

# Uncertainty and Growth in Mexico's Maquiladora Sector

The past year has witnessed a number of developments affecting Mexico's maquiladora industry, such as reworked tax regulations or phaseouts of tariff protections on imports from overseas countries required under the North American Free Trade Agreement (NAFTA). In some cases, the fine points of these new arrangements have yet to be ironed out, and industry leaders are warning that this uncertainty, coupled with gains in workers' real wages, could spell the end of the maquila boom. But ongoing growth in the sector belies these predictions and suggests that other factors, not tax or labor costs, account for the maquila success story. This raises some interesting questions regarding the role that the maquiladoras can, or should, play in Mexico's development process.

by **James Gerber,**  
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The debate between boosters and critics of Mexico's maquiladora assembly industry usually begins with the shared assumption that low wages are the main reason for the industry's existence.

Maquiladora industry promoters, for their part, argue that any changes in the existing economic or legislative environment that lead to higher wages for workers will effectively undermine the industry's competitiveness and result in a significant emigration of firms and jobs, as parent companies relocate operations to countries with lower labor costs. Critics respond that the industry's dependence on low wages undermines its usefulness as a development strategy for Mexico, since two important components of development must be rising incomes and improved working conditions.

The origin of the assumption that the maquiladoras are dependent on low wages is rooted in the history and early growth of the industry; its current legitimacy derives from the economic theory of comparative advantage. The idea behind comparative advantage is that nations trade in ways that take advantage of their differences, and accomplish this by specializing in the production of goods and services that intensively use their most abundant inputs.

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Mexico is relatively well-endowed with unskilled and semiskilled labor, while the U.S. is abundant in physical capital, scientists, engineers, and other skilled workers. Consequently, Mexico has a comparative advantage in the production of goods that intensively use low-wage labor, while the U.S. has an advantage in the production of goods that are intensive in science and engineering inputs.

If the maquiladora sector indeed represents purely comparative advantage-based development, then it is simple to predict the evolution of the industry. As Mexican workers gain skills, incomes are likely to rise,<sup>1</sup> and unskilled assembly production will move to a lower cost environment. In other words, we would expect to see a movement of maquiladoras from the northern tier of border states to the Mexican interior and perhaps to Guatemala or Haiti or some other business-friendly, low-cost environment. Hence, from

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### **Consejo Nacional de la Industria Maquiladora de Exportacion**

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the perspective of industry supporters, it would be important for wages are held in check.

But the assumption that low wages are the main determinant of industry location decisions has several problems. First, there is the unexplained geographical concentration of several key sectors (e.g. electronics, cars, and car parts) in production centers that do not offer the lowest available wages, such as Tijuana, Ciudad Juárez, and Torreón. Existing firms continue to expand their operations in these cities, just as new firms continue to locate there.<sup>2</sup> Second, at the national level, average real wages in the maquiladora industry have steadily recovered the value they lost after the peso collapsed in late 1994 and 1995—still, the industry has continued to grow.<sup>3</sup>

The focus on wages, and the assumption that they are the primary cause of the industry's performance, has led many industry critics and supporters to overlook some additional reasons for the maquila industry's growth. In particular, the location close to the U.S. market (where transportation costs are minimized) and the growing concentration of production in a few manufacturing sectors indicate that factors other than wages are fostering growth. The point is not that wages do not matter; they clearly matter, both to firms and to workers. Rather, the point is that the industry's growth may be more robust than is generally appreciated and so wage increases are not as detrimental to future growth as many people assume.

## **The Taxation Factor**

Firms that take the availability of cheap labor into account when deciding where to locate production are also very sensitive to changes in their overall cost structure—tax expenses, for example—not just their labor costs. Changes and uncertainties in tax laws, therefore, like higher wages, might be expected to have a negative impact on maquila industry growth.

The tax regime governing Mexico's maquiladoras has seen a number of changes in recent years. Under NAFTA, the import duty waiver historically given to the maquiladora industry was to be eliminated by January 2001 at the latest. This introduced a significant element of uncertainty into the tax planning of maquiladoras, in part because, until very recently, the Mexican government was unable to specify a new import tax regime that is NAFTA-compliant.

Uncertainties surrounding the new import tax were compounded by two additional tax changes.

First, the exemption of maquiladora imports from antidumping duties was eliminated, beginning in January 2001. Then in 1998, the Mexican government suddenly introduced a new income and asset tax regime for maquiladora industries. The latter increased the exposure of maquilas to Mexican income taxes and has generated a great deal of discussion and negotiation between industry representatives and various governmental bodies.

Although the industry was able to anticipate the disappearance of its import tax waiver, it had no certain information regarding the replacement tax until the second half of 2000. The implementation of the new income tax was impossible to anticipate, and the details of the liability it creates for specific firms remains up in the air, both because there are several alternatives under the current system and because the Mexican government has stated that it will replace the current rules for taxing foreign enterprises with an OECD-approved set of rules, which is expected in 2002.

Yet, despite tax uncertainties and real wage increases over the past five years, maquiladora employment grew at an annual rate of 14.4% between January 1995 and October 2000. The pace of growth has been remarkable and contrasts sharply with the notion of a fragile industry teetering on the edge of uncompetitiveness due to higher taxes and rising wages.

