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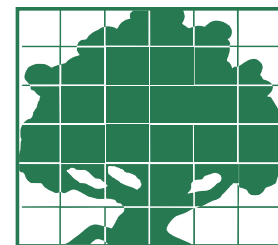
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What Does the Trans-Pacific Partnership Agreement Mean for California Agriculture?

Daniel A. Sumner, Hyunok Lee, and William A. Matthews

If it were implemented, the Trans-Pacific Partnership agreement would lower import barriers and facilitate export for many of California's significant agricultural exports to Pacific Rim nations—most importantly in Japan. By modestly improving growth prospects, it would also help create larger markets in developing countries—most importantly Vietnam.

Almost a decade after the idea was raised and after years of intense negotiation, on October 5, 2015, representatives of 12 countries around the Pacific Rim reached an agreement, called the Trans-Pacific Partnership (TPP), which would establish more open access for trade and related measures among the members. The agreement, details of which are not yet public, still has a long and politically uncertain path to implementation, given that it must be accepted in the United States Congress and the other countries before it can come into force.

Nonetheless, it is useful to take an early look at what the agreement might mean for California agriculture, recognizing that any impacts are likely to begin in a few years, and full implementation would be phased-in over more than a decade after that.

What Is the TPP?

The TPP involves the United States and 11 other Pacific Rim nations: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. This list includes several major U.S. trading partners, especially Canada, Japan, and Mexico. It also includes some very small, already open economies such as Brunei and Singapore, and many small to moderate sized markets. The TPP countries, including the United States,

comprise about 40% of world GDP.

While the agreement includes some major trading partners, two important features of trade reduce the overall impact of this Free Trade Agreement (FTA) on increasing U.S. trade in the Pacific region. First, several large countries and some major trading partners are not included in the agreement. In particular, China is not on the list of TPP countries, but neither are the large developing countries of Indonesia, the Philippines, or Thailand. South Korea is the other large economy omitted, but this matters less to U.S. access because the United States already has a FTA with Korea, as it does with other non-TPP Pacific Rim countries such as Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

Second, the United States already has FTAs with several of the most important proposed TPP members. NAFTA covers Mexico and Canada. Other FTAs cover Australia, Chile, Peru, and Singapore. Indeed, many TPP members have FTAs with other members so the amount of effective market opening is less than might first appear.

With these patterns of who is in and out, the big prize is Japan but the economies of Vietnam and Malaysia also hold potential, especially as their markets develop. Vietnam has a population of about 90 million people, but per capita income of only about

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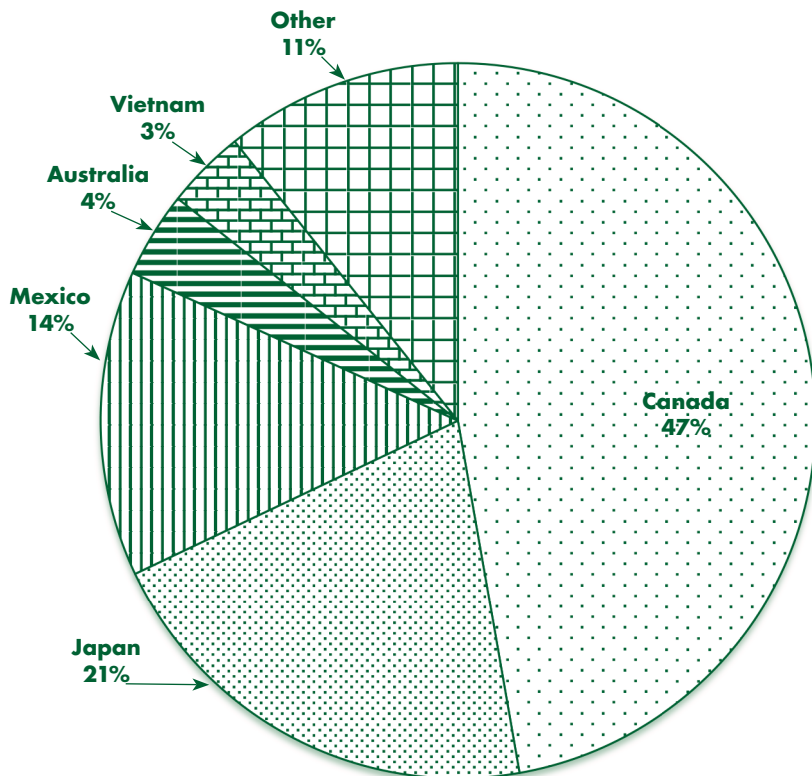
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Figure 1. Share of California Agricultural Exports of Principle Commodities Among TPP Member Countries, Average 2012–2013



Source: Authors' calculations using data published by UC Agricultural Issues Center (<http://aic.ucdavis.edu/pub/exports.html>)

Note: California agricultural exports of principal commodities to TPP member countries averaged about \$7.1 billion for 2012 and 2013. This amount represents about 40% of California's agricultural exports of principal commodities.

\$1,100. Among the additional countries that do not now have U.S. FTAs, with about 31 million people and per capita income of about \$7,500, Malaysia has potential for significant added imports with economic development.

Because expanding trade opportunities often means competing with other exporters, it is also useful to consider current trade agreements among TPP countries to which the United States is not a party. Australia, which competes with California in many farm products, has agreements with Japan and Malaysia, in addition to those countries with which the United States has agreements. Mexico also has an FTA with Japan. Finally, Japan has FTAs with Malaysia and Vietnam, although Japan has maintained high levels of protection for its most politically sensitive agricultural markets in its existing FTAs (and in the proposed TPP).

The TPP agreement covers much of total trade in goods and services. As with prior free trade agreements, the headline remains removal of thousands of tariffs—taxes on imports into one member country from another. The U.S. Trade Representative estimates that the TPP will eliminate 18,000 such tariffs. Many of those will be removed immediately upon implementation of the agreement while many more will be gradually reduced to zero over phase-out periods of as much as 20 years.

