MEXICAN FARM LABOR PROGRAM

CONSULTANTS REPORT

October, 1959

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I. Introduction

In enacting Public Law 78, Congress intended to accomplish two basic objectives: First, obtain agricultural workers from Mexico to meet peak seasonal labor shortages. Second, insure that our own domestic farm workers will not be adversely affected by the employment of Mexicans.

The Department of Labor has now had eight years of experience in administering PL 78. A review of this experience indicates that the Department has been successful in meeting the first purpose of the Act, namely, obtaining unskilled workers from Mexico to assist the United States in the production of agricultural commodities. Almost one-half million Mexicans were brought into the country last year in an orderly and organized fashion to supplement the domestic farm work force. The existence of such a legal importation system has facilitated the elimination of the illegal entry of Mexicans ("wetbacks"). Although improvement in compliance activity is indicated, the mechanics for recruiting Mexicans, operating reception centers, transporting "braceros" and policing their conditions of employment have been improving each year.

However, the Department has been much less successful in meeting the second major objective of the Law--protecting the domestic work force from the effects of Mexican importation. The Secretary of Labor has found it extremely difficult to administer Section 503 of the Act which prohibits the authorization of Mexican employment unless the Secretary determines that: (a) domestic workers are not available, (b) use of Mexicans will not adversely affect wages and working conditions of domestic farm workers, and (c) reasonable efforts have been made to attract domestic workers at wages and standard hours of work comparable to those offered to Mexican workers.

In appointing the Consultants to advise him on problems arising out of PL 78, the Secretary of Labor expressed particular concern with the following questions:

A. Adverse Effect-- Does the availability of "braceros" restrict employment opportunities for domestic farm workers? Does it adversely affect wages and the availability of family housing? If there are adverse effects arising out of the Mexican importation program, what should be done to meet the problem?

B. Extensive Use of Mexicans-- Should foreign labor be limited to specific crops? Should they be used in year-round, skilled or machine jobs? Are there other ways in which the use of foreign labor should be limited?

C. International Relations Aspects of the Program-- What is the attitude of the Mexican government toward the present importation program? What alternative importation procedures are there?

D. Continuation of Program-- Should the foreign labor program be renewed for a specified time or made permanent? Under what conditions?

This report is directed to these and related problem areas.

II. Factual Background

To obtain a fuller understanding of the problems associated with the operation of the farm labor program, the Committee developed a statement of facts through conferences with the Department of Labor staff and through field visits relating to the following topics:

A. Adverse Effect
B. Extensive Use of Mexican Nationals
C. Wages
D. Conditions of Employment
E. Recruitment and Availability of Domestic Workers
F. International Relations

Although these items are treated separately, some overlapping is unavoidable.

A. Adverse Effect

Section 503 (2) of PL 78 prohibits the Department of Labor from making Mexican workers available in any area unless it is determined that the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed.

Neither the Law nor the legislative history explain definitively what is meant by adverse effect or how Congress intended the determination of adverse effect to be made. This, therefore, has become a very controversial and difficult area of administration.

There are varying kinds of constructions that can be placed on the concept of "adverse effect."

(1) In a strict sense, the term may be interpreted as depriving American workers of jobs, lowering wages, or impairing conditions of employment that already exist in the area. Under this interpretation, the Department's obligation would be to assure no worsening of the status quo for American workers.

(2) Another possibility might be to interpret "adverse effect" as preventing wages and working conditions from reaching a point they would have reached under the play of forces in a free labor market if Mexican nationals were not employed in the area.

(3) Under a third interpretation, any interruption of normal adjustments that might be expected to take place in the labor market could be considered "adverse effect." In areas of labor shortages, adjustments in wage rates, conditions of employment, production methods, and other factors tend gradually toward restoring a balance of labor supply and labor demand. The use of Mexicans may be considered as providing a "cushion" to alleviate and slow down the impact of these adjustments on farm employers. However, where corrective tendencies are halted, as evidenced by declining wage rates, increased reliance on Mexican labor, displacement of American workers, reluctant recruitment efforts, failure to improve housing and working conditions, etc., "adverse effect," is present.

In carrying out other provisions of PL 78 and the International Agreement, the Department has established procedures which tend to minimize adverse effect. These include (a) preseason supply-demand analysis to determine labor shortages; (b) interstate clearance to meet shortages from available surpluses of domestic labor; (c) requiring employers of foreign labor to meet acceptable standards of housing and working conditions; (d) requiring employers of foreign workers to pay the "prevailing [illegible]"

tation of foreign workers; and (e) requiring employers using foreign workers to hire qualified United States workers who become unemployed in the area, either in addition to or in place of Mexican nationals.