## **The New Tax Regime**

Not all the details of the new scheme for taxing maquilas have been hammered out. But, regardless of the details of the final arrangement, three points stand out. First, the policymaking process has been drenched in uncertainty and indecision. Several conferences were organized to explain the final federal rules for import taxes, but they offered little in the way of solid information. Meanwhile, the new rules for income taxes are so complex that they have required extensive clarification and the creation of alternative tax rules—which have also been problematic. Second, the taxes will indeed raise operating costs, although the extent of the increase is still unknown. If nothing else, they increase the amount of paperwork and the administrative costs of tax compliance. Third, the final rules will be tempered by the desire to avoid damaging what has become an extremely important source of foreign exchange earnings, employment, and foreign direct investment for Mexico.

The major tax-related changes and uncertainties affecting the industry include:

**Changes in import taxes.** Under NAFTA's Article 303, duty-free imports from non-NAFTA countries ended in January of this year. This pending event prompted major industry and government concern over the past few years, who feared that investment in the maquila sector by non-NAFTA countries would fade away as a result.<sup>4</sup> And so in 1999 Mexico's commerce department (SECOFI) announced that it would develop sectoral programs (PROSECs) to protect the tariff-free entry of maquiladora imports from non-NAFTA countries. PROSECs allow qualified applicants—both maquila and non-maquila—to apply for reduced tariffs of 0-5%. PROSECs cover most of the products coming into the maquiladora industry, including electronics, electrical equipment, chemicals, textiles, and autos. The main complaint at this point is that SECOFI has been slow to define the process for applying to the sectoral programs, and was exceedingly slow to specify the tariffs.

**Changes in income and asset taxes.** A second, much more complicated tax issue concerns the income and asset taxes facing the industry. In 1998, the Mexican government announced that as of January 2000, the U.S. parent companies of Mexican maquilas would be treated as though they have permanent establishments (PE) in Mexico. This ruling requires them to pay Mexican income taxes on the share of their income derived in Mexico plus a 1.8% asset tax on their machinery, equipment, and inventories. The National Association of Maquila Manufacturers (CNIME) opposes the PE rules. CNIME points out that there is significant uncertainty regarding how to determine the share of income derived from a Mexican operation and that the lack of a tax credit in the U.S. creates a double taxation situation. That is, firms would pay taxes on income derived from their Mexican operations, and then face a tax liability for the same income in the United States.

In response to the double taxation issue, the Mexican internal revenue agency (SAT) and the U.S. Internal Revenue Service (IRS) worked out an agreement called safe harbor. Under the terms of safe harbor, firms can avoid the PE designation and its taxes by electing instead to pay a 6.9% tax on assets employed in Mexico or a 6.5% tax on the production costs of the maquila operation, whichever is greater. If profits are less than either of these two amounts, companies have the option of signing an advanced pricing agreement (APA) with the Mexican government, which outlines the methodology used to calculate costs of production and the value of assets. Theoretically the APA enables firms to pay lower taxes if they qualify for the program.

Based on anecdotal evidence, representatives of the maquiladora industry dislike all these options. First, the PE rules subject them to double taxation. Second, the safe harbor and APA rules are set to expire in 2002, when the OECD is sched-

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uled to release a set of guidelines for taxing foreign-based multinationals. The coming expiration of the safe harbor and APA provisions renders them merely short-term solutions and denies the industry a clear picture of its future tax situation. Third, the Mexican government has been slow to approve the APAs that firms have already begun to use. Currently, when a firm elects to use the APA method, it submits a proposal to the government for evaluating its costs of operation and asset values. Firms have complained that there is a long lag between the submission of a proposal and a response from the government. This means that some firms are still uncertain about their tax liabilities for previous years' activities.

**Antidumping duties.** Another wild card for the industry is the loss of its exemption from antidumping duties (ADD). ADDs are compensating tariffs on imports that are levied when the import sells below "fair market value" and a determination is made that the low price has hurt a domestic producer. There are a number of current maquiladora industry imports, particularly goods coming from China, that have ADDs

#### WEB SOURCES:

**Maquila Portal**  
[www.maquilaportal.com](http://www.maquilaportal.com)

**Mexican News & Labor Analysis**  
[www.igc.org/unitedelect/alert.html](http://www.igc.org/unitedelect/alert.html)

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imposed on them. Prior to January 2001, the maquiladora industry was exempt from these duties.

## **Growth of the Maquiladora Industry**

In the give and take between the Mexican government and the maquiladora industry, three points stand out. First, it seems reasonable to expect a rapidly expanding industry to pay an average amount of taxes, particularly when the industry requires significant investment in new public infrastructure.

Second, the government appears to be caught in a struggle between its need to generate revenue and its need to foster industrial development. This struggle is played out between SECOFI, the ministry of commerce and industrial development, and the SHCP, the ministry of finance. The conflicting agenda of these two agencies explains the delay in defining a new tax regime. The fact that the maquiladora industry has become the leading earner of foreign exchange and a major creator of formal sector employment probably tips the balance of policy toward industrial development rather than tax collection.

Third, in spite of the uncertainty, the industry has continued to grow rapidly. Among the possible reasons why uncertainty has not undermined the industry's growth is an increase in the lobbying skill of the maquiladora industry. Industry leaders may be uncertain about the final shape of tax policy, but they appear confident that it will not be detrimental to the industry's future growth prospects. Another reason for continued growth is that the underlying conditions for growth are strong enough to overcome worries about future tax liabilities, rising wages, greater environmental enforcement, and other potential cost factors.

