

# A Proposal for U.S.-EU Immigration Policy Harmonization

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The European Union today receives migrants from different parts of the globe: Eastern Europe, the Middle East, Africa and Asia.

A year ago the BBC broadcasted a program called “Desperately Seeking EU-topia,” depicting the drama of illegal immigration from Eastern Europe countries to Western Europe. In the program, Austrian border patrol agents on the frontier with Hungary were interviewed during an action against illegal immigrants. One officer proudly said, “We’ve learned how the United States deals with

the Mexicans. We hunt them down and catch them as soon as they cross the border!” Although a little more developed semantically, the relationship between the European Union and the United States in immigration matters can sadly be summed up as an issue of border police; terms like “prevention” and “the fight against immigration” are the only ones used in the plans developed by both parties to deal with immigration.

In this article, I will look at the possibility of strengthening a dialogue on immigration between the United States

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and the European Union (EU); I will also propose arguments for greater harmonization of transatlantic immigration policy. Since September 11, it has become imperative that the two parties consider the creation of a working group to formulate a coordinated immigration policy. The U.S. and Europe have to move carefully and closely at this particular moment of international relations. International collaboration against terrorism could become the basis for a future transatlantic dialogue that would be much more effective in the field of immigration.

### The relationship between the European Union and the United States in immigration matters can sadly be summed up as an issue of border police.

Right now the main risk is that restrictive policies, xenophobia and racism—always present on both sides of the Atlantic—could dangerously affect the internal equilibrium of civil society in both regions with incalculable consequences. Europe, with its 20 million Muslims,<sup>1</sup> and the United States, with 6 or 7 million, cannot run the risk of adopting incorrect, one-sided policies if they want to avoid seeing a real bomb of political and social instability go off in their back yards.<sup>2</sup>

Until now, the dialogue between the United States and Europe about immigration has been based on the 1995 Joint EU-U.S. Action Plan (reviewed every two years at the EU-U.S. summits).<sup>3</sup> The plan has a brief, highly defensive accord aimed only at control and the fight against illegal immigration, without concretizing construc-

tive, positive measures focusing on recognizing immigration's intrinsic importance.

Even though immigration has had a positive impact both on the United States and Europe, the policy makers, the opinion leaders, the representatives of the business world and unions in both regions:

- a) have not been able to propose definitive solutions to issues of common interest;
- b) have proposed sporadic migratory policies in answer to momentary

crises without suggesting an effective common strategy in immigration matters;

- c) have created the conditions for confronting illegal immigration without recognizing the advantages in its eventually being transformed into legal immigration.

In an unprecedented period of labor mobility, the economic competition between the world's two colossuses—very often based on the presence of skilled labor not available in one's own country, such as in the cases of Germany, France, England, Italy and the United States—has led them to establish policies that permit uncontrolled, irregular migratory flows.

Therefore, the lack of a clear, organized development strategy for immigration policy has caused a kind of po-

litical paralysis that, among other things, has sent out an ambiguous message to immigrants' countries of origin; these governments' inaction has sometimes been interpreted as a green light for a continuing flow of immigrants.<sup>4</sup> The case of immigration from the Balkans toward Western Europe is a clear example.

We can also add that the lack of an organized, planned strategy leaves immigrants—especially undocumented ones, who equally participate in the economic, social and cultural life of their destination country, like the Hispanics in the United States—completely defenseless legally and vulnerable with regard to their social and political rights.

The United States and the European Union have admitted millions of immigrants in recent decades, thus acquiring, therefore, the moral obligation to promote the long-term economic, social and civil integration of these new residents who have contributed a great deal to their development. However, the joint efforts of Europe and the United States have concentrated to a great extent on the fight against illegal immigration which, despite everything is very important for the economic stability of both regions. Among other things, this fight against illegal immigration tends to restrict the residency rights of all immigrants, both legal and illegal, who already live within the respective territories.

Therefore, the fundamental problem is understanding why on both sides of the Atlantic, where there are common immigration policies and similar institutional restrictions with results that are, in the best of cases, doubtful, they continue to manage the matter of migration in this counterproductive, uncoordinated fashion.

According to different scholars, like, for example, Wayne A. Cornelius and Philip Martin, both regions are typical of industrialized countries that import part of their work force in the sense of:

- 1) Using similar political instruments to control illegal immigration and the flow of refugees, as well as achieving like results in the fight against this kind of immigration.
- 2) The adoption of similar policies with regard to the social, economic and political integration of immigrants (measures taken to favor those immigrants who in the long run will be residents) with dubious results.
- 3) Xenophobic and racist reactions to immigration by the local population.
- 4) The systematic application of immediate rules to restrict immigration and control the border in the case of national crises.
- 5) The lack of recognition and commitment to sustained economic development in immigrants' regions of origin in most cases.

Something has changed in the last two years: Europe, for example, has begun to delineate a common immigration policy in terms of border controls, asylum, the rights of nationals of third countries, admissions policies, etc., through the precepts of the Treaty of Amsterdam, the resolutions of the 1999 Tampere Council and the application of the Schengen Accord.<sup>5</sup> In similar fashion, the United States has proposed bilateral agreements to partially solve the problem of illegal immigration, above all that of Mexicans.

A review of current legislation, multilateral and bilateral cooperation among

receiving and sending countries and the definition of an agenda on immigration for the next 10 years are some of the measures that the United States and Europe have to take to be able to efficiently manage the issue of international immigration.