In spite of these efforts, there are indications that adverse effect has occurred in some cases. The following are some examples:

(1) Employment displacement. There are indications of some employer preference for Mexicans over domestic workers because they represent an assured work force of premium adult male labor. Use of Mexicans relieves the farmer of the risk of losing his labor supply, and enables him to take maximum advantage of changing market prices and crop grades. The unit cost of housing foreign workers is generally smaller than the cost for domestic migrants, who usually travel in family groups. In a competitive situation, other farmers seek the same advantages and strong and continuing pressures build up to utilize foreign workers. Thus in some areas, almost 100 percent of the seasonal work on certain crop activities is performed by foreign workers. Domestic workers either migrate to other areas of employment or do not seek jobs in the activity which is identified with Mexicans.

In one State wages paid for harvesting cotton have fallen gradually while the proportion of foreign workers in the crop has risen. The inference is that U. S. workers have been forced to seek alternative job opportunities.

(2) Duration of Employment. Agriculture cannot provide year-round employment for most farm wage workers because of the short duration of seasons. The average farm wage worker can only expect to work about 125 days a year at farm jobs. If foreign workers are available, seasons of agricultural employment may be further compressed by using more workers at peak. This may result in even shorter duration of employment and loss of income for American farm workers in areas where foreign workers are employed.

(3) Low Wages. Agriculture has been historically a low-wage industry. Farm employers have not generally attempted to compete with other industries for labor. In areas where foreign workers are used in large numbers

their presence may prevent wage rates from rising to levels they would attain if no foreign workers were admitted. Knowledge of the availability of Mexican nationals weakens the domestic workers' bargaining position and contributes to the depression of area wage levels. Studies made by the Department of Labor show that wage rates in activities which Mexicans are employed have lagged behind the rising wage level for farm work generally. The studies also show that wages paid by employers who use foreign workers tend to average lower than those paid by non-users in the same area (see discussion of wages in C below).

B. Extensive Use of Mexican Nationals

1. Year-Round Occupations. Public Law 78 does not limit the use of Mexican nationals to seasonal occupations although the history and background of this program indicate that it generally was considered to be for the purpose of meeting emergency needs. However, approximately 20,000 Mexicans known as "specials," are now employed on a year-round basis. These are workers with specialized knowledge and experience who are specifically requested at reception centers and whose contracts are renewed every six months. Most "specials" are employed in the border States of Texas and New Mexico.

2. Skilled Occupations. PL 78 does not limit employment of Mexicans in terms of skills, and in recent years, there has been an increasing tendency to use Mexicans in semi-skilled and skilled occupations. In addition to those employed as tractor operators and ranch hands, thousands are engaged in skilled and semi-skilled jobs. Recently, the Department has been confronted with the problem of Mexican workers penetrating into field packing and sorting of vegetables as new machine methods were introduced and the work transferred from the shed to the fields. This work was formerly done by packing shed operators at higher wage rates in sheds.

The only legal authority the Department of Labor has for limiting the use of Mexican nationals in terms of skill considerations is a determination under Section 503 (1) that sufficient domestic workers who are able, willing, and qualified are available at the time and place needed to perform this work, or a determination under Section 503 (2) that the use of Mexicans adversely affects the wages and working conditions of domestic workers similarly employed. However, difficulties have arisen in attempting to apply these provisions. For example, in the case of Mexicans used in the machine packing and sorting of vegetables in the field

American packinghouse workers have been displaced. However, the displaced workers are not necessarily available to transfer to field jobs because of changes in the job content as well as a lowering of wages and the conditions of employment. Consequently, Mexicans are requested for field packing work while higher-paid domestic shed workers are laid off.

3. Nonessential Crops. Under Public Law 78 foreign workers may be used for any commodity or product which the Secretary of Agriculture deems essential. Since the inception of the Law, however, the Secretary of Agriculture has not exercised his discretion to declare any commodities nonessential, even those which are in surplus supply and heavily subsidized. More than 60 percent of all Mexicans employed at peak work in crops which are in surplus supply.

