

TN Visas: A Stepping Stone Toward a NAFTA Labor Market

By Pia Orrenius and Daniel Streitfeld

TN visas are especially attractive to workers and employers because they can be extended repeatedly and have simple entry requirements, low fees and, most strikingly, no annual quotas limiting the number of workers who can be admitted.

The North American Free Trade Agreement established the NAFTA Professional—or TN—visa in 1994. Buried in the 1,708-page document, the provision received little attention at the time; indeed, some experts complained that the agreement had ignored the issue of migration, particularly between Mexico and the United States.

TN status is granted in one-year, renewable increments to high-skilled workers from Canada and Mexico who are in eligible occupations and have U.S. job offers. The visas are especially attractive to workers and employers because they can be extended repeatedly and have simple entry requirements, low fees and, most strikingly, no annual quotas limiting the number of workers who can be admitted. Moreover, they don't require filing applications by mail with U.S. Citizenship and Immigration Services (USCIS).

In contrast, most other major job-based visa programs for high-skilled foreigners, such as H-1Bs and employment-based green cards, have costly requirements, fixed limits on the number of workers allowed into the U.S., and processing delays that add months or even years to the wait.

The TN visas' flexibility allows them to serve a vital economic function by permitting free and timely movement of skilled workers into areas with growing demand. In light of the limitations and failures of other visa programs, the TN's combination of market-based efficiency and minimal red tape makes it a potential model for a type of guest-worker plan and a stepping stone toward a common NAFTA labor market.

Job-Based Migration to the U.S.

Because the TN visa program applies only to skilled employees, it can't be used

by the largest group of NAFTA workers seeking entry to the U.S.—low-skilled migrants from Mexico. Even so, three developments have given the TN visa program increasing importance: growth in U.S. demand for high-skilled workers, shortages of H-1Bs and other employment-based visas, and the TN program's user-friendly procedures.

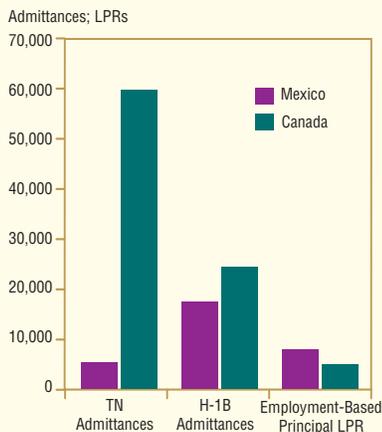
Once applicants have a job offer, confirmed by a letter presented to an immigration or consular officer, TN visas involve little paperwork or delay, which makes them well-suited for meeting companies' needs in a timely manner. Canadians need only supply job documents, proof of citizenship and a basic application to the immigration officer at any U.S. port of entry to petition for entry under TN status.

For Mexicans, the process is slightly more complicated and can't take place at a port of entry. Since 2004, Mexicans have faced the same documentation requirements as Canadians. Because they must be issued an actual visa, however, they must submit their materials to a U.S. consulate. If approved, they receive a TN visa and can then be admitted at a port of entry.

In addition to TN visas, highly educated Canadians and Mexicans have other options for legally residing and working in the U.S. They can enter permanently as an employment-based lawful permanent resident (LPR), obtaining a green card and eligibility to apply for citizenship after five years. Job-based green cards, however, typically require workers and employers to undergo an elaborate labor certification process. The green cards are also subject to quotas. As a result, they often take several years to be processed and approved.

Another alternative is a temporary, or

Chart 1
How They Got Here: High-Skilled Labor Migration to the U.S.



NOTE: 2005 data.

SOURCE: Office of Immigration Statistics, Homeland Security Department.

nonimmigrant, visa, more similar to a TN than a green card. Nonimmigrant job-based visas allow skilled foreign workers to reside and work in the U.S. for specified periods.

The most important is the H-1B program, which allows employers to petition for three-year, once-renewable visas for high-skilled professionals in specialty occupations.¹ H-1Bs are expensive to obtain and involve a time-consuming application process, although it's not nearly as burdensome as the procedure for job-based green cards. The major obstacle to H-1Bs is an annual quota that limits private-sector firms to 65,000 visas.² The cap is binding in most years. In fact, the H-1B quota was reached well in advance of the end of fiscal 2004, 2005 and 2006. With the backlog of applications growing, the 2007 allocation was exhausted in July 2006, before the start of the 2007 fiscal year in October 2006.