Opening trade in services may be a significant benefit to the United States, which has had strong positions in legal, insurance, financial, engineering, and other services. The agreement also includes sections dealing with labor standards and environmental standards that claim to encourage trade partners to improve protection in their economies, and especially for

products and services eligible for TPP benefits. It is not yet clear how these parts of the agreement can be fully monitored or enforced within sovereign nations. It is also unclear without more details if such enforceable features may actually reduce the benefits of the agreement that arise from freer trade among countries, for example, with very different wage rates. The potential for disputes in these complex areas seems particularly acute.

In addition to reducing tariffs, the agreement includes elimination of export subsidies, which are mostly gone already. The TPP also limits the use of export restrictions in times of high prices, increases scrutiny of state trading enterprises, and furthers the application of transparent science to food safety, animal health, and plant health measures. These are all important components of recent trade agreements and generally facilitate an open trading system.

Opening international trade among TPP countries has three benefits for California agriculture, in addition to expanding export access. First, better access to imports from TPP countries means slightly more income for U.S. consumers and, therefore, more demand for California farm products. Second, freer trade generally means more economic growth and expanded markets at home and in other markets. Third, freer trade generally means more political and economic stability, which is also critical for growth and import potential. California agriculture will benefit from stability in the Pacific Rim markets.

The next step for the TPP is preparation for a vote in the U.S. Congress and similar steps of political acceptance in the other partner countries. In the United States, after details are released, legislative language must be drafted under which Congress either accepts or rejects the deal. No amendments are open before the vote in Congress for the simple reason that if

the United States were to unilaterally change a provision, they would need to renegotiate the whole agreement with all 11 other members. And, of course, all 11 other members would also expect the right to unilaterally revise the deal and thus no actual agreement would ever be possible.

If Congress rejects the agreement, the United States would not be a member of the TPP and it is not clear if the agreement would continue among the other members or not. The vote of the U.S. Congress is not scheduled for any time soon, and it is unlikely to be brought up for a vote unless the Administration and Congressional leadership expect that they have the votes for passage.

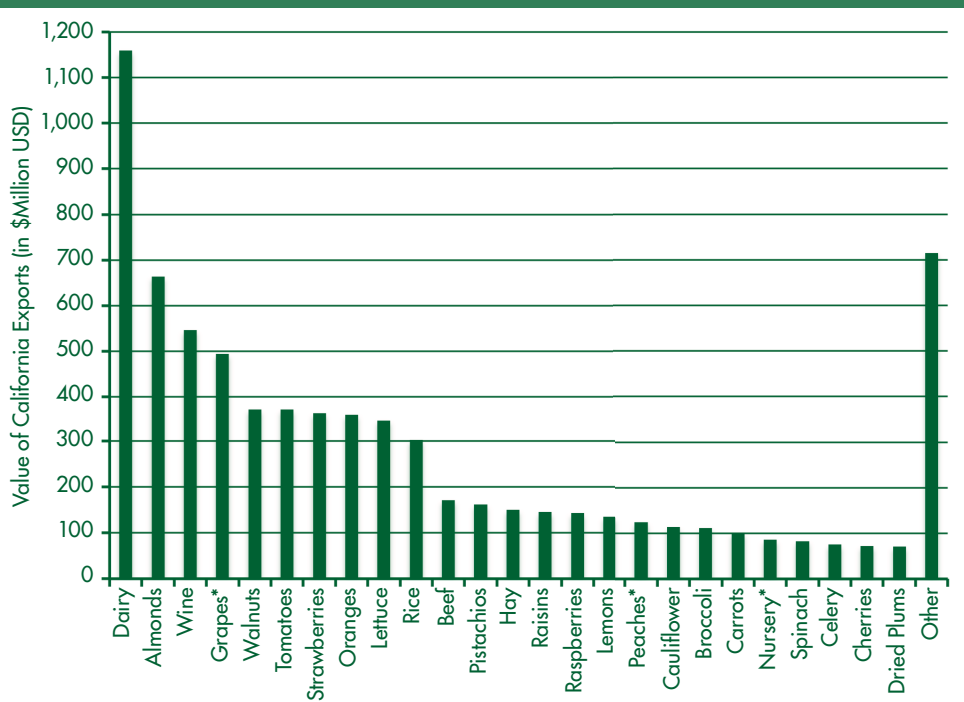
California Agricultural Exports to the TPP Countries

USDA reports shipments of about 42% of U.S. agricultural exports to the TPP member markets. The Pacific Rim is the most important region for California agricultural exports, and the TPP countries are themselves important. Recent data from the UC Agricultural Issue Center indicate shipments of about 40% of California agricultural exports to TPP countries, with about 72% of that total shipped to the big three—Canada, Japan, and Mexico (Figure 1). Japan is clearly the big market for which free trade is not already operative.

Figure 1 shows the distribution across the TPP members. The United States already has an FTA with Australia, the fourth largest TPP market, so Vietnam is fifth in terms of the current market size of those countries for which trade barriers will be declining due to TPP. The other markets, which now account for about 11% of TPP imports, have the potential for growth as economic development continues, especially Malaysia.

Figure 2 shows the commodity distribution of California agricultural exports to TPP markets in 2013. Dairy

Figure 2. Value of California Agricultural Exports to TPP Members by Principle Commodity, 2013



Source: Authors' calculations using data published by UC Agricultural Issues Center (<http://aic.ucdavis.edu/pub/exports.html>)

*Note: Grapes are table grapes, Tomatoes are processed tomatoes, Oranges include orange juice, Beef includes hides and skins, Raspberries include blackberries and loganberries, Peaches includes nectarines, and Nursery includes flowers and potted plants.

tops the list with more than \$1.1 billion in exports. This represents about 46% of California dairy exports in that year. Almond exports, which are the number one California export commodity globally, are widely diversified across markets, but the industry still shipped almonds worth more than \$650 million to the TPP countries. Wine and table grapes (worth about \$500 million each) were exported to TPP markets. Including raisins, a total of about \$1.2 billion in grape and grape products were shipped to the TPP member countries in 2013. About 20 California products, each worth \$100 million or more, were shipped to TPP countries in 2013.