This last point is worth emphasizing, because it indicates that it may be erroneous to think of the maquiladora industry as an assembly industry based on low wages. If the growth inducing factors in the industry are a result of something other than low wages, then both industry critics and boosters may be wrong in their assumption that the industry's development is based solely on Mexico's comparative advantage in labor-intensive industries.

Trade and growth based on economies of scale is an alternative to explanations based on comparative advantage. The theory of economies of scale (EOS) asserts that the average cost of production declines as a firm increases its size, at

least up to a point. EOS limits the number of plants a firm can build, since each one must be of a minimum size. In addition, transportation costs play an important role, since they provide strong incentives to locate production as close to the market as possible.

The industrial development of northern Mexico is a clear illustration of the effects of EOS-based trade. Prior to 1986 or 1987, when Mexican economic policy favored the production of import substitutes rather than exports, there were strong incentives for firms to locate in or near Mexico City. Since production incentives were oriented toward the domestic market, high transportation costs and the need to produce in only a few locations dictated that Mexico City was the logical location. After the opening of the Mexican economy, however, the implicit incentives in Mexican economic policy began to emphasize production for external markets. In Mexico's case, the largest external market is the United States, and the northern border states are as close as possible to that market. Therefore, in order to reduce transportation costs, and given that production of a particular type must be confined to a few plants, the optimal location strategy is to place the plants in as few locations as possible, each physically close to the U.S. market.<sup>5</sup>

This type of EOS are sometimes also referred to as *internal economies*, since the scale effects are generated inside the firm. A second form of scale economies is the external economy of scale. External economies occur when the growth of an industry (in contrast to the growth of a firm) makes the firms within the industry more efficient. External economies stem from the ability of companies to share a common labor pool, a common supplier base, including nontraded (legal, accounting, marketing, etc.) inputs, and information about market trends. In the case of the maquiladora industry, both the auto industry and the electronics industry benefit from their geographical concentrations in Coahuila-Chihuahua and Baja California, respectively.

Growth in the size of firms, increased clustering near the U.S. market, growth in the number of firms devoted to related lines of production, and intensification of the geographical concentration of products are all indicative of an industry that benefits from both internal and external economies of scale. All of these elements are to a degree self-reinforcing, and as they develop, the industry becomes more rooted in the region.

This view of Mexico's northern border assembly industries is not entirely at odds with the traditional, cheap labor explanation for industrial

### **WEB SOURCES:**

**Maquila Guide**  
[www.maqguide.com](http://www.maqguide.com)

**Maquila Solidarity Network**  
[www.maquilasolidarity.org](http://www.maquilasolidarity.org)

**Maquiladora Health and Safety Support Network**  
[www.igc.org/mhssn](http://www.igc.org/mhssn)

**Twin Plan News**  
[www.twin-plant-news.com/sect.html](http://www.twin-plant-news.com/sect.html)

location. Some types of production—apparel, for example—are far more sensitive to wage costs than other types. However, the EOS model stresses the availability of particular labor services (e.g. accounting, management, legal, and computer skills) and linkages to universities, vocational schools, and secondary schools. Other important factors include trade infrastructure, specialized parts manufacturing, and the informal social networks of business people. By way of contrast, the low-wage hypothesis emphasizes the steady supply of a pool of cheap, unskilled labor.

Another important difference between the EOS explanation of maquiladora industry growth and the comparative advantage explanation is that the former emphasizes the problems of urban congestion. On the border today, regional infrastructure—roads, water, energy, telecommunications, housing, schools, and health care—is stretched beyond capacity. Yet, according to the EOS explanation, the maquiladora industry will continue to concentrate growth in the northern tier of border states until the congestion effects begin to choke off new growth. The congestion effects of this growth are serious and are likely to intensify if the EOS explanation is partly or entirely accurate.

As difficult as the problems of growth may be, dealing with them is far better than having to deal with the problems of stagnation. Accordingly, a high priority should be given to tackling issues such as the complete absence of a municipal bond market, the difficulties of creating a cross-border bonding authority, the need for decentralization of urban planning functions from Mexico City to the states and cities, and the scarcity of affordable housing.

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## Endnotes:

- 1 This assumes that the supply of Mexican labor is moderated by the earlier decline in birth rates. It is conceivable, however, that Mexico's rapidly expanding labor force could overwhelm the upward pressure on wages brought about through economic expansion and rising skill levels. This has been a significant part of the story of past wage stagnation.

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Average annual growth rate of maquiladora employment in the 1990s	11%
Maquila industry employees as of December 31, 2000	1.339 million
Total industry payroll as of December 31, 2000 (in 1994 pesos)	25 billion
1999 maquila industry trade surplus	\$US12 billion
Foreign direct investment in maquiladora sector, 1999	\$US11 billion
1999 contribution to Mexico's foreign exchange holdings	\$US23 billion

## Sources:

INEGI, Banco de Información Económico, Industria Maquiladora de Exportación, *Indicadores Mensuales*. Available online at: <http://www.inegi.gob.mx/>. The growth rate is the author's calculation. The 1990 monthly average number of maquiladora jobs was 446,436. There was significant regional variation in the growth rate; CIEMEX-WEFA, *Maquiladora Industry Outlook*, vol. 13, no. 3.