A closer look at high-skilled in-migration from the NAFTA countries shows that Canadians' use of TN status is particularly large, accounting for about 60,000 admittances in 2005 (*Chart 1*).³ By contrast, relatively few high-skilled Mexican workers enter the U.S., and they often don't use the TN visa. In 2005, the country had only 4,900 TN admittances. Mexicans make greater use of H-1Bs, with 17,100 admittances in 2005, close to Canada's 24,000. Among permanent migrants, Mexican job-based green cards,

excluding dependents, numbered 7,680, eclipsing Canada's 4,612.⁴

Not all those Mexican green cards go to high-skilled workers. A small subcategory of the green-card program (called EB-3 visas) allocates 10,000 visas to low-skilled workers and their families, and some of these go to Mexicans.

Although admittances are the only data available, they don't perfectly capture the volume of work-related migration from NAFTA nations. The admittances record entries into the U.S. and aren't the same as visa issuances (for Mexicans) or the number of authorizations (for Canadians, who do not need visas to enter the U.S.).

Admittances typically exceed issuances or authorizations because individuals are normally counted each time they travel back and forth to their country. Mexicans in particular tend to visit their homeland frequently. On the other hand, those who renew their TN status within the U.S. and don't return home during the year aren't counted in admittances. Adjusting the admittance data based on historical patterns suggests that new and renewing TN authorizations were around 50,000 for Canadians and 2,500 for Mexicans in 2005.⁵ Corresponding numbers for new H-1Bs are estimated at 16,000 for Canadians and 4,000 for Mexicans.

TN status is available only to workers

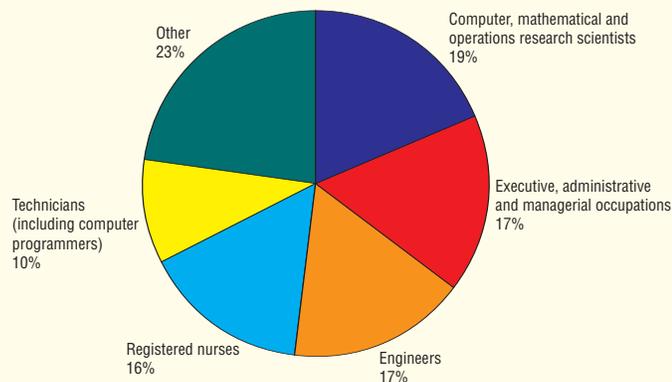
in occupations on the official NAFTA professionals list, and almost all require at least a bachelor's degree (*Chart 2*). They include 12 medical professions, 23 science categories, three teacher categories and 25 other professions. The majority of TN authorizations go to job categories in which labor demand is growing faster than the domestic supply, including computer scientists, programmers and registered nurses.

Because the program is temporary and work-based, inflows of TN workers are sensitive to economic conditions and fluctuate with the business cycle. Both Canadian and Mexican TN admittances grew sharply during the boom years of the late 1990s, peaking in 2000 (*Chart 3*). In addition to strong cyclical demand, growing awareness of the visa and its ease of use surely contributed to the steady rise through the second half of the 1990s.

Admittances for both countries dropped substantially from 2001 to 2003, a decline that can be attributed to the 2001 recession and its aftermath. The labor market recovery, beginning in mid-2003, appears to have spurred a rise in TN admittances, more so for Mexicans than Canadians.

U.S. regulations require TN visas to have a "reasonable and finite end that is not permanent residence." As a result, TN status must be renewed annually, which can be done from the migrant's home country, at a

Chart 2
Composition of TN Occupations

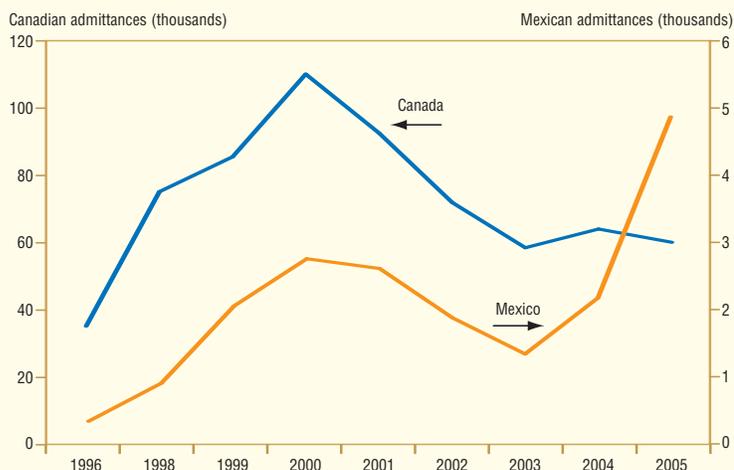


NOTES: Based on 1997-99 data, the most recent available. Percentages do not total to 100 due to rounding.