The TPP will also open the U.S. market for agricultural imports. But, in reality, little changes for California agriculture because U.S. borders are already relatively open, especially given prior trade agreements. Moreover, California agriculture is a strong competitive exporter and thus is not vulnerable

to challenges of imports from the TPP members that do not already have a FTA with the United States.

Market Opening in the TPP Agreement for Important Agricultural Products

As with many such agreements, the TPP immediately removes tariffs on products for which market potentials are more limited while it has more limited opening or longer phase-in period for products that have larger market potentials. This result is the natural consequence of the political sensitivity of competition with imports. In order to provide some further guidance, we review a few highlights for some important California agricultural commodities where information is available. Table 1 lists some representative tariffs in Japan and Vietnam—large potential markets where tariffs tend to be high.

Table 1. Average Percentage Tariffs for Selected Commodity Groups

	Japan	Vietnam
Commodity	(Percent)	
Dairy Products*	24.1	12.1
Tree Nuts	5.6	23
Wine	22.5	53.1
Citrus Fruits	11.9	30
Deciduous Fruits		
Grapes	6.8	11.5
Melons	4.7	30
Apples & Pears	8.9	10
Stone Fruit	7.0	16

* For Japan, the tariff applied to cheese.

Dairy

Dairy market opening, which has the potential for large gains for California, an export powerhouse, is actually quite limited in the TPP. Canada and Japan both resisted significant market opening and maintained their tariff rate quotas that limit most dairy imports to maximum quantities on a product-by-product basis. New Zealand and Australia pushed for more access but had limited success. The United States accepted only slight improvements in access, in part because much of the dairy industry in the eastern states continues to express concerns about imports into the United States rather than recognize that the United States is a major commercial dairy exporter, especially from California.

Gradual elimination of the 24% cheese tariff and gradual expansion of quantitative limits for other products in Japan are the major import access improvements for dairy. The potential for export growth in Vietnam, which has a 12% average tariff on dairy products, may also become important as their economy develops.

Almonds and other tree nuts

Japan, Malaysia, and Vietnam will eliminate tariffs for tree nuts. The current tariff into Japan is only 5.6%, but the Vietnam tariff is 23%.

Wine

The TPP markets could expand for wine as the tariffs tend to be high—for example, 22.5% in Japan and more than 50% in Vietnam. The market in Vietnam will be small for some years as per capita income remains low, but has the potential for long-term growth. The California wine industry sees the importance of access at least as good as competitors from other TPP countries and Europe.

Citrus Fruit

According to the USDA, the TPP will eliminate tariffs for citrus fruit in Japan, Malaysia, and Vietnam. Despite an average tariff of about 12%, Japan, with imports of about \$170 million in 2013, is the second largest market for California citrus exports after Canada. Malaysian buyers added another \$24 million to California citrus exports.

Deciduous Fruit

Tariffs for deciduous fruit tend to be moderate into Japan, but it is a large market, accounting for 11% of California exports or about \$186 million in 2013. The potential for expansion in Vietnam and Malaysia may be substantial when economic growth occurs because those countries cannot efficiently compete in the production of these fruits, and their consumers will begin to demand variety. Competition from New Zealand, Australia, and Chile will be substantial, so low tariff access that is equal to these competitors is important.

Other products

California agriculture is in a position to take advantage of its Pacific ports to export beef, poultry products, hay, and vegetables as markets open further along the Pacific Rim. Japan is already a large market for many of these products and will eliminate high tariffs such as the 38.5% tariff on beef.

Final Remarks

The TPP agreement is significant in scope, involving a substantial portion of world trade and its breadth across rich and poor countries, but its impacts for the U.S. economy will be moderate at best. Japan is the only large market included in the TPP for which the United States does not already have an FTA. For example, for dairy, access into Japan will expand only slightly and the Canadian market will remain limited despite NAFTA and now the TPP.

For the long term, the most important influence of the TPP may be that China and other large Asian economies may want to join. Access to China, Indonesia, the Philippines, and Thailand would add substantially to the market for California agricultural exports. Freer trade is good for consumers and efficient producers so California agriculture has little to fear and much to gain as more open markets spread globally.

Sumner, D.A., H. Lee, and W.A. Matthews. 2015. "What Does the Trans-Pacific Partnership Agreement Mean for California Agriculture?" *ARE Update* 19(1):1- 4. University of California Giannini Foundation of Agricultural Economics.

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For additional information, the authors recommend:

Matthews, William A., Daniel A. Sumner and Nina M. Anderson, "California Agricultural Exports, 2014." University of California Agricultural Issues Center, <http://aic.ucdavis.edu>.

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Whither U.S. Immigration?

Philip Martin

The United States is *the* nation of immigration, with 20% of the world's international migrants and half of the world's unauthorized migrants. Debates over the best package of enforcement, legalization, and guest workers to deal with illegal migration continue to divide Americans and Congress.

The United States is a nation of immigrants yet unsure about the best migration policy for the future. With 5% of the world's people and 20% of the world's 232 million international migrants, the U.S. is the major country of immigration; its 45 million foreign-born residents are almost four times the 11 million in number two Russia. However, the U.S. is unique among industrial countries in having one-fourth of its migrants unauthorized. What to do about them has dominated policy debates over the past two decades.