C. Wages

1. Wage Trends. Section 503 (2) of PL 78 states that the Department of Labor's responsibility under the Law shall be carried out in a manner that will not adversely affect wages. The International Agreement helps to implement this by providing that wages paid to foreign workers should correspond with those paid to domestic workers similarly employed in the area.

The prevailing wage to be paid Mexican workers is determined by conducting surveys at frequent intervals among samples of employers of domestic workers in areas where foreign workers are used. As an added check individual workers are consulted as to wages received for each activity. Under a formula adopted in 1958, the wage rate paid to 40 percent of the workers is considered the "prevailing wage" for a given activity in the area surveyed. In the small proportion of cases (less than 5 percent) where no single wage is paid to 40 percent of the workers, an alternative formula is used to find the prevailing wage. Observations are arrayed from the highest to lowest wage paid. The prevailing wage range is found by starting with the lowest wage and proceeding upward until 51 percent of the workers in the survey are included. The highest wage paid to any worker in the 51-percent group becomes the bottom of the range. The top of the range is the highest rate paid to any worker in the survey.

The prevailing wage concept may work satisfactorily in situations where wage rates are determined by competitive forces in the labor market, and there are so few Mexicans that their presence does not upset this equilibrium. Actu-

ally, however, the availability of a potential reserve of foreign labor generally influences the wage levels in the area for crops on which Mexicans are usually employed, and on other crops as well. Thus, Mexican rates are tied to domestic wage levels, which, in turn, may be more or less stabilized by the presence of Mexicans. Therefore, wage levels tend to become fixed in areas and activities where Mexicans are employed.

Studies of the BES show that wage rates in crops for which Mexicans are employed do not move upward at a rate corresponding with the general trends in farm wage rates.

Between 1953 and 1958, the hourly farm wage rate in the U.S. increased 14 percent, according to the Department of Agriculture. An examination of wage surveys made by State agencies in areas using Mexican nationals showed that the average rate paid to domestic workers in these areas either remained unchanged or decreased in three-fifths of the cases. In making this analysis each wage survey was given equal weight regardless of the relative number of workers employed. If the findings had been weighted, the indication of a leveling or downtrend of wages would be greater. For example, in cotton, in which about one-half of the Mexicans are employed, three-fourths of the cases showed rates unchanged or lowered. Between 1958 and 1959, an improvement in wage rates paid to American workers in areas using Mexican nationals has been reported, but the magnitude of these increases is less than the overall increase in farm wage rates in the United States.

During the past decade the wage differential between agriculture and industry has been widening steadily, and it may be inferred that the use of foreign workers in agriculture is partly responsible.

If the Department of Labor's obligation under PL 78 were merely to prevent wage levels from declining below levels that existed at the time Mexican nationals were introduced in an area, the prevailing wage concept might be adequate for this purpose. However, if the Department's obligation is to (a) restore wages to levels they would have reached if no foreign workers were in the area, or (b) to attain a level at which supply and demand might balance, or (c) to keep pace with wage trends in areas in which foreign workers are not employed, present procedures do not accomplish this.

2. Dominated Areas. A special problem is posed by areas and activities within areas in which the farm work force is preponderantly Mexican national. It is generally recognized that

fruit, beans, peppers, cucumbers, in parts of Texas; cotton in New Mexico; pickles and lettuce in Colorado; and sugar beets in a number of States.

The Bureau's policy in the case of dominated areas has been to associate wage rates in dominated areas with those in comparable areas which are not dominated. This procedure has sometimes proven to be impracticable because of the difficulties of finding comparable areas which are so similar as to be acceptable substitutes and in which wages have not been influenced by employment of foreign workers.

A proposal is under consideration to authorize wage setting in dominated areas. If this plan were adopted, wage rates could be based on such considerations as general wage trends, wage rates paid for comparable work in other areas, earnings for farm work of comparable skill in the same area, wage differentials between employers who use foreign workers and those who do not, wages paid by employers successful in recruiting domestic workers, etc.

While agriculture is excluded from the Fair Labor Standards Act, the Government has experience and precedent in setting wages for agricultural workers under the Sugar Act. This Act provides that fair and reasonable wages be determined after investigation, due notice, and opportunity for hearings. In administering the "fair and reasonable" standard, the Department of Agriculture takes into account cost of living; price of sugar and its by-products; income from sugar beets and cane; cost of production; and differences in growing conditions among various producing areas.

3. User-Non-User Differentials. Under present procedures, the prevailing wage rate is based on the rate paid to 40 