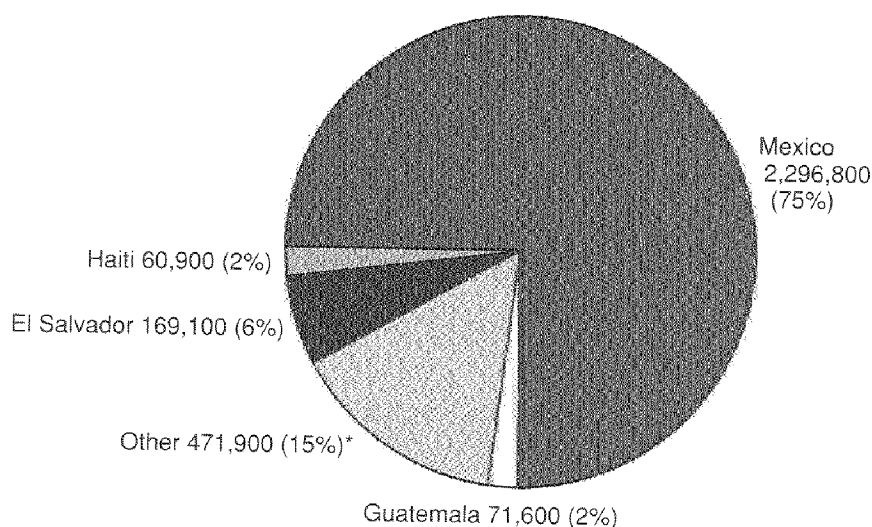


FIGURE 28  
*Applicants for  
 Legalization Programs  
 Under the Immigration  
 Reform and Control Act  
 By Country of Nationality  
 (Includes Special Agricultural  
 Workers)*

\*"Other" includes 46 countries



Source: Immigration and Naturalization Service

such sanctions—tightened rules for issuing visas and passports. Visa restrictions have been directed primarily at nationals of developing countries. Passport limitations imposed by certain Western European countries often are intended to deny permanent residency to persons living in current or former colonies and possessions. These increasingly restrictive policies may have racial overtones, but they also reflect a desire to exclude migrants with little education or skills. Budgetary priorities have also been a factor when receiving countries, including the United States, have reassessed admissions policies.

Labor force projections prepared by the U.S. Bureau of Labor Statistics suggest that between 1988 and the end of the century, the U.S. economy will have to generate about 18 million new jobs to accommodate new labor force entrants, or some 10 million fewer than in the previous twelve years. This is a consequence of the relatively small size of the "baby bust" cohort just beginning to reach working age, compared to the postwar "baby boom." It also responds to the limited scope for increasing the already high level of female labor force participation. Some labor economists conclude, based on these trends, that the demand for foreign labor, skilled and unskilled, will increase in years to come.

This conclusion must be tempered, however, by the Bureau's projections of the characteristics of future labor demand. It estimates that the skill content of most future jobs will be higher than it is today because of the need to increase U.S. competitiveness and technological advancement. If these expectations are to be realized, the United States must raise average levels of educational attainment among its

own people. Although the trend toward skill needs does not imply an end to the demand for unskilled labor, the proportion of unskilled workers required by the economy will be smaller than in the past.

The Commission believes that much of the demand for unskilled labor may be satisfied by workers in the United States and migration flows that will stem from the millions of undocumented migrants adjusted under the IRCA. Many relatives of these regularized immigrants, although not qualified for legalization under the Act, will also be permitted to stay. Furthermore, over coming decades, the United States will receive many additional immigrants as formerly undocumented migrant workers take advantage of the family reunification provisions of U.S. immigration law. Most of these immigrants will eventually join the labor force, even if they come to the United States for family reasons. To maintain a humane and generous legal immigration policy, the Commission believes it is essential to close the back door to unauthorized immigration.