The U.S. had 45 million foreign-born residents in 2015, making migrants almost 14% of U.S. residents. The U.S. has a higher share of foreign-born residents than most European countries, but a lower share than Australia and Canada, where over 20% of residents were born outside the country. The major sources of migrants to the U.S. differs from other industrial countries as well. Over half of U.S. migrants are from Latin America and a quarter are from Asia, while over half of migrants to Australian and Canada are from Asia.

Most Americans think that immigration is good for the U.S., but more want immigration reduced than increased, although the gap has narrowed in recent years. Most Americans also believe it is very important that the government take steps to reduce illegal migration

and deal with the unauthorized foreigners in the United States. Congress has held hearings and debated bills on how to accomplish these goals, but none had become law, allowing illegal migration to take center stage when Republican presidential contender Donald Trump made the issue the centerpiece of his campaign in summer 2015.

This article explains the three major doors through which foreigners arrive in the U.S., the effects of migrants on the U.S. economy and society, and the responses of the federal and state governments to the largest wave of newcomers in a century. There is unlikely to be any new immigration law until after the 2016 elections, but an improved understanding of the data may make it easier to reach consensus.

Three Entry Doors

Foreigners enter the U.S. through three major doors: front, side, and back. The U.S. admitted 990,500 front-door immigrants in FY13, an average of over 2,700 a day. For the past several decades, most immigrants have been from Latin America, but in 2013 the number of Asian immigrants (400,500) slightly exceeded the number from Latin America (390,000). Mexico was the birthplace of more immigrants than any other country, about 135,000 or as many as from China and India combined.

The U.S. has a family-oriented immigration system, meaning that two-thirds of all immigrants are admitted because a relative in the U.S. sponsored them; that is, the U.S.-based relative asks the government to issue an immigrant visa to the relative. Two-thirds of family immigrants are spouses, children, and parents of U.S. citizens who can immigrate without waiting, while one-third are spouses and children of immigrants or more distant

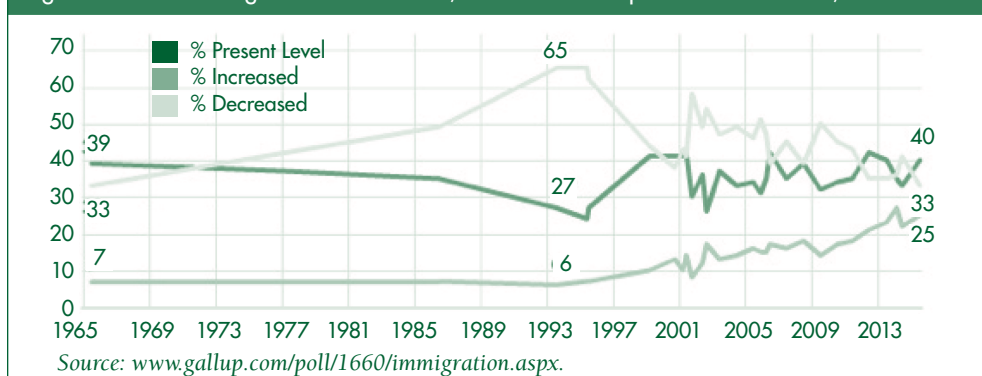
relatives, such as married and unmarried adult children of U.S. citizens and their families, some of whom must wait for visas. One-sixth of immigrants are sponsored by U.S. employers, and the remaining immigrants are refugees, diversity, and other immigrants.

Over half of all immigrants are already in the U.S. when they receive immigrant visas, so that they adjust their status from temporary visitor, student, or worker to immigrant. There were 173 million visitor admissions of foreigners in FY13, but most involved Canadians and Mexicans entering the U.S. for daily shopping or work. There were 61 million so-called I-94 admissions, meaning that a foreigner entered the U.S. as a tourist, student, or worker and planned to stay from several weeks to several years, an average of 167,000 a day.

Most foreign visitors leave after a few weeks, months or years, but some become immigrants by marrying U.S. citizens or finding U.S. employers to sponsor them. Many of the almost 900,000 foreign students in U.S. colleges and universities stay in the U.S. after graduation, sometimes as paid interns under Optional Practical Training (OPT) programs and sometimes as temporary foreign workers with H-1B visas. A foreign student who begins as an undergraduate in the U.S. and earns a graduate degree before becoming an intern and worker can be in a temporary status in the U.S. for almost two decades, during which time many find U.S. sponsors and become immigrants.

Some temporary visitors do not depart as required, or violate the terms of their admission, as when a tourist goes to work in the United States. These foreigners become illegal, undocumented, or unauthorized, and about 45% of the 11.3 million unauthorized in 2014 arrived legally but violated the

Figure 1. Should Immigration be Increased, Decreased or Kept at Its Present Level, 1965–2014



terms of their visas. The number of unauthorized foreigners has stabilized since the 2008-09 recession. Over half of the unauthorized are Mexicans.

Almost three-fourths of the unauthorized foreigners are in the U.S. labor force—over eight million—making unauthorized workers over 5% of the 156 million-strong workforce. Unauthorized workers are concentrated by geography, industry and occupation, with especially heavy concentrations among farm workers employed in agriculture in California; laborers, drywallers, and roofers in construction in Nevada; and service jobs in major cities, from lawn and gardening services to food preparation in restaurants.

One indicator of illegal immigration is how many foreigners are apprehended just inside the Mexico-U.S. border, a number that has been falling. In FY00, over 1.8 million foreigners were apprehended, an average of almost 5,000 a day. The number of apprehensions fell to less than 2,000 a day in FY11, and has continued to fall to an average of less than 1,000 a day in recent years.

The unauthorized population in the U.S. increased by an average 1,000 a day between 2009 and 2014. The slowdown in unauthorized border crossers means that the unauthorized foreigners in the U.S. have been here longer, with almost two-thirds in the U.S. at least a decade. Almost 40% of unauthorized adults live with their U.S.-born children.

