



# 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 FY2011, just over 1 million aliens became U.S. legal permanent residents (LPRs). Of this total, nearly 65% entered the United States on the basis of family ties. Other major categories of LPRs were employment-based (13%), refugees and asylees (16%), and diversity migrants (5%). In FY2011, Mexico was the source country of 14% of LPRs who were admitted or who adjusted status. Other top countries were China (8.2%), India (6.5%), Philippines (5.4%), and the Dominican Republic (4.3%). Rather than newly arriving from abroad, 54.6% (580,092) were adjusting to LPR status from a temporary (i.e., nonimmigrant) status within the United States.

There were 4.5 million approved LPR visa petitions pending with the National Visa Center at the end of FY2011 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. Adult children of U.S. citizens can now expect to wait about seven years, with even longer waits for 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. The 113<sup>th</sup> Congress may consider 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.<sup>1</sup>

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. If the 113<sup>th</sup> Congress takes up comprehensive immigration reform (CIR), many maintain that revision of the legal immigration system should be one of the major components of a CIR proposal.<sup>2</sup> This primer on legal permanent immigration law, policies, and trends provides a backdrop for the policy options and debates that may emerge if the 113<sup>th</sup> Congress considers a revision of the legal immigration system.

## 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.<sup>3</sup>

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.<sup>4</sup> If the prospective LPR has not established a lawful residence in the United States, the

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> INA §245 details the circumstances under which an alien can change from a nonimmigrant or other temporary status to legal permanent resident status without leaving the United States to apply for the LPR visa.

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.<sup>5</sup>

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs.<sup>6</sup> As discussed more fully in the Immigration Trends section below, 54.6% of all LPRs adjusted to LPR status in the United States rather than abroad in FY2011.

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.<sup>7</sup> 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 relatives<sup>8</sup> of U.S. citizens as well as refugees and asylees who are adjusting status are exempt from direct numerical limits.<sup>9</sup>

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 paroled<sup>10</sup> 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

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<sup>5</sup> These include criminal, national security, health, and indigence grounds as well as past violations of immigration law. § 212(a) of INA. CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

<sup>6</sup> 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.

<sup>7</sup> §201 of INA; 8 U.S.C. §1151.

<sup>8</sup> “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.

<sup>9</sup> 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.

<sup>10</sup> “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.

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.<sup>11</sup> For a dependent foreign state, the per-country ceiling is 2%.<sup>12</sup> 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.”<sup>13</sup>

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.<sup>14</sup> 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. 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.<sup>15</sup>

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<sup>11</sup> §202(a)(2) of the INA; 8 U.S.C. §1151.

<sup>12</sup> 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.

<sup>13</sup> Bureau of Consular Affairs, *Operation of the Immigrant Numerical Control Process*, U.S. Department of State, undated, p. 3, [http://www.travel.state.gov/pdf/Immigrant%20Visa%20Control%20System\\_operation%20of.pdf](http://www.travel.state.gov/pdf/Immigrant%20Visa%20Control%20System_operation%20of.pdf).

<sup>14</sup> §202(a)(4) of the INA; 8 U.S.C. §1151.

<sup>15</sup> 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 3<sup>rd</sup> 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 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.

**Table I. Legal Immigration Preference System**

Category		Numerical limit
<b>Total Family-Sponsored Immigrants</b>		<b>480,000</b>
<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
<b>Family-sponsored Preference Immigrants</b>		<b>Worldwide Level 226,000</b>
<i>1<sup>st</sup> preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	(A) Spouses and minor children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 <sup>st</sup> preference [77% are reserved for spouses and children of LPRs]
<i>3<sup>rd</sup> preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>4<sup>th</sup> preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> preference
<b>Employment-Based Preference Immigrants</b>		<b>Worldwide Level 140,000</b>
<i>1<sup>st</sup> 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 <sup>th</sup> and 5 <sup>th</sup> preference
<i>2<sup>nd</sup> 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 <sup>st</sup> preference
<i>3<sup>rd</sup> 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 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>3<sup>rd</sup> preference—“other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 <sup>rd</sup> preference)
<i>4<sup>th</sup> 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>5<sup>th</sup> 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 3<sup>rd</sup> 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 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.<sup>16</sup>

<sup>16</sup> CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*, by Alison Siskin and Chad C. Haddal.