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### *Proactive Approach Needed*

*Migration considerations have not enjoyed a high priority in the foreign policy or development communities in the United States...*

Migration considerations have not enjoyed a high priority in the foreign policy or development communities in the United States, despite the fact that economic and national security decisions contribute to migration pressures and population displacements. No mechanism exists within the U.S. government to weigh the impact of migration, to rank it against other priorities or to bring it to the attention of decisionmakers. No effort is made by the government's foreign affairs, trade or financial communities to assess the migration consequences of their decisions. It is only when a refugee or migration emergency occurs, such as the Mariel boatlift, an unusually large influx of Nicaraguans and Salvadorans into south Texas, or the expulsion of ethnic Chinese from Vietnam, that attention is focused on migration matters at the highest level, sometimes involving direct Presidential decision-making.

U.S. failure to pay attention to the effects of its actions on migration flows has over time contributed unintentionally to the flow of unauthorized people into the United States. For example, this can be the unanticipated result of certain U.S. trade policies, e.g., on sugar; of U.S. political involvement in certain countries; or of the sustained U.S. fiscal deficit which consumes foreign savings and makes capital more expensive for developing countries.

U.S. import restrictions on products from migrant-sending countries eventually influence migration pressures. U.S. failure to address the social and economic consequences of debt service burdens of sending countries contributes to unauthorized immigration to the United States. Intervention—or nonintervention—in the political events of other countries influences migration. Yet all these issues are decided without consideration of migratory effects.

Explicit attention to migratory factors in the conduct of U.S. foreign policy is long overdue. It is vital that the United States raise the visibility and priority of migration issues by developing a permanent capacity to respond to this massive challenge. The continued absence of an effective policymaking (and emergency response) mechanism will increase the likelihood that the United States will not be prepared for the equivalent of another boatlift or another similarly significant migration emergency. As the recent past has clearly demonstrated, such unpreparedness carries serious political risks for top federal and state officials and economic consequences for state and local governments.

## An Agency for Migration Affairs (AMA)

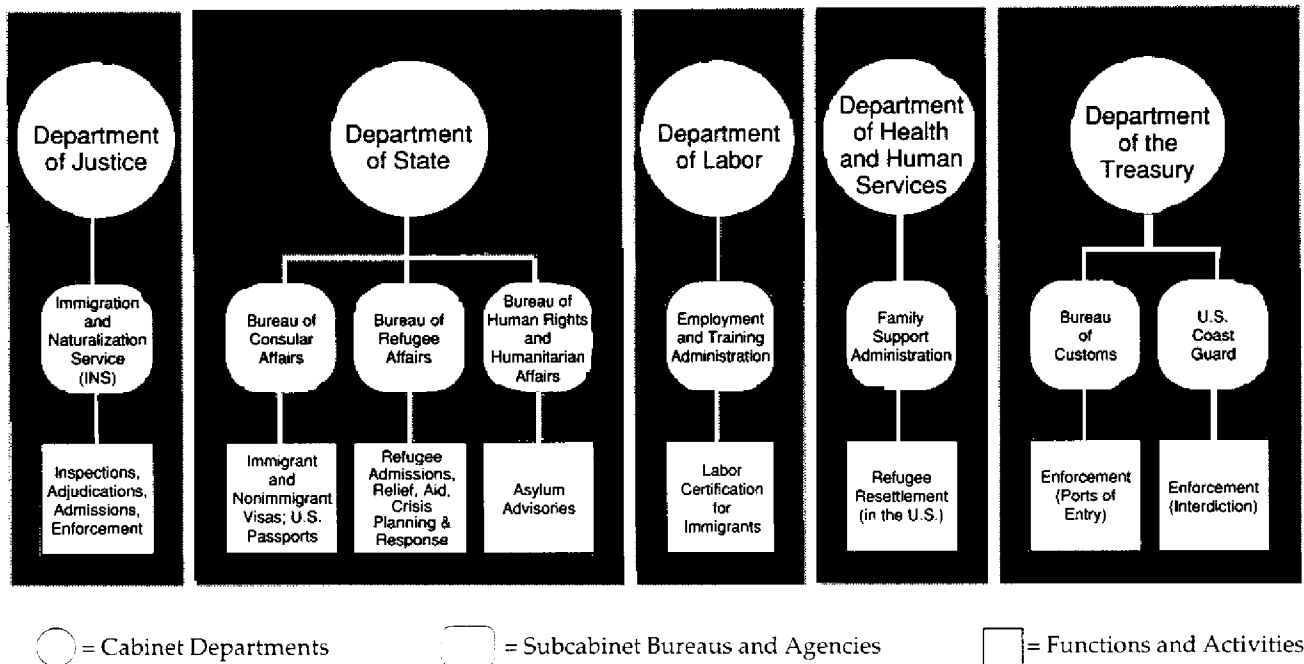
*This new agency should be charged with providing overall leadership and direction for U.S. immigration policy...*

