Investors	current	current	current	current	current

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin* for November 2014.

Concluding Observations

Most agree that revision of the system of permanent legal immigration should be one of the major components of a CIR proposal, along with increased border security and enforcement of immigration laws within the U.S. interior, reform of temporary worker visas and options to

³² For more analysis of the factors driving the employment-based visa queue, see CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*, by Ruth Ellen Wasem.

address the millions of unauthorized aliens residing in the country. Congress is considering proposals to alter the legal immigration system—either in the form of CIR or in the form of incremental revisions aimed at strategic changes. The Senate passed a CIR bill, S. 744, in June 2013 that would make significant changes to the system of permanent legal immigration.³³ The House Committee on the Judiciary has ordered to be reported legislation (H.R. 2131) that also would revise the allocation of LPR visas.³⁴

Some are advocating for a significant reallocation of the visa categories or a substantial increase in legal immigration to satisfy the desire of U.S. families to reunite with their relatives abroad and to meet the labor force needs of employers hiring foreign workers. Some favor a reallocation toward employment-based immigration to help U.S. employers compete for the “best and the brightest,” including foreign professional workers in science, technology, engineering, or mathematics (STEM) fields.³⁵ Yet, proponents of family-based migration maintain that any proposal to increase immigration should also include the option of additional family-based visas to reduce waiting times—currently up to years or decades—for those already “in the queue.”

Arguing against these competing priorities for increased immigration are those who favor reduced immigration, including proposals to limit family-based LPRs to the immediate relatives of U.S. citizens, to confine employment-based LPRs to highly skilled workers, and to eliminate the diversity visas.

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³³ For a full discussion of S. 744 as passed, see CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*, by Ruth Ellen Wasem.

³⁴ CRS Report R43320, *Immigration Legislation and Issues in the 113th Congress*, coordinated by Andorra Bruno.

³⁵ CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*, by Ruth Ellen Wasem.