Debates

Each of the three major flows of foreigners to the U.S. is controversial, raising questions about integration, labor market competition, and the rule of law. Immigrants sponsored by U.S. relatives should have a relatively easy time integrating into the U.S., since their relatives can help them to find housing and jobs. However, if the U.S. relatives who sponsor immigrants have low levels of education and do not speak English, what happens to their relatives?

Many economists believe that the U.S. should imitate Australia and Canada and select immigrants whose personal characteristics make them likely to be successful in the United States. Instead of selecting a sixth of immigrants on the basis of economic considerations, they would give half or more of available immigrant visas to young foreigners with high levels of education, English, and U.S. job offers. Foreign graduates of U.S. universities are the ideal immigrants, in this view, and both Republicans and Democrats have decried immigration policies that force some who want settle in the U.S. to leave when they fail to find a sponsor.

Over 20% of U.S. residents five years and older speak a language other than English at home. By far the largest at-home language is Spanish, spoken by two-thirds of those who do not speak English at home, followed by Chinese. Those studying immigrant integration say that today's immigrants are assimilating into American society

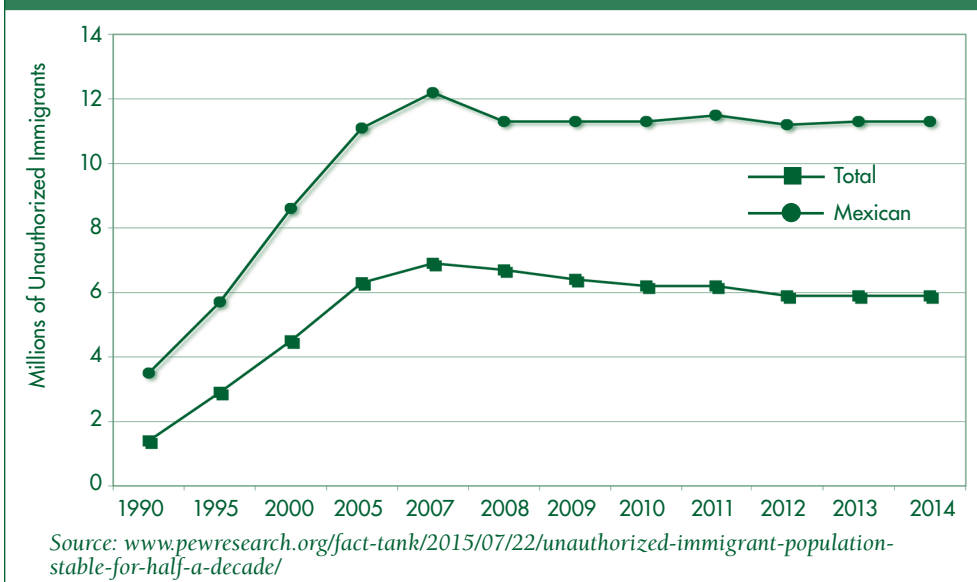
as fast as previous immigrants, and learning English as fast as those who arrived early in the 20th century. Half of immigrants report that they speak English at least well, and the National Academies acknowledge that the penalties for not knowing English may be greater in today's service economy than they were a century ago in an agricultural and manufacturing economy.

Temporary guest workers have long been controversial, raising fears of “unfair” competition with U.S. workers. A series of Mexico-U.S. programs that admitted so-called Braceros to work on U.S. farms between 1942 and 1964 is widely blamed for depressing U.S. farm wages and sowing the seeds of future illegal Mexico-U.S. migration by developing a mutual dependence between rural Mexico and rural America. Creating new guest worker programs for low-skilled workers, some fear, could sow the seeds for future illegal migration again.

Two of the most debated groups of temporary visitors are students and guest workers. The U.S. had 900,000 foreign students in 2013-14, including almost a third from China and an eighth from India. Of those studying for U.S. degrees, there were slightly more graduate than undergraduate students, with over half of the graduate students in master's degree programs. Over 100,000 foreign graduates of U.S. colleges and universities were in OPT programs that allow all foreign graduates to find a (paid) internship with a U.S. employer related to their field of study for 12 months and, if their degree is in a STEM field, for 29 months.

Many foreign students aim to become immigrants by having a U.S. employer sponsor them. Sponsoring a foreigner requires the employer to prove that qualified U.S. workers are not available to fill the job, a process called certification or certifying the need to hire a foreigner. Employers often hire foreigners as OPT interns

Figure 2. Unauthorized Migrants in U.S., 1990–2014



or guest workers with H-1B visas, and the foreigner is often filling the job when the employer advertises for U.S. workers in order to win certification.

The practical problem with the U.S. system of student, guest worker, and immigrant is numbers. Imagine a funnel that begins with foreign students, where there are no limits on how many can be admitted. However, there are only 65,000 H-1B visas available for profit-seeking firms hiring foreign workers with bachelor's degrees each year, plus 20,000 for foreigners with master's from U.S. universities, and they and their families must compete for 40,000 immigrant visas a year. Foreigners in the U.S. a decade or more can become very frustrated by the uncertainty and wait for an immigrant visa.

The H-1B program allows U.S. employers to hire foreigners who have at least a bachelor's degree and who are filling U.S. jobs that require such degrees. When the program was created in 1990, the assumption was that employers would request all available visas and then requests would decline as more Americans earned computer-related degrees. The opposite occurred. Employer requests climbed slowly until outsourcers appeared, usually Indian-based firms that employ some H-1B workers in the U.S. to understand the

IT needs of a U.S. firm, and then do most of the firm's IT work in India.