Migration responsibilities are currently diffused among several different Cabinet departments and agencies. Responsibility for controlling unauthorized migration is shared by the Department of State, which seeks to prevent nonimmigrant visa abuse, and the Department of Justice, which controls the entry and deportation of unauthorized migrants. The U.S. Coast Guard plays a major role in the Haitian interdiction program. Responsibility for the processing and admission of legal immigrants is similarly fragmented among the Departments of State, Justice, and Labor. (See Figure 2.9, p. 28.)

Three Bureaus in the Department of State deal with migration. The Bureau of Consular Affairs (CA) is responsible for visa policy and, through the foreign service, visa issuance. The Bureau of Refugee Programs (RP) handles refugee processing and admission, contributes to international organizations for refugee relief, manages refugee aid programs, and is responsible for refugee crisis planning and response. The Bureau of Human Rights and Humanitarian Affairs (HA) provides direction and guidance regarding U.S. asylum policies and issues advisory opinions on specific asylum requests. The Immigration and Naturalization Service (INS) of the Department of Justice determines the admissibility of immigrants and nonimmigrants at ports of entry. The Department of Labor is responsible for the preliminary processing of persons seeking to immigrate based upon job qualifications. The Department of Health and Human Services (HHS) has responsibilities concerning the resettlement of refugees and the legalization program, and serves as a funding channel for state and local governments whose programs are significantly affected by refugees and legalized aliens.

In the late 1950s and early 1960s refugee and migration responsibilities were combined in the Bureau of Security and Consular Affairs in the Department of State. In the later 1960s and early 1970s, the Secretary of State had a Special Assistant for Refugee and Migration Affairs, but in the mid-1970s the issue of international migration slipped off government organizational charts. Notwithstanding previous Executive Branch efforts to coordinate responses to refugee

FIGURE 2.9  
*Current Government  
 Organizational  
 Structure for Migration  
 Affairs*



Source: Prepared by Commission.

emergencies, frustration over the fragmentation of migration-related responsibilities caused Congress in 1980 to create the position of Coordinator for Refugee Affairs, to address in a coordinated manner at least those issues related to refugees. Lack of budget and line authority and placement in the State Department, rather than the White House, has impeded the coordinating duties of this Office. These problems must be addressed and the Office must be strengthened and provided necessary resources pending implementation of the recommendation below for the creation of a new agency. Today, there is no person or governmental entity, aside from this Refugee Coordinator, specifically assigned to address migration issues for the U.S. Government.

There have been numerous studies over the years on the overlapping and sometimes conflicting responsibilities of the various entities of the federal government dealing with migration. Some have recommended elimination of the two-step process whereby the State Department issues visas, thereby selecting the individual for immigration, but a separate entity—the INS—inspects the same person for eligibility and determines admissibility at the port of entry. Some have urged a reconsolidation of refugee and immigration functions within a single Bureau in the State Department. Other studies have

suggested merging the INS petition function and the State Department visa function. Still others have recommended combining the airport and border inspection responsibilities of the U.S. Customs Service, INS and the Department of Agriculture into one inspection service. Another suggested approach is to merge the land border function of the Customs Service and the INS Border Patrol into a single border enforcement agency.