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.<sup>17</sup>

## 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.<sup>18</sup> **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 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.

<sup>17</sup> See CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem.

<sup>18</sup> 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.

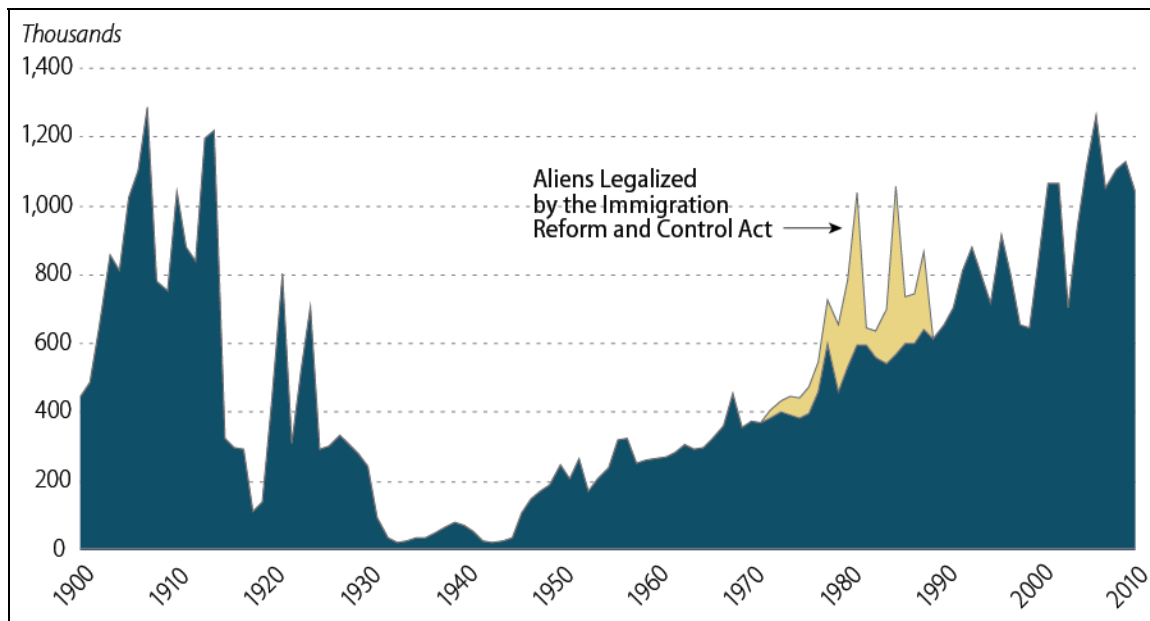


# Immigration Trends

## Immigration Patterns, 1900-2010

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 20<sup>th</sup> 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, 1900-2010**



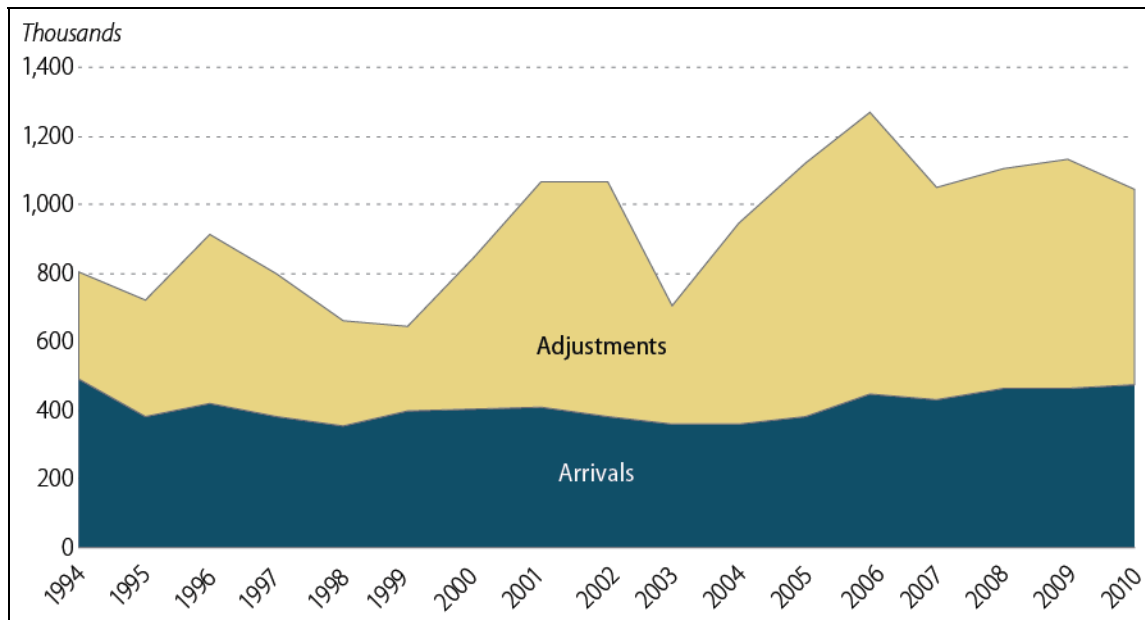
**Source:** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival rather than year of adjustment.