Most U.S. firms are not required to have their need for H-1B workers certified, meaning they do not have to try to find U.S. workers before hiring H-1B foreigners, and they may lawfully lay off U.S. workers and replace them with H-1B foreigners, as Walt Disney and Southern California Edison did in 2014-15. Investigations of both firms found that they did not violate laws, prompting proposals to tie an increase in the number of H-1B visas available with more protections for U.S. workers.

The U.S. also has programs that admit low-skilled seasonal workers, H-2A for farm workers and H-2B for nonfarm workers. There is no cap on the number of farm jobs that can be filled by H-2A foreigners, but there is a 66,000 a year cap on H-2B jobs. In recent years, about 140,000 farm jobs were certified to be filled by H-2A workers and 66,000 by H-2B workers.

All guest worker programs are controversial. Employers say that foreigners fill jobs that Americans shun, and that the availability of guest workers helps to keep farms, restaurants, and ski resorts in business and creates jobs for U.S. workers. Critics say that there is no shortage of U.S. workers, only a shortage of decent wages and working

conditions, meaning that U.S. workers shun jobs that demand hard work for low wages. Immigration reform proposals that would create new guest worker programs try to balance the competing interests of employer and worker advocates on issues that range from how many visas should be available to the minimum wages and working conditions that must be paid to U.S. and guest workers.

Reform Proposals

Immigration reform proposals over the past decade include three major elements: more enforcement to deter illegal migrants, legalization for at least some of the unauthorized in the U.S., and new or modified guest worker programs. The major policy debates involve exactly what to do in each of the three areas, and how to phase in each element.

A bipartisan bill, S 744, with all three elements, was approved by the Senate in June 2013. The enforcement sections of the bill included billions of dollars to "secure" the Mexico-U.S. border, so that at least 90% of foreigners attempting to cross illegally would be apprehended. The number of Border Patrol agents would have doubled to 40,000, and the amount of fencing on the Mexico-U.S. border doubled to 700 miles.

In order to deter all unauthorized foreigners, including visa violators, employers would have had to begin checking all newly hired workers with the Internet-based E-Verify system. This involves newly hired workers presenting proof of their right to work in the U.S. to employers, and the employers sending the information to the federal government for verification. The U.S. has over seven million employers who make over 50 million hires a year, and the major issue that remains is what to do about mistakes, as when the federal government says someone is not authorized to work when they in fact are authorized.

The main legalization program would have allowed unauthorized foreigners who had been in the U.S. at least two years to become “registered provisional immigrants” for six years, with the right to live and work in the United States. When unauthorized migration was deemed to be “under control,” registered provisional immigrants could prove that they were working and paying taxes and apply for regular immigrant status and eventually become naturalized U.S. citizens. There would have been a separate and easier legalization program for unauthorized farm workers.

The U.S. now has three major temporary worker programs that admit over 200,000 guest workers a year. The number of H-1B visas available would have almost doubled, and could have increased even more if employers requested all available visas and took steps to ensure that at least outsourcing firms that hire mostly guest workers try to hire U.S. workers first. There would have been a new nonfarm guest worker program for low-skilled workers, and the number admitted would have been determined by a new Bureau of Immigration and Labor Market Research that studied labor market indicators, including unemployment rates and employer labor shortage complaints. The farm worker program would have had two options. Employers could have opted to offer contracts to foreign farm workers that tied them to their farms or hired “floating” foreign guest workers who could stay in the U.S. as long as they were not unemployed more than 60 days.

What Next

The trade-offs embodied in the Senate’s comprehensive immigration reform bill were satisfactory to most Democrats, whose main goal was a path to U.S. citizenship for most unauthorized foreigners. However, many Republicans objected to

“amnesty” and persuaded the House that a piecemeal approach focused on enforcement was best. The House dealt with several immigration enforcement bills, but none was enacted.

President Obama, who made comprehensive immigration reform a top domestic priority during his 2008 campaign, repeatedly told migration advocates that he did not have the power to change immigration law by executive action. However, in November 2014, Obama by executive action announced the Deferred Action for Parental Accountability (DAPA) program, which would have allowed four million unauthorized foreigners with legal U.S. children to apply for renewable work permits. Along with an expansion of the 2012 Deferred Action for Childhood Arrivals (DACA) program, Obama would have given legal status to at least half of the unauthorized foreigners in the U.S. However, some states sued, arguing that DAPA was unconstitutional, and federal courts have so far blocked DAPA from going into effect.

Debate over what the federal government should do about immigration sometimes obscures actions in the states, which have gone in different directions. Arizona, Alabama, and some other states enacted laws requiring employers to use E-Verify to check the legal status of newly hired workers and to make it more difficult for unauthorized foreigners to live in these states. California and a dozen other states, on the other hand, began to issue driver’s licenses and to offer in-state tuition to unauthorized foreigners.

Republican presidential contender Donald Trump made unauthorized foreigners the centerpiece of his campaign in summer 2015, accusing illegal Mexicans of “bringing drugs. They are bringing crime. They’re rapists. But some, I assume, are good people.” Trump’s position paper on immigration issued in August 2015 called for a wall on the Mexico-U.S. border financed by

fees paid by border crossers, and an end to birthright citizenship; that is, babies born in the U.S. to unauthorized parents would no longer be U.S. citizens.

Most Democratic presidential contenders, including Hillary Clinton, support the comprehensive immigration reform bill approved by the Senate in 2013, albeit with some changes. Republicans are divided into three major camps. Trump represents the enforcement-only camp that wants to remove unauthorized foreigners and build fences and walls to prevent illegal migration. Jeb Bush, Marco Rubio, and other Republicans support the additional enforcement and guest workers included in comprehensive immigration reform, but they promise unauthorized foreigners only a legal status in the U.S. that may not result in U.S. citizenship. A third camp exemplified by Paul Ryan is more libertarian, urging Republicans to move away from walling off the borders and instead wall off welfare benefits; that is, admit migrants, but make it hard for them to receive welfare benefits.