**Reorganization of the current structure for handling migration within the Executive Branch is urgently needed. The reorganization must ensure that migration be given a high priority on U.S. domestic and foreign policy agendas, and that migration consequences be carefully considered by policymakers involved in trade, development and other international economic matters.**

The structure should also ensure an efficient, rapid and coordinated response to any migration emergency that occurs in the future. And most important, it must place the responsibility for formulating and implementing U.S. immigration policy in a single, high-level official reporting directly to the President. To accomplish these objectives, the scattered government structure now handling immigration and refugee matters should be centralized into a new Agency for Migration Affairs (AMA) having the status of an independent agency. The Commission decided on the AMA after considering in detail and then rejecting suggestions to create a Migration Czar, a Migration Coordinator in the Executive Office of the President, a new Undersecretary of State for Migration Affairs with jurisdiction over the three State Department bureaus mentioned above, and a new Cabinet department for migration. The AMA was determined to be the best approach and the one most likely to achieve the policy development objectives described below.

The AMA should be charged with providing overall leadership and direction for U.S. immigration policy and be required by statute to coordinate closely with other government agencies whose decisions affect migration. The agency would assess the potential impact on migration of major U.S. policy decisions. This analysis would include a review of formal statements to be required from relevant federal offices. Reports from the AMA should be consolidated and presented to the President and Congress on an annual basis. The agency would also assume operational responsibility for all immigration and refugee matters by consolidating under its authority the functions and personnel of the INS (except for Border Patrol and interior enforcement personnel); the Bureau of Consular Affairs (except for assistance to Americans abroad); the Bureau of Refugee Programs; and the asylum unit of the Bureau of Human Rights and Humanitarian Affairs. To ensure adequate resources to carry out its responsibilities, the AMA's normal operational activities should be funded through user charge fees and funds should be appropriated for its regulatory and policymaking activities, as well as for its migration emergency duties.

A number of studies have noted the problems caused by placing incompatible service (adjudications, naturalization and admissions) and enforcement (investigations and Border Patrol) functions within one agency. These problems include competition for resources, lack of coordination and cooperation between enforcement and service programs, conflict between district offices and Border Patrol sectors, personnel practices which encourage transfer between enforcement and service positions and confusion regarding mission and responsibilities. Some attribute INS' management and operational problems directly to its dual responsibilities. Placement of service and enforcement functions into two separate agencies would, in the Commission's judgment, lead to cost efficiencies, more effective enforcement and improved service to the public. It would also provide the basis for developing a more professional corps of officers and policymakers as is the case for both Australia and Canada, where the issue of migration receives high-level attention. (See Box 2.4, p. 31.)

The asylum process should be treated as the life and death matter it may well be for applicants whose fate is in the hands of examiners who interview them for only a few minutes before making their decisions. For this purpose, the AMA should establish a cadre of officers in each of its offices who would handle only asylum cases and whose education and continued training would have provided them with specific, current area knowledge of the countries of origin of the people they interview. Asylum determinations should be fair and impartial and be made in accordance with U.S. refugee law. They should be based on humanitarian concerns and be divorced from foreign policy considerations.

**Relevant federal agencies should be required to prepare and disseminate immigration impact statements (similar to environmental impact statements) to accompany major decisions regarding development assistance and trade with migrant-sending countries.** Likewise, Congress should examine the potential migratory impact of its major legislative initiatives on trade and development assistance and require Executive Branch assessment of this impact following enactment. Further, the Executive Branch should inform and consult more closely with Congress regarding its assessment of the potential migration impact of major foreign policy decisions or national security actions which could produce a substantial increase in outmigration from a particular country.

The Commission is fully aware of the logistical, political and practical problems posed by this recommendation. It is sensitive to the methodological difficulties of projecting the migratory impacts of legislative and executive actions in other fields. It is cognizant of the turf battles that have been vigorously waged in the past over similar reorganization plans. These factors have prevented such plans from being successfully advanced in either the Executive or Legislative Branches. Despite these difficulties, the Commission is convinced

### *Box 2.4 - Australian and Canadian Immigration Systems*

In both Australia and Canada—other migrant-receiving countries—immigration and refugee policy is carried out by cabinet-level organizations

In Australia, responsibility for a wide range of immigration responsibilities is centralized within the Federal Department of Immigration, Local Government and Ethnic Affairs (DILGEA). DILGEA is responsible for development of government policy on immigration (including refugees), population and settlement strategies for immigrants to Australia. DILGEA cooperates closely with other government agencies, notably the Department of Foreign Affairs and Trade and the Department of Employment, Education and Training. Together with the Office of Multicultural Affairs in the Department of the Prime Minister and Cabinet, DILGEA is responsible for development of policy concerning the role of ethnic communities in Australia.