The differences and similarities between the two parties do not end here: for example, the origin of the foreign population in the United States and the European Union is certainly very different. The largest foreign minority in the United States comes from Latin America, particularly Mexico. This pop-

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ulation increased five times more than the native U.S. population between 1990 and 2000. The political, social and economic transformation that this has brought is significantly changing the panorama in the United States.

By contrast, the European Union today has migration from different geographical areas: Eastern Europe, the Middle East, Africa and Asia. In addition, many of these undocumented immigrants are not there temporarily, as are many Mexicans in the United States. Other minorities, such as the Kurds in Germany or the Kosovars and other groups from the former Yugoslavia, the victims of ethnic conflicts, enjoy refugee status.

In the last 10 years the fundamental differences between the regions can be found in the initial objectives for which the European Union and

the North American Free Trade Agreement (NAFTA) were created.

In the first place, while the European Union seeks political, social and economic cohesion among its member countries, including that of the 12 countries currently seeking entrance, the United States only seeks the trade (economic) integration and the promotion of free trade.

In addition, European integration involves a strong social component, markedly the free circulation of individuals under the Schengen Accord. This fundamental freedom is express-

ly excluded from NAFTA, whose greatest social achievement was the inclusion of two parallel agreements on labor standards and the environment.

In the second place, the European Union and the area included under NAFTA represent the development of policies that emphasize regions despite the fact that the world trend seems to lead to globalization. Achieving regional economic objectives implies that both parties must strengthen their economies (above all in the European case, giving rise to the expression "Fortress Europe"), which could have serious repercussions for immigration. The dynamic of contraction and opening has been a constant factor in the political and economic development of what is now called the European Union.

Nevertheless, the events of September 11 will have drastic effects on

migratory policy in both Europe and the United States. The two regions' reactions to the terrorist attacks with regard to immigration have had different focuses: in the United States, interest in a dialogue with Mexico about immigration has declined while border controls have increased, slowing the flow of undocumented workers. In addition, the U.S. has concentrated most of its efforts on fighting terrorist organizations (note Attorney General John Ashcroft's statement prohibiting entry to the U.S. of presumed members or sympathizers of terrorist organizations).<sup>6</sup>

In contrast, the European Union reacted by centering on the question of Afghan refugees and displaced persons who might eventually leave their country as a consequence of the bombings, a position they share with the United Nations. After September 11, for example, the European Commission met to seek a common interpretation of the 1951 Geneva Convention on Refugees and recommend to union member states that they broaden out the interpretation of the term "persecution" to include actions by non-state agents for granting refugee status (this was to accommodate people persecuted by the Taliban, which was not officially recognized as the head of state by most of the international community).<sup>7</sup> However, France and Germany took a different position, arguing that the convention protects only those persecuted by the state. Under this interpretation, the two countries considered that because the Taliban government was not recognized internationally, the Afghans did not come under the protection of the convention. In other words, if an Afghan citizen fled his or her country because

of persecution by the Taliban and requested asylum in France or Germany, he or she would not have been considered a refugee, but an illegal immigrant, with all the consequences that this implies. Italy and England took a more liberal position, recognizing the Afghans as refugees under certain circumstances, although until the arrival of the first refugees, it was not clear how the measures would be applied and under what circumstances.<sup>8</sup>

Another important consequence of September 11 that could be reflected in the immigration policy of both regions is that the Bush administration and, to a lesser degree, the countries of the European Union are giving the same importance to the physical security of both the territory and individuals as to trade security when they ask other governments to join in a coalition against terrorism. To ensure international support for the offensive, they are using trade instruments. The United States, in particular, followed by Europe, will try to promote a sense of solidarity with the aim of achieving its goals during the world trade talks.

This attitude brings out contradictory situations: free trade implies permeable borders and fewer restrictions on visas for businessmen and transportation workers, guest workers and immigrants in general. However, ensuring anti-terrorist security demands exactly the opposite.

Once again, the administration in Washington and the European governments will have to seek a balance between free trade, security and protection for their citizens' and minorities' civil liberties. In light of this, it seems evident that now more than ever there is a need to establish a transat-

lantic dialogue with regard to immigration to come up with a coherent, lasting, balanced and fair policy for both immigrants and receiving countries. **MM**

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## NOTES

<sup>1</sup> According to a recent article on the [www.webislam.com](http://www.webislam.com) website, most of Europe's Muslims are in France (4 million).

<sup>2</sup> Suffice it to remember the international debate sparked by Italian Prime Minister Silvio Berlusconi's unfortunate remark about the supposed superiority of Western culture vis-à-vis Islamic culture.

<sup>3</sup> The last review took place in June 2001 in Gothenburg, since Sweden occupied the presidency at the time.

<sup>4</sup> This helps to explain, for example, why the laws and measures taken by Europe and the United States against illegal immigration have failed completely to contain it.

<sup>5</sup> These initiatives were obligatory: after the Cold War, Europe attracted 19 percent of the world's immigration and the United States, 20 percent. According to the European Commission, the difference will be completely eliminated in the next two years.

<sup>6</sup> Associated Press, 31 October 2001.

<sup>7</sup> It should be remembered that the European Commission does not have the ability to impose decisions on member states with regard to immigration, which is still a matter for cooperation and not a binding community matter.

<sup>8</sup> In the case of Italy, the question was complicated by the fact that it is the only country in the European Union which does not have legislation about political asylum.