SOURCE: "Canadians Authorized to Work in the United States Under NAFTA Provisions," by Michael Hoefler, Doug Norris and Elizabeth Ruddick. Presented at the Metropolis Conference in Vancouver, 2000.

Most employment-based visa programs fall short because they limit immigration during economic expansions, they are cumbersome and costly to use and administer, and they exclude low-skilled workers.

Chart 3
TN Admittances Reflect U.S. Economic Conditions



NOTE: No data available for 1997.

SOURCE: *Yearbook of Immigration Statistics, 1996–2005*, Office of Immigration Statistics, Homeland Security Department.

port of entry or within the U.S. Renewals can occur repeatedly until a U.S. official determines that the “temporary” nature of the worker’s intent has been exhausted.

However, less than half of TN visa holders renew, according to the Homeland Security Department’s Office of Immigration Statistics. A 2000 study showed 40.8 percent of TN visa holders who were first authorized in 1995 renewed at least once in subsequent years.⁶ And 25.3 percent renewed for at least a fourth time in subsequent years. While the numbers indicate a significant share of TN workers are finding the visa useful and are renewing, a majority of those on TN status are either moving back to their home countries or switching to another type of U.S. visa or immigration status.

The first 10 years of the TN program, NAFTA imposed an annual quota of 5,500 on Mexican TN visas and required Mexican workers to file a “labor condition application” and apply by mail to USCIS. Policymakers imposed these restrictions, which didn’t apply to Canadians, because they feared a rush of high-skilled workers across the southern U.S. border. Yet, the reality has been quite different. Canada has consistently averaged about 40 times as many TN admittances as Mexico for the past 10 years (*Chart 3*). Canadian TN workers continued to greatly outnumber Mexicans even after the restrictions on Mexican workers expired at the end of 2003. The gap may seem sur-

prising, since Mexico had a labor force of 43.4 million in 2005, much larger than Canada’s 16.3 million.

Mexicans’ Use of TN Visas

Why haven’t Mexicans taken as well to the TN program as Canadians? Cost of living may be one reason. Although U.S. high-skilled wages are higher than Mexico’s, Mexican professionals may be less inclined to migrate because their paychecks go further in a country with a significantly lower cost of living.

There also may be fewer Mexicans with the educational background required for high-skilled U.S. jobs. In 2003, only 18.7 percent of Mexicans aged 25 to 34 had at least some college, compared with 52.8 percent for Canadians. Another important, though less quantifiable, aspect is the similarity of Canadian and American educational institutions. U.S. employers are likely to be more familiar with and confident in the transferability of skills taught at Canadian schools than Mexican schools.

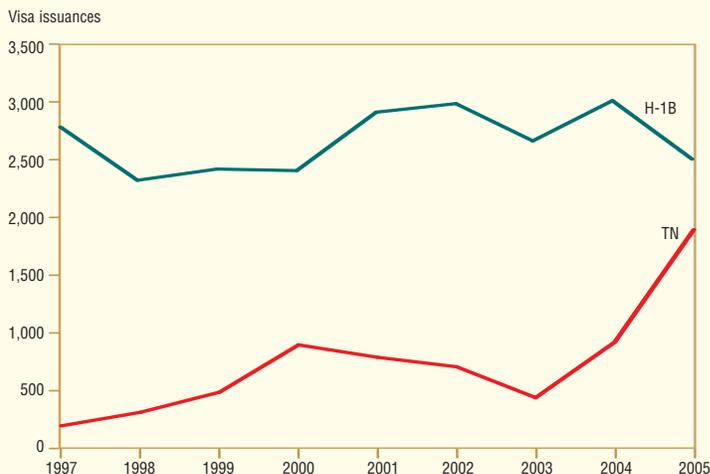
The education differential, however, doesn’t fully account for the TN visa gap. Several other factors limit the ability of even highly educated Mexicans to obtain jobs in the U.S. The most important barrier is language. Most Americans and Canadians speak English as their first language, but the majority of Mexicans grow

up speaking primarily Spanish. Americans and Canadians also share similar ethnic and cultural backgrounds, which makes the transition to the U.S. less jarring for Canadians than for Mexicans. These affinities may also make it easier for Canadians to adapt to the U.S. labor force and assimilate.