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.<sup>19</sup> The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas

<sup>19</sup> The Immigration Reform and Control Act of 1986 legalized 2.7 million aliens residing in the United States without authorization.

would be made available the following year for family preference immigration. In addition, the 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-FY2010**

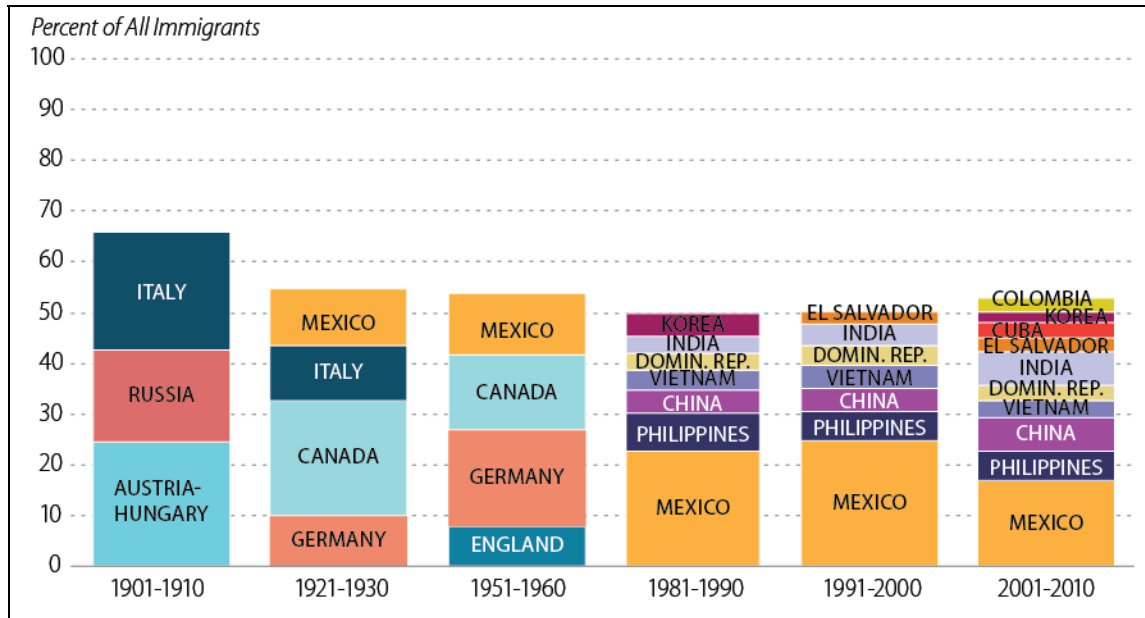


**Source:** *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, (multiple years).

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 20<sup>th</sup> 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 20<sup>th</sup> century, immigrants from seven to nine countries comprised about half of all LPRs and this pattern has continued into the 21<sup>st</sup> 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 20<sup>th</sup> century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20<sup>th</sup> century and into the 21<sup>st</sup> 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).