- 2 Employment in the maquiladora sector grew 14.2% per year in Tijuana from January 1994 through July 2000. The figure for Ciudad Juárez was a more modest but still impressive 10.6% per year. INEGI, Banco de Información Económica, Industria Maquiladora de Exportación, *Indicadores Mensuales*. Available online: <http://www.inegi.gob.mx/>.
- 3 Between January 1996, and October 2000, real average maquila wages for all classifications of workers rose at the average rate of 4.13 pesos per month in 1994 peso values. The increases varied by job category, with higher level workers earning bigger increases. G.L. Schmaedick, "Compensation, Inflation and Purchasing Power in the Mexican Maquiladora Industry since the Devaluation of 1994" describes the occupational variability in maquila wage increases in one border community. The estimated average monthly increase in wages at the national level is based on the author's calculations using data from INEGI, Banco de Información Económica, Industria Maquiladora de Exportación. Note, however, that average real wages are still below the level they attained in the mid-1980s, a pattern that applies across the entire Mexican economy.
- 4 See Jim Gerber, "Whither the Maquila?" *San Diego Dialogue*, 1998, available at [www.sddialogue.org](http://www.sddialogue.org).
- 5 Gordon Hanson, "Increasing Returns, Trade, and the Regional Structure of Wages," *Economic Journal*, 1997, vol.107, pp.113-33. See also Paul Krugman, and Raul Livas Elizondo, "Trade Policy and the Third World Metropolis," *Journal of Development Economics*, 1995, vol. 49, pp. 137-50.

## Guidelines For International Calls

To call Mexico from the U.S., dial: 011-52 (city code) + the number

To call the U.S. from Mexico, dial: 001 (area code) + the number

## Contacts

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Pro-trade alliance whose mission is to initiate, monitor, and influence public policy and private sector initiatives for the facilitation of international trade and commerce through research and analysis, strategic planning, issue development, education, and advocacy.

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Organization of researchers specializing in labor issues. CILAS is currently organizing the conference "Encuentro Nacional de Maquiladoras" and preparing a comprehensive infopak on Mexico's maquiladora industry.

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Dr. de la O has researched the maquiladora industry for over ten years and has published articles and book chapters on various aspects of the industry.

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Web: <http://www.pctvi.com/laamn/cjm.html>

A trinational alliance of religious, environmental, labor, Latino, and women's organizations that seeks to pressure transnational corporations to adopt socially responsible practices within the maquiladora industry.

### Colegio de la Frontera Norte (COLEF-Matamoros)

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Dr. Quintero has published several books on union organizing and social conditions in Tamaulipas including *La Reestructuración Sindical en la Frontera Norte: El caso de la Industria Maquiladora*.

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Professor Carrillo has researched the maquila phenomena for some 20 years, publishing numerous articles and papers on the subject as well as organizing events such as the conference "Free Trade, Economic Integration, and the Future of the Maquiladora," which is available from COLEF on CD-ROM.

### Proyecto Fronterizo de Educación Ambiental, A.C. (PFEA)

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Nonprofit environmental NGO. Publishers of the report "Marco de la Actividad Industrial en la Frontera," which provides an excellent overview of the maquiladora sector and detailed information regarding the substances used in manufacturing in the maquilas and their health and environmental threats.

### Red Mexicana de Acción Frente al Libre Comercio (RMALC)

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RMALC evaluates the impacts of NAFTA and develops alternative proposals regarding trade. Its mission is to analyze, question, and influence economic and trade policies as they are applied in Mexico.

**SECOFI NAFTAWorks**

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Web: <http://www.naftaworks.org/>

Provides extensive information on foreign investment in Mexico, NAFTA issues and trade regulations, trade agreements between the U.S. and Mexico, and trade statistics.

**United States-Mexico Chamber of Commerce**

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Email: [news-hq@usmcoc.org](mailto:news-hq@usmcoc.org)  
Web: <http://www.usmcoc.org/>

Encourages the development of business between U.S. and Mexican companies. Their website provides a surprising amount of information on NAFTA, trade statistics, macroeconomic indicators, economic development in the border region, investment figures, and more.

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Web: <http://www.coba.panam.edu/faculty/sargent/index.html>

Dr. Sargent has conducted extensive research on the economics of Mexico's maquiladora industry.

**Websites****An Overview of the Maquiladora Program**

<http://www.dol.gov/dol/ilab/public/media/reports/nao/maquilad.htm>  
Extensive overview of the maquiladora program by lawyers with Snell & Wilmer made available via the U.S. Labor Department Bureau of International Affairs online library.

**The Binational Importance of the Maquiladora Industry**

[http://www.dallasfed.org/html/pubs/pdfs/swe/swe99\\_6.pdf](http://www.dallasfed.org/html/pubs/pdfs/swe/swe99_6.pdf)  
This 1999 report by the Federal Reserve Bank of Dallas argues that maquilas have become an increasingly significant component of the Mexican economy and an important part of U.S. corporate strategy in achieving competitively priced goods in the world marketplace.

**Centro de Investigación y Docencia Económicas (CIDE)**

<http://www.cide.mx/>  
Public research and education institution. Several CIDE researchers have studied the maquiladora industry. Surfing through the "publications" subdirectory will guide you toward those studies.

**Maquila Portal**

<http://www.maquilaportal.com/>

This pro-business site is one of the most comprehensive web portals for the maquiladora industry. For a subscription fee, you can access information on taxes, environmental regulations, human resources, industry news & alerts, laws & regulations, industry statistics, and more.