Despite a slow start, TN visa use among Mexicans is increasing. While usage continues to be low, its growth has turned up sharply, quadrupling between 2003 and 2005 (*Chart 4*). The surge has been helped by the lifting of the restrictions on Mexican workers at the end of 2003. At the same time, a lack of H-1B visas may have pushed Mexicans to seek TN status instead.

The TN visa growth rate among Mexican workers is likely to remain high. Mexico’s education levels are on the rise, and English language skills are more widespread today than in previous generations of Mexican college students. In addition, U.S. security concerns and visa caps are taking a bite out of the inflows of students and skilled workers from the Middle East and Asia, another factor expected to spur demand for NAFTA talent. Finally, deepening economic and cultural ties between Mexico and the U.S. should increase demand for workers who are fluent in both English and Spanish and possess an in-depth knowledge of Mexico.

Chart 4
TN Visas Gaining Acceptance Among Mexicans



NOTE: Visa issuances do not include visas issued within the U.S. or any visa renewals.

SOURCE: Office of Visa Statistics, U.S. State Department.

Reaping Economic Gains

Immigration provides economic benefits beyond the direct gains by employers and foreign workers. The in-migration of foreign workers boosts economic growth, efficiency and innovation. This lowers prices for consumers and raises incomes for U.S. natives.

Most employment-based visa programs fall short because they limit immigration during economic expansions, they are cumbersome and costly to use and administer, and they exclude low-skilled workers. Visa restrictions are mainly intended as protections for native-born workers, but it's questionable whether such provisions have the desired effect, particularly if they keep high-skilled workers out or—in the case of low-skilled workers—encourage them to enter illegally instead.

A version of the TN visa program, under modified rules, could be designed for less-educated workers. In that case, most illegal entrants from Mexico, as citizens of a NAFTA country with job offers from U.S. employers, would fulfill the visa's requirements. Such a program would allow for the legal inflow of workers on a timely and low-cost basis.

Growth-based, flexible quotas could be used for low-skilled workers to ensure that migration responds more to changes in U.S. than Mexican labor market conditions. The demand for low-skilled foreign workers

could be curbed by licensing employers wishing to hire them; licensing fees would not only deter hiring foreigners over comparable native-born workers but would also defray the costs of running the program.

As is currently the case with the TN visa, the duration of stay and the employer–employee match would be flexible so that the worker could return home or move on to a better job, depending on the demand for labor and the desire to supply it. The temporary and work-based nature of the visa would ensure procyclical labor flows and more return migration, minimizing use of welfare programs.

Prioritizing NAFTA countries in such an arrangement—like the TN visa does—would promote growth and stability in the region and allow for legal migration by workers who might otherwise come illegally. The benefits of a more fluid NAFTA labor market—with mobility for both high- and low-skilled workers—may prove deep and lasting.

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Notes

The authors thank Anna Berman, Mike Hoefler, Steve Ladik and Alan Viard for helpful comments.

¹ According to U.S. Citizenship and Immigration Services, a specialty occupation requires “theoretical and practical application of a body of specialized knowledge along with at least a bachelor’s degree or its equivalent.” Examples of specialty occupations include scientists, engineers and computer programmers.

² Since 2005, an additional 20,000 H-1B visas have been available per year for firms hiring foreign students graduating from U.S. universities with master’s degrees or higher. As has always been the case, H-1B workers hired by nonprofit employers, such as universities and the public sector, are exempt from the cap.

³ This decomposition excludes other, smaller, business-related visa categories, such as B-1 (temporary visitors for business), E-1 (treaty trader, spouse and children) and L-1 (intracompany transfers), and foreign students who remain for one year of optional practical training.

⁴ Unlike the TN and H-1B numbers, the green card totals include dependents (spouses and minor children) because they count against the green card caps. To present comparable data, we exclude dependents from the LPR inflows.

⁵ TN visa issuances to Mexicans abroad were 1,888 in 2005, according to the State Department’s Office of Visa Statistics.

⁶ “Canadians Authorized to Work in the United States Under NAFTA Provisions,” by Michael Hoefler, Doug Norris and Elizabeth Ruddick. Presented at the Metropolis Conference in Vancouver, 2000.