### FY2011 Admissions

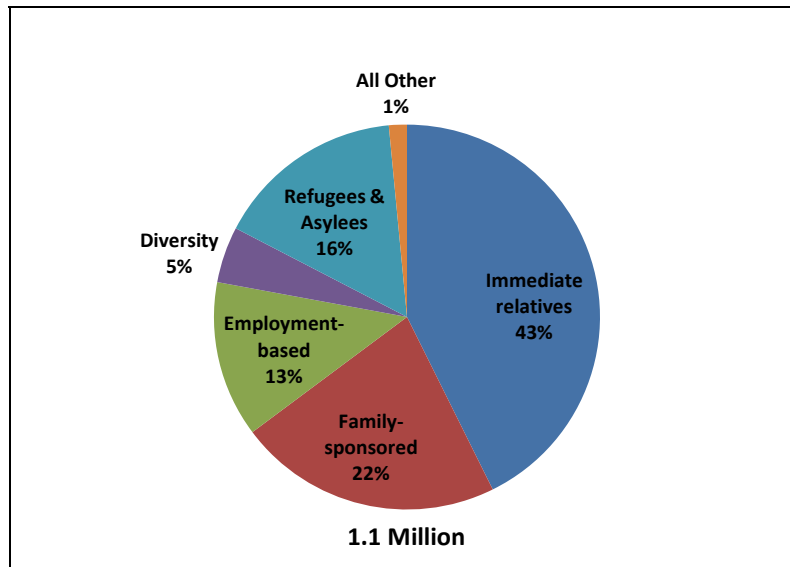
In FY2011, just over 1 million aliens became LPRs. Of this total, nearly 65% entered on the basis of family ties. As **Figure 4** presents, other major categories were employment-based LPRs (13%), refugees and asylees (16%), and diversity migrants (5%). Immediate relatives of U.S. citizens accounted for 43% of all LPRs in 2011. Spouses of U.S. citizens were 57%, parents of U.S. citizens were 25%, and children of U.S. citizens (included adopted orphans) were 18% of the LPRs who were immediate relatives.

In FY2011, Mexico was the source country of 14% of LPRs who were admitted or who adjusted status. Other top countries were China (8.2%), India (6.5%), Philippines (5.4%), and the Dominican Republic (4.3%). These top five countries made up almost 38% of all LPRs who were admitted or who adjusted status in FY2011. Similarly, the leading regions of birth for LPRs in FY2011 were Asia (43%) and North America<sup>20</sup> (31%), accounting for almost three quarters of the LPRs in FY2011.<sup>21</sup>

<sup>20</sup> North America includes the Caribbean and Central America as well as Mexico and Canada.

<sup>21</sup> DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2011*, Table 7, <http://www.dhs.gov/yearbook-immigration-statistics-2011-1>.

**Figure 4. Legal Permanent Residents by Major Category, FY2011**



**Source:** U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2011*, 2012.

In FY2011, USCIS adjusted 580,092 aliens to LPR status, which was 54.6% 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 (89.3%) of the employment-based immigrants adjusted to LPR status within the United States in FY2011. Many (53.7%) of the immediate relatives of U.S. citizens also did so that year. Only 12.1% of the other family-preference immigrants adjusted to LPR status within the United States in FY2011.<sup>22</sup>

## Approved Visa Petitions Pending

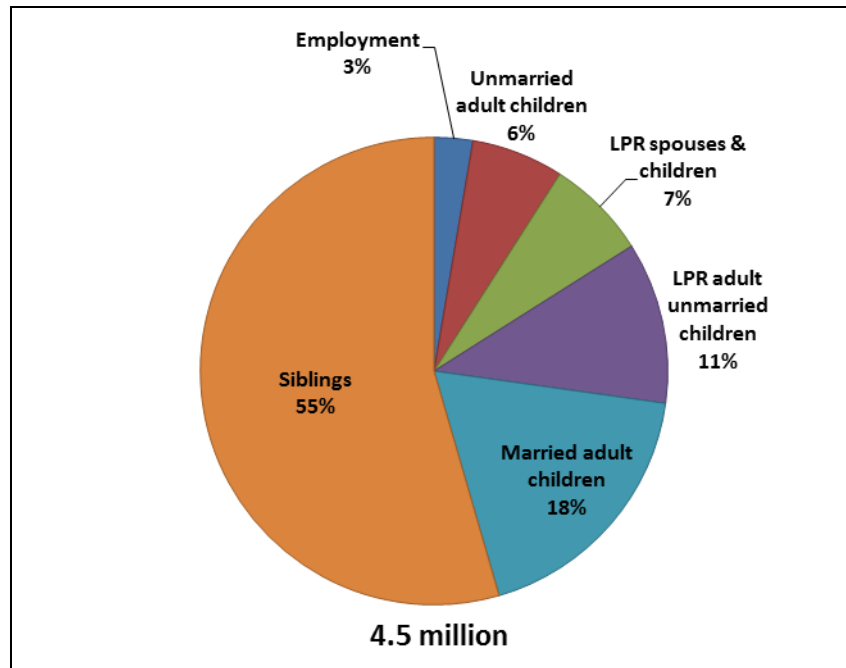
The pool of people who are eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by U.S. immigration law. At the end of each fiscal year, the Department of State publishes a tabulation of approved visa petitions pending with the National Visa Center.<sup>23</sup> 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.<sup>24</sup>

<sup>22</sup> DHS Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2011*, Table 7, <http://www.dhs.gov/yearbook-immigration-statistics-2011-1>.