**Maquila Solidarity Network**

<http://www.maquilasolidarity.org/>

MSN is a Canadian network promoting solidarity with groups in Mexico, Central America, and Asia organizing in maquiladoras and export processing zones to improve conditions and win a living wage. The website provides research tools for taking action and a resource center with articles and additional information.

**Maquila Sunrise or Sunset?: Evolutions of Regional Production Advantages**

<http://ophir.frc.ccooes.edu/~beckyz/maquilasunrise.htm>

This 1999 report by Stephan Weiler and Becky Zerlentes of Colorado State University looks at the economic rationale for the continued success of maquila production in the border region.

**Maquiladoras Prospects of Regional Integration and Globalization**

<http://www.ilo.org/public/english/employment/strat/publ/etp12.htm>  
Somewhat dated article from the International Labour Organization provides interesting analysis of Mexico's maquiladora sector, including comparisons with maquila policy in eastern Asian countries.

**Mexican Economy**

<http://www.banxico.org.mx/site/BanxicoINGLES/gPublicaciones/FSPublicaciones.html>

Through this link, the Banco de Mexico provides access to its review of the Mexican economy. The 1999 report is 276 pages of statistics on economic and financial developments and a look at economical policies. Also visit the Instituto Nacional de Estadística, Geografía, e Informática (INEGI) webpage at <http://www.inegi.gob.mx/economia/ingles/fieconomia.html>.

**Network of Border Economics**

<http://www.nobe-ref.org/>

Network of individuals and institutions involved in economic research on topics related to the U.S.-Mexico border. Click on both "border related studies" and "economic indicators" to find information on maquiladoras.

**Sistema de Información Empresarial Mexicano—Maquiladoras**

<http://www.spice.gob.mx/siem2000/>

Difficult-to-navigate site from Mexico's Secretaría de Economía. Good information if you can find it.

# border briefs

## New U.S.-Mexico Guestworker Plan

In January, Sen. Phil Gramm (R-TX) led a Senate delegation to Mexico to discuss the creation of a new U.S.-Mexico guestworker program with President Vicente Fox. The plan would initially give work permits to undocumented migrants already in the U.S. and eventually to workers in Mexico. The number of permits available would likely be contingent on U.S. unemployment rates, and U.S. citizenship would not be possible under the plan. Upon returning, Gramm briefed President George Bush and initiated informal conversations with other senators. According to Gramm, an agreement could be reached within a year.

The U.S. already has a small guestworker program in place that excludes workers from the principal labor law governing farmworkers. According to Gramm, the new guestworkers would enjoy the protection of U.S. laws, but advocates chalk those claims up as political rhetoric. Bruce Goldstein of the Farmworker Justice Fund says that Gramm believes the current program is overadministered and would like to weaken its labor protections. "You can't protect workers if they hold the status of nonimmigrant guestworkers—this is a country of immigrants, not indentured servants," says Goldstein, who calls working conditions under the existing program "horrible."

Legal protections mean nothing if not enforced in the field. Department of Labor inspections of farmworker conditions are down 50% from previous years even though some 60% of inspected sites register violations. The INS, for its part, spends almost none of its budget policing employers who hire undocumented workers. And leaving aside the potential merits or detriments of migration to the U.S., research and history both show that guestworker programs contribute to increased immigration rather than reducing it, as Gramm argues.

## Settlement in Suit Against Wire-Transfer Companies

In December a settlement was reached in a class-action suit filed by Mexican

migrants in the U.S. against Western Union and MoneyGram, ending a two-year legal battle over alleged false advertising and hidden fees. Mexicans in the U.S. send an estimated \$6-10 billion home each year. A sizeable portion of that money never arrives. A 1998 investigation by the San Jose Mercury News (SJMN) found that the leading four companies handling wire transfers to Mexico together earned \$250 million in 1996 by setting their own dollar-to-peso exchange rates. Transfer fees, meanwhile, can be up to \$30, or 10% of the typical \$300 monthly remittance. According to a SJMN follow-up report, the companies charge less money and give more favorable exchange rates to wire money to other countries, arguing that their currencies are more stable than the peso. The SJMN found that Western Union charged 73% more to transfer money to Mexico than to the Philippines.

Under the settlement, Western Union, MoneyGram, and Orlandi Valuta will provide coupons worth up to \$400 million to customers who wired money to Mexico between 1987 and 2000; disclose more information about transfer costs; and pay \$4.6 million into a fund managed by Latino organizations. Together, Western Union and Orlandi Valuta, both owned by First Data Corp. of Dallas, control 70% of the U.S.-Mexico market.

## Bush and Fox Set to Meet

As many predicted, George Bush has moved to bolster his foreign policy resumé by concentrating on U.S.-Mexico relations early on. Bush's first official foreign trip, scheduled for February, will be to meet with Vicente Fox.

U.S. certification of Mexico in the "war on drugs" is likely to be high on the two leaders' agenda. In the U.S., the policy has come under increasing attacks, even from conservatives like GOP senator Phil Gramm and Secretary of State Colin Powell who, during his confirmation hearings, called certification a "hypocritical" policy. Vicente Fox has repeatedly condemned the process, of course, and recently the foreign ministers of both Canada and Mexico jointly called for its replacement by a multilateral mechanism.