Operationally, DILGEA is responsible for (1) overseas selection of immigrants, temporary residents and visitors, (2) maintenance of immigration control at Australian ports of entry (primary line inspection authority is delegated to officers of the Customs Department), (3) supervision of conditions of entry after arrival in Australia, particularly in relation to duration of stay of non-immigrants and authorization of employment; and (4) the initial settlement of immigrants and refugees within Australia. In order to carry out these activities, the Department maintains offices throughout Australia,

including at all international ports of entry, and in 37 countries overseas. Where DILGEA is not represented overseas its functions are carried out by officers of the Foreign Ministry.

In Canada, the Ministry of Employment and Immigration is responsible for the Immigration and Refugee Program. The Ministry develops immigration policy, manages immigration levels, participates with other governmental departments in developing immigration-related policy and, through cooperation with other government agencies and with non-governmental organizations, assists newly arrived immigrants to adapt and settle in Canada. The Ministry's Immigration Program also facilitates and controls the admission to Canada of visitors, permanent residents and refugees, and assists with the settlement in Canada of permanent residents including refugees. Cooperation in carrying out the program is provided by other federal departments, provincial governments, private organizations and individuals.

The Immigration Program comprises four activities: Program Operations, Settlement, Adjudication, and Management and Policy Development. The organizational structure for the Program is highly decentralized. Of the approximately 3,200 current personnel, about 2,600 are located in the 10 regions across Canada. Outside of Canada it is carried out by 215 officers in 64 locations.

that the time has come for new approaches in handling these vital migration issues. A new migration agency will emphasize to policymakers the critical importance of migration matters and their interrelationship with other major public policy areas. It will also permit the elimination of costly, overlapping and redundant operations.

The Departments of State and Justice have not devoted sufficient attention and resources to immigration policy analysis nor have they collected the data necessary for such analysis. Too often Congress has been forced to legislate in a vacuum because the Executive Branch has neglected its data-gathering and policymaking responsibilities. The Commission, therefore, stresses that the new Agency for Migration Affairs work closely with the Congress, which has the preeminent role over immigration under the Constitution, to develop urgently-needed data bases and to strengthen the country's migration policy analysis capability. The U.S. government should encourage the International Organization for Migration (IOM) to undertake parallel policy analyses of global migration matters in close collaboration with the AMA.

The AMA's mandate should include a comprehensive review of current immigration and refugee laws and policies in an effort to ensure that they reflect current migratory patterns, needs and realities. It should also be required to develop data bases which will enable it to project future trends in international migration, to monitor migration developments, and to draw up appropriate contingency plans for migration emergencies that may occur.

The development and administration of immigration policy is far too important to be relegated to a step-child agency such as the Immigration and Naturalization Service, which falls uncomfortably within the Department of Justice and which historically has been beset with serious management and resource problems. Nor should these functions continue to be diluted among three different bureaus in the State Department where they too often are subordinated to short-term departmental policy considerations and compete unevenly for resources and attention. Further, history has demonstrated that continual ad hoc crisis management approaches to major migration emergencies is not in the political interest of any Administration, nor is it in the public interest. The Office of Management and Budget can be helpful as a coordinating agent during crises, particularly on regional issues, but it cannot exert continuing authority over and give operational guidance to the migration functions now performed by several cabinet agencies. Because migration policy involves foreign policy concerns, national security interests, domestic political pressures and fiscal considerations, and because of its belief that migration will become an increasingly important international issue in the 1990s, the Commission urges Congress and the Executive Branch to give priority to creation of an Agency for Migration Affairs.