<sup>23</sup> 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, 2011*; available at the Department of State website: <http://www.travel.state.gov/pdf/WaitingListItem.pdf>

<sup>24</sup> 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 2013*, [http://www.travel.state.gov/pdf/Web\\_Annual\\_Numerical\\_Limits.pdf](http://www.travel.state.gov/pdf/Web_Annual_Numerical_Limits.pdf).

**Figure 5. Approved LPR Visa Petitions Pending November 2011**



**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, 2011*.

The family-based preference categories dominate the approved visa petitions pending. **Figure 5** presents approved petitions for the 4.5 million LPR visas pending with the National Visa Center at the end of FY2011, by preference category.<sup>25</sup> Over half (55%) of all approved petitions pending were 5<sup>th</sup> 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 18% of the 4.5 million approved visa petitions pending.

As **Figure 5** indicates, the employment-based preferences account for only 3% (123,333) of the 4.5 million LPR visas pending with the National Visa Center as of November 1, 2011. This figure of 123,333 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).<sup>26</sup>

## 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

<sup>25</sup> 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, 2011*.

<sup>26</sup> 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.

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.<sup>27</sup>

### 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 11 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 December 1, 2005, 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 (June 8, 2002) 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 almost 24 years ago.

**Table 3. Priority Dates for Family Preference Visas, as of December 2012**

Category	Worldwide	China	India	Mexico	Philippines
Unmarried sons and daughters of citizens	Dec. 1, 2005	Dec. 1, 2005	Dec. 1, 2005	July 1, 1993	Oct. 8, 1997
Spouses and children of LPRs	Aug. 22, 2010	Aug. 22, 2010	Aug. 22, 2010	Aug. 1, 2010	Aug. 22, 2010
Unmarried sons and daughters of LPRs	Nov. 15, 2004	Nov. 15, 2004	Nov. 15, 2004	Nov. 1, 1992	Mar. 22, 2002
Married sons and daughters of citizens	June 8, 2002	June 8, 2002	June 8, 2002	Mar. 1, 1993	Aug. 1, 1992
Siblings of citizens age 21 and over	April 1, 2001	April 1, 2001	April 1, 2001	July 22, 1996	Mar. 22, 1989

**Source:** U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin* for December 2012.

### Employment-Based Visa Priority Dates

As of December 2012, 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 an October 22, 2007, priority and from India have a September 1, 2004 priority date. Visas for professional and skilled workers have a worldwide priority date of December 22, 2006, except for those workers from China, India, and the Philippines, who have longer waits. Unskilled workers with approved petitions as of December 22, 2006, are now being issued visas, with those from China, India, and the Philippines again having longer waits.

<sup>27</sup> Bureau of Consular Affairs, *Visa Bulletin For December 2012*, U.S. Department of State, No. 51, Vol. IX, 2012, [http://www.travel.state.gov/visa/bulletin/bulletin\\_5803.html](http://www.travel.state.gov/visa/bulletin/bulletin_5803.html).

**Table 4. Priority Dates for Employment Preference Visas, as of December 2012**

Category	Worldwide	China	India	Mexico	Philippines
Priority workers	current	current	current	current	current
Advanced degrees/ exceptional ability	current	Oct. 22, 2007	Sept. 1, 2004	current	current
Skilled and professional	Dec. 22, 2006	July 1, 2006	Nov. 1, 2002	Dec. 22, 2006	Aug. 15, 2006
Unskilled	Dec. 22, 2006	July 1, 2006	Nov. 1, 2002	Dec. 22, 2006	Aug. 15, 2006
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 December 2012.

## 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 address the millions of unauthorized aliens residing in the country. The 113<sup>th</sup> Congress may consider 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. 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.<sup>28</sup> 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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<sup>28</sup> CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*, by Ruth Ellen Wasem.