Alongside the possibility that the U.S. will concede to Mexico on the certification issue, signs point to an increase in the intensity of U.S.-Mexico antidrug cooperation. On January 18, Mexico's Supreme Court ruled for the first time that a Mexican citizen charged in the U.S. as a drug trafficker could be extradited to stand trial north of the border. Mexican courts have traditionally rejected the idea on the grounds that it violates national sovereignty; the January decision signals a major change in Mexico's approach to the issue.

Immigration policy will certainly come up when the two leaders meet. Although Phil Gramm crowed after meeting with Mexico's leader in early January that Fox had convinced him of the need to create a new U.S. guestworker program for Mexicans, it would be wrong to assume that Mexico will follow a lead on this issue. Foreign Minister Jorge Castañeda recently told the Chicago Tribune that "Mexico and the U.S. [should] have a special statute—a different statute, not an absence of statutes, but a different statute—in the North American migration framework... for two very strong reasons: the North American Free Trade Agreement, and because we are neighboring countries. Mexico and Canada belong in a different scheme, and not in the same INS world of quotas, numbers and ceilings." While being played up as a "new" solution to Mexico-U.S. immigration issues, Gramm's guestworker proposal is a far cry from Fox's suggestion for an EC-style North American union with free movement of labor and standardized legal protections.

The possible creation of a U.S. border czar to serve as counterperson to Mexico's Ernesto Ruffo as well as the future U.S. ambassador to Mexico could also be discussed. Names being mentioned in relation to the ambassadorship include: Texas Railroad Commission Tonya Garza, Arizona Gov. Jane Hull, Texas businessman Rob Mosbacher, and El Paso Mayor Carlos Ramirez, a democratic who angered many when he supported Bush's presidential bid.

*continued on back page*

# Charges of Human Rights Violations Continue to Dog INS, Border Patrol

by **Jonathan Treat**

Over the past two years, the Immigration and Naturalization Service (INS) and Border Patrol have elicited the highest number of complaints regarding violations of human rights and civil liberties among all U.S. law enforcement agencies, according to the Regional Abuse of Authority Campaign, an El Paso-based consortium of human rights organizations. Complaints against the agencies include: illegal searches, racist or sexist remarks, inappropriate firearm threats, denial of requests for food and water after arrests, destruction of property, denial of due process, sexual misconduct, beatings, and shootings.

Such chronic charges of widespread abuse by the Border Patrol have been well-documented by groups such as the Immigration Law Enforcement Monitoring Project (ILEMP), which has offices in five cities along the border. Fernando García, director of ILEMP-El Paso, has noted that the continuous rise in the number of reports of Border Patrol abuses is due, in part, to the dramatic increase in the number of agents in the region. The number of Border Patrol officers nearly doubled between 1993 and 1997 from 3,400 to more than 6,000 and is mandated by law to double yet again next year.

But despite the growing number of complaints, argue critics of INS and Border Patrol policies, far too few of the agents who are accused of abuse are actually disciplined. In 1998, for example, of the thousands of complaints filed against INS employees for civil rights abuses, only 33 actually resulted in disciplinary action.

## Most Detainees Housed in Jails, Not INS Facilities

At the same time, numerous INS detainees suffer abuses that stand little if any chance of ever being registered because they are not housed in INS-run facilities but rather are farmed out to state and local jails that have contracted with the government to house INS overflows. Of the 16,000 INS detainees currently being held around the U.S., over 60% are in nonagency jails or privately owned prisons, even though they are not actually serving criminal sentences. In fact, INS detainees

are the fastest growing segment of the prison population in the United States.

In many cases, detained border crossers—whose only offense consists of unauthorized entry into the United States—are housed with criminals convicted of misdemeanors and felonies. Charges of widespread abuse surface continuously and include allegations of beatings, inadequate food and water, poor health care, and the imposition of solitary confinement for trivial offenses. INS detainees at jails in New Hampshire, Louisiana, and California have held hunger strikes to protest alleged abuses; detainees at the San Pedro Jail in Los Angeles even filed suit against the INS, complaining of overcrowding, a lack of working showers and toilets, and inadequate medical care. The case was later settled out of court. Similarly, in 1998, charges of physical abuse suffered by INS detainees at Union County Jail in New Jersey resulted in guards either pleading guilty or eventually being convicted of the charges.

Nor are detention centers under direct INS administration immune from accusations of serious abuse of detainees. The INS's Krome Service Processing Center near Miami, for example, is currently under investigation by the U.S. Justice Department for allegations of sexual abuse.

Examples of problems at both INS detention facilities and subcontracted jails were documented in a 1998 report issued by the New York-based nonprofit group Human Rights Watch. The report offers a stinging indictment of INS detention policies, criticizing both the treatment of detainees at agency-run facilities as well as the practice of holding detainees in local jails and private prisons. Abuses detailed in the report range from inadequate food and poor medical care to inappropriate discipline to mixing detainees with convicted criminals. Among the more blatant cases of human rights violations described was a July 1998 incident at the Jackson County Correctional Facility in Florida in which guards allegedly used electrified batons and shields to shock detainees.

*continued on p. 10*

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### SouthWest Alliance to Resist Militarization

Phone: (520) 623-7306  
Email: swarm@resistmilitarization.org

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### **INS Issues Standards for Treatment of Detainees**

In response to the mounting number of complaints and lawsuits concerning gross violations of the civil liberties of immigrants held in INS detention centers and regional jails, this January the agency issued national standards for the treatment of its detainees. The standards cover a broad range of issues, including access to legal materials, private attorneys and pro bono legal services, telephones, consulates, food, and medical care. The new rules were to have been phased in at all INS-administered detention centers in January and at all state and local jails holding INS detainees within two years.