What’s next for U.S. immigration? Legal immigration seems likely to continue at a million a year, all signs point to a rising number of temporary visitors, especially those whose numbers are not capped such as students, and the unauthorized population is stabilizing in number and integrating into the United States. There are unlikely to be any major federal policy changes until 2017. When the reform debate continues, whether the emphasis is on enforcement or legalization will depend largely on the results of the elections.

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National Standards for GM-Free Food Labels: A Good Idea

Colin A. Carter

The USDA and U.S. Congress are working to introduce a national certification program for GM-free food labels. It would function similarly to the existing National Organic Program. Consumers would gain from these regulations if they are introduced.

The public debate over genetically modified (GM) crops often centers on the question of whether or not food containing GM ingredients must be labeled in retail stores. This is the system in the European Union (EU), whereas in the United States labeling is voluntary under privately certified non-GM labels such as the Non-GMO Project, the Non-GMO True North, and the California Certified Organic Farmers (CCOF) “Organic is Non-GMO and More” labels shown in Figure 1.

Recently, the U.S. government has taken steps to standardize non-GM labeling across the nation with a government-backed voluntary certification system for GM-free food, similar to the existing U.S. certification system for organic foods. This legislation represents a middle ground on GM food labeling and it will benefit farmers, consumers, and the food industry.

Many of the groups who are opposed to the new government effort continue to support strict mandatory labeling, arguing that consumers have the “right to know” what they are eating and market-driven voluntary labels are inadequate. Alternatively, the main argument favoring a voluntary label is that GM ingredients pose no health risk and therefore compulsory labeling could serve as a false warning that GM food is unsafe, compared to conventional food. Mandatory labeling

could therefore push GM food out of the market. Voluntary GM-free labeling is superior to mandatory labeling because voluntary GM-free labels satisfy those consumers who are willing to pay for additional production and marketing costs. At the same time, voluntary labeling does not impose unnecessary costs on other consumers nor mislead them on the safety of certain foods.

Mandatory labeling in the EU is justified by policy makers in those member countries solely by the desire to provide informed consumer choice. It is not an issue about food safety. Ironically, in the EU, this objective has backfired as consumer choice has been reduced with mandatory labeling. GM food has disappeared from the retail shelves in the EU. Mandatory labeling had just the opposite effect of its stated goal. In previous research, we found additional evidence in Japan, another country that has adopted mandatory labeling, where it is difficult to find retail food products labeled as containing GM ingredients. Mandatory labeling also exists in Australia and New Zealand, where there is not much choice at the retail level.

In these countries, the processors and retailers have made the choice for consumers and they have decided not to sell food products with GM labels. Mandatory labeling provides food processors and retailers a choice, but it does not necessarily facilitate consumer choice. In fact, there is greater consumer choice in the United States, where there is no mandatory GM labeling.

In the United States, lawyers and food activists have sponsored numerous state-level initiatives to mandate the labeling of GM foods. Most recently, these battles were fought at the polls in California, Washington, Oregon and Colorado. National legislation requiring mandatory GM labeling has

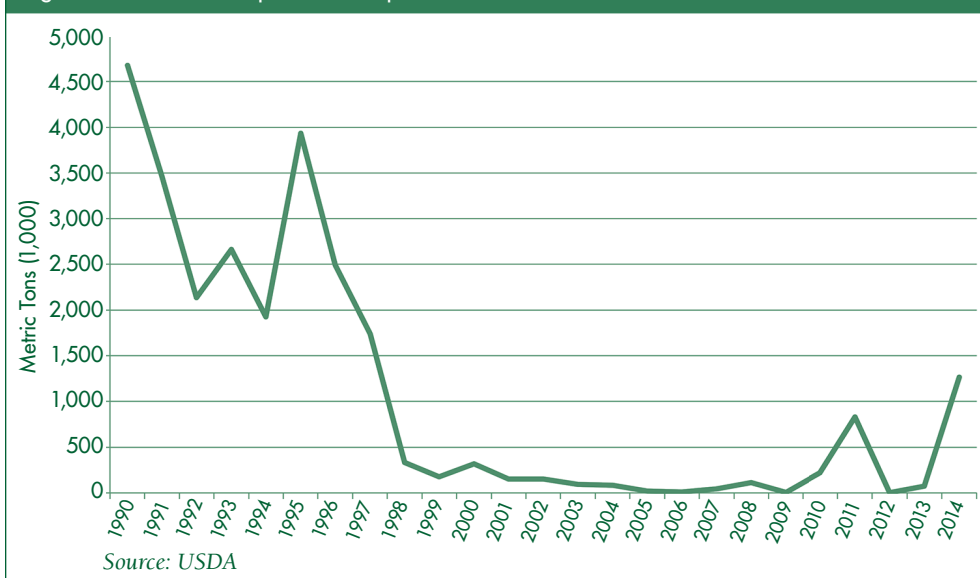
also been attempted. In 2013, Senator Barbara Boxer and Congressman Peter DeFazio introduced the “Genetically Engineered Food Right-to-Know Act” (H.R. 1699), which would have required GM labeling, but it failed. So far these efforts in numerous states to require labeling have been largely unsuccessful, with the exception of state-level regulations in Connecticut, Maine, and Vermont. Vermont’s mandatory GM labeling is scheduled to take effect in July 2016 while the labeling laws in Connecticut and Maine have no specific schedule for implementation.