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Critics say that the new INS guidelines fall far short of the dramatic changes that need to be implemented if the civil liberties and human rights of detained immigrants are to be truly respected.

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According to former INS Commissioner Doris Meissner, the standards will help ensure that all detainees receive fair treatment.

But critics are quick to disagree, charging that the guidelines fall far short of the dramatic changes that need to be implemented if the civil liberties and human rights of detained immigrants are to be truly respected. One glaring inadequacy in the new standards, they say, is the two-year implementation timeline at non-INS state and local jails, whose primary purpose is to house criminal offenders. These facilities, which house the majority of undocumented migrants apprehended by the INS, are also the most notorious for egregious and consistent abuses of INS detainees, say many human rights advocates, who argue that two years is too long to wait.

Worse, note critics, the new standards are essentially toothless recommendations; they do not carry the weight of law, essentially making compliance voluntary and effectively impossible to enforce. Advocates contend that the failure of the INS to enact not just standards but regulations

that permit legal challenges calls into question the seriousness of the agency's commitment to protect detainees' civil liberties and human rights.

### **Activists, Citizens, and Border Ministries Respond**

In addition to problems encountered once in the hands of the INS, border crossers continue to face a variety of dangers in the field, including death from exposure or violence. On January 31, for instance, a Mexican immigrant who stopped to drink water from a trough on a south Texas ranch was shot and wounded by rancher Pat McCarty, 50. The victim, Ramon Flores Hernandez, 28, said that he and two friends had been walking for days and were thirsty when they stopped to drink from a windmill trough on McCarty's ranch. In a television interview on Mexico's TV Azteca, Hernandez said, "I want to thank the man for not killing me. I have a wife and three children in Mexico." McCarty was freed on bond after being charged with aggravated assault with a deadly weapon. The Texas Rangers and the Mexican Consulate are investigating the attack. According to Mexican government figures, nearly 500 Mexican nationals died from various causes while attempting to cross the border in 2000.

Activists along the border, in the meantime, are responding to the increasingly acute border immigration situation by mapping strategies for action ranging from acts of civil disobedience, such as dismantling sections of the border fence, to demands for a halt in INS construction of border fences. This past December, some 600 activists and individuals came together at a "Border Summit" in Tucson to discuss the impacts of U.S. immigration policies and border militarization. Conference participants were in broad agreement that the border region must be demilitarized, immigration laws must be reformed, and the process of economic globalization must be humanized.

There was widespread consensus during the conference that many if not most of the problems along the U.S.-Mexico border stem from the globalization of the world economy, which in Mexico and Central America—as in other developing nations—has uprooted many people and induced them to seek work in other countries. The conference resulted in a plan of action that includes: protesting the INS border buildup by shutting down every port of entry along the U.S.-Mexico border for one day; educating and organizing communities to call for an end to certain Border Patrol operations; and demanding an independent review of and accountability for actions by Border Patrol agents and vigilante ranchers.

Alongside this intensified activism, stories are emerging of how ordinary citizens are responding to migrant deaths due to exposure or dehydration by offering food, shelter, and other aid. One woman who owns a small hotel in Bisbee, Arizona, recently told the *Los Angeles Times* that she has provided free food and lodging to some 34 immigrants who became lost or ill during their attempts to cross the border. She also said there is a citizens' network in the area that has helped transport at least 100 immigrants north to Phoenix. To minimize the risk of detection by the INS, immigrants were given haircuts, clothes, and even jewelry and were transported by an Anglo driver. Also in Bisbee, a group of activists called Citizens for Border Solutions is currently consulting with lawyers to determine just how far it can go in helping immigrants in need by offering food, shelter, and medical assistance without breaking the law.

Several religious activists and faith-based organizations have become less concerned with breaking the law and are openly challenging laws they see as unjust and immoral. Reminiscent of the Sanctuary Movement, which aided Central American political refugees in the 1980s, religious groups are emerging to offer immigrants material assistance and to help keep them safe.

Rev. John Fife, who declared his Tucson church a sanctuary for immigrants in 1986 and who was convicted on immigrant smuggling charges stemming from his work with an underground railroad network for Central American refugees, says that today a new movement is taking shape. "Faith communities are meeting to address a whole set of moral issues along the border," Fife told the *Los Angeles Times* in a December interview. "We're going to be very public about everything we do, because it's part of the obligation to change immoral and disastrous immigration policies."

One Tucson-based religious coalition with 11 member churches plans to install as many as 800 water stations along 200 miles of border desert. The group set up its first station late last year: a bunch of water jugs, food, and clothing set out beneath a 30-foot-tall flagpole.

Even church hierarchies have given signals that they are increasingly alarmed by immigration-related developments on the border. At the end of their annual fall meeting last year, the U.S. Catholic bishops approved a resolution urging policymakers to make broad changes in federal immigration policies that endanger immigrants' lives and deny basic human rights. In the unanimously approved resolution, the bishops called on all Catholics and other "citizens of good will" to

challenge the nation's treatment of immigrants, both documented and undocumented. They specifically denounced recent policies of border militarization, pointing out that the strategy has resulted in the deaths of more than 600 people attempting to cross the border in the past three years.

## INS Facts and Figures

The INS's budget for the year 2001 is \$3.1 billion from government appropriations and \$1.6 billion in fees, totaling roughly \$4.7 billion. About half of that is earmarked for enforcement.

- \* The Border Patrol hired 1,708 new agents in 2000, bringing the total number of agents to 9,212.
- \* In mid-November, INS Commissioner Doris Meissner left the agency, ending her seven year tenure as director. During Meissner's administration, the number of employees at the INS doubled to 32,000, and the agency's budget tripled to \$4.3 billion.
- \* The number of Border Patrol agents assigned to the Douglas-Naco area is being increased by about one-third, bringing the total number of agents there to roughly 1,000. Some of those agents are busy welding together steel panels to extend a 12-foot-high fence and installing video and infrared cameras, remote motion sensors, high-intensity lights, and sky towers 10 miles east and west of Douglas. INS spokeswoman Virginia Kyce recently told the *Arizona Daily Star* that the agency regards the region as the "ground zero of illegal immigration."
- \* In late January, the INS reported that arrests of undocumented border crossers have dropped sharply in Arizona and all along the U.S.-Mexican border. Compared with the same October-January period the previous year, arrests dropped 23% in Arizona and 34% overall, the agency said. Reports by the U.S. General Accounting Office, however, have determined that data on "certain key aspects of the strategy" are "inconclusive" or "lacking" and that "it is difficult to determine the meaning of... present data on apprehensions." For example, while the agency is now pointing to a decline in arrests as a possible indicator of the effectiveness of its policies, in the past it has highlighted increased arrests to the same end.

*Jonathan Treat is a journalist who has lived and worked extensively in Mexico and Central America. He is currently based in Albuquerque, NM, where he is seeking a Ph.D. in Latin American Studies at the University of New Mexico.*

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## Miscellany & FYI

The EPA's border team has prepared a white paper on the border environment for the Bush administration. The paper is available online in portable document format (.pdf) at: [www.scerp.org/transitionpaper.html](http://www.scerp.org/transitionpaper.html).

The Texas Center for Policy Studies has just released a new report on the Rio Conchos river basin, one of the most important river basins in northeastern Mexico. The report is available online at [www.texascenter.org/borderwater](http://www.texascenter.org/borderwater). Hard copies in English will be available by February 15, 2001 and a Spanish version will be available in early March. The report is free. To order, call (512) 474-0811, fax (512) 474-7846, or email [tcps@texascenter.org](mailto:tcps@texascenter.org). Please include your name, organization, and full mailing address.

The nine Border XXI workgroups have released their latest U.S.-Mexico environmental indicators publication: *Summary of Selected Environmental Indicators from the U.S.-Mexico Border XXI Program: Progress Report 1996-2000*. The publication can be accessed at [www.epa.gov/usmexicoborder/efind.htm](http://www.epa.gov/usmexicoborder/efind.htm).

The 59th Annual Meeting of the U.S.-Mexico Border Health Association, "Health Along the Border: A Shared Commitment," will take place at New Mexico State University in Las Cruces, NM, May 29-June 1, 2001. Online registration is possible at [www.nmsu.edu/~bec](http://www.nmsu.edu/~bec), or by calling the NM Border Health Office at 1-800-784-0394.

Red Fronteriza de Salud y Ambiente has a new website. Visit [www.redfronteriza.org](http://www.redfronteriza.org) for more information.

The Third Annual Border Health Conference has been scheduled for May 3-4 in Nogales, Sonora. For more information contact: Mexfam Sonora at [Mexfamso@prodigy.net.mx](mailto:Mexfamso@prodigy.net.mx), (6) 212-6434, or 212-6478 (fax).

The website for the Border Health Information and Education Network (BIEN!), a consortium of public libraries, academic institutions, and health organizations in Doña Ana, Luna, and Otero counties, is now up and running. The site exists to serve healthcare consumers, providers, and educators. It is still a page under development and they would appreciate any feedback. The website can be found at [www.nmsu.edu/bien](http://www.nmsu.edu/bien).

The North American Development Bank has announced its 2001 solicitation for grant applications for the United States Community Adjustment and Investment Program (CAIP). Approximately \$6 million is available to communities that have experienced job losses attributable to NAFTA. Visit [www.nadbank-caip.org](http://www.nadbank-caip.org).

The North American Commission for Environmental Cooperation (NACEC) is inviting the public to participate with its Joint Public Advisory Committee (JPAC) in a workshop on NACEC's Trilateral Air Quality Improvement Initiative on March 15, 2001 in Winnipeg, Manitoba, Canada. This trilateral initiative focuses on North American trade and transportation corridors. The agenda for the JPAC session and registration information can be found on the JPAC website at [www.cec.org/jpac](http://www.cec.org/jpac).

The United States-Mexico Chamber of Commerce recently announced upcoming events for 2001; a full list of events can be found at [www.usmcc.org](http://www.usmcc.org).

This February, journalist Sam Quinones, who has lived and worked south of the border for seven years, published a new book on Mexico, *True Tales From Another Mexico: The Lynch Mob, the Popsicle Kings, Chalino and the Bronx*. The *New Yorker's* Alma Guillermoprieto calls *True Tales* "a scrappy, lively, solid work of reportage about the real modern Mexico." The book is available at the best bookstores, as well as online at [www.amazon.com](http://www.amazon.com) and [www.unmpress.com](http://www.unmpress.com).

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