In 2013, California’s Proposition 37: Mandatory Labeling of Genetically Modified Foods lost 51% to 49%. This was a contentious campaign that drew national and international attention as it brought forth strong arguments for and against mandatory labeling. The specifics of the initiative were very poorly designed and if it had passed, it would have disrupted the food market in California, which no doubt contributed to its defeat. It would have also negatively affected interstate commerce. Mandatory labeling encourages food processors to switch away from GM ingredients and avoid labels, especially for highly processed products. That might have been difficult in California and therefore, food companies would most likely have put a GM warning label on all food products as a way to avoid costly litigation. Food category choice in retail stores

Figure 1. Privately Certified Non-GMO Labels



Figure 2. U.S. Corn Exports to European Union



would have decreased if Proposition 37 had become law and any added labeling information would have been very imprecise. Proposition 37 would have also introduced a double standard for accidental GM purity in organic versus non-organic foods, favoring organic.

The Safe and Accurate Food Labeling Act

The U.S. Department of Agriculture (USDA) and the U.S. Congress may have found a way to put an end to these piecemeal attempts to mandate something that is working well on a voluntary basis. In May 2015, the USDA announced a new voluntary national non-GM process certification program that would allow foods to carry a “USDA Process Verified” label indicating that they are free of GM ingredients at a certain tolerance level. The USDA’s Agricultural Marketing Service will verify the production process.

Recognizing the importance of the USDA labeling initiative and the merits of a voluntary labeling system, a new food labeling law is making its way through Congress. Representative Mike Pompeo sponsored H.R. 1599 and it passed 275 to 150. If it gets through the Senate, it will solidify and improve consumer choice at the food store, simplify and standardize labeling standards,

and keep foods costs down. The bill would create a federal voluntary labeling standard for GM foods and labeling requirements for “natural foods.”

“The Safe and Accurate Food Labeling Act” of 2015 (H.R. 1599) prevents and invalidates any state laws that regulate the labeling of food as GM or natural. It will now come in front of the Senate for consideration. Under H.R. 1599, USDA will create a new non-GM certification program and a new label. In some respects, this program would be similar to the USDA’s organic certification program, in place for the past 25 years. One reason the national organic program was created was to remove the confusion and market disruptions associated with state-level programs—many of which had different rules. If H.R. 1599 passes, the USDA would establish national rules for non-GM, as they have for organic food. USDA would accredit firms to verify the non-GM process and USDA would create a new non-GM seal.

Mandatory Versus Voluntary Labeling

The United States has criticized mandatory GM labeling used by other countries as being nothing more than international trade protection from foreign competition. This is especially the case in the EU where the details

of the labeling regulations are more stringent than in places like Japan or South Korea. The EU policies regarding approval of new GM crops and food labeling have been costly for EU consumers and EU trading partners such as the United States. As shown in Figure 2, U.S. corn exports to the EU have fallen sharply since the introduction of GM corn in the 1990s.

The American Medical Association has formally opposed the mandatory labeling of GM food. The National Academy of Sciences and the World Health Organization reached similar conclusions—there is no science-based justification for mandatory labeling of GM food. Because it will be interpreted as a warning, mandatory labeling would imply a food safety risk that does not exist, and this in itself would be misleading to consumers.

Supporters of mandatory labeling argue that labeling provides consumers additional information and allows them to avoid consuming GM food. But U.S. food consumers have that choice now. They can purchase from three different food categories: 1) conventional foods (which may or may not contain GM), 2) organic foods (non-GM), or 3) voluntarily labeled non-GM food that is not necessarily organic.

In the 1990s, Vermont passed a law requiring that milk from rBST-treated cows be labeled to better provide consumers information. The Second Circuit Court of Appeals then struck down the Vermont law, ruling that labeling cannot be mandated just because some consumers are curious. The court ruled “were consumer interest alone sufficient, there is no end to the information that states could require manufacturers to disclose about their production methods”... “Instead, those consumers interested in such information should exercise the power of their purses by buying products from manufacturers who voluntarily reveal

it.” (International Dairy Foods Association v. Amestoy 92 F.3d 67 1996).

Retailers now receive a price premium for selling voluntarily labeled non-GM food. Trader Joe’s products are sourced from non-GMO ingredients. Whole Foods’ private label 365 products are certified as ‘organic’ and are therefore non-GMO, at some (unknown) tolerance level. Whole Foods is going with voluntary GMO labels by 2018. In other words, voluntary labels are working in the United States and providing consumer choice.

The U.S. Food and Drug Administration (FDA) regulates most food labels, except for meat and poultry. The FDA has draft voluntary guidelines on GM labeling that forbid ill-defined “free of” claims, but the guidelines have never been confirmed. The private labels in Figure 1 have ignored these guidelines. According to the Federal Trade Commission (FTC), even if true, any claim that an item is free of a substance may be deceptive if: (1) the item contains substances that pose the same or similar environmental risk as the substance not present; or (2) the substance has not been associated with the product category. In other words, “free-of” claims may deceive consumers by falsely suggesting that competing products contain the substance or that the marketer has improved the product by removing the substance.

A National Standard Would Prevent Deceptive Labels

Some grocery chains sell products with deceiving GM-free labels, such as pure organic maple syrup labeled as non-GMO (see Figure 3). There is no such thing as GM maple syrup, unless the Canadians are hiding something from us. By implication, this type of GM-free label suggests that the product with the label is somehow safer or of higher quality. In other words, it is a deceptive label, in violation of FTC guidelines,

Figure 3. Do We Need a Non-GMO Label on Maple Syrup?



and something that will hopefully stop if H.R. 1599 becomes law.

Conclusion

The U.S. government is working towards establishing a uniform and voluntary national standard for the labeling of non-GM foods, as opposed to having multiple labeling systems across states. This approach will continue to give consumers a choice at the retail level and not hand over the choice between GM and non-GM to food processors and food retailers. Voluntary labeling dominates mandatory labeling when viewed on either a cost basis or consumer-choice basis.

A new survey by The Chicago Council on Global Affairs finds that Americans do not believe GM food is a huge concern; instead they are more focused on affordability, nutrition, and food safety. The Chicago Council study underscores why a uniform policy on GM-free labels is a good idea.

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For additional information, the author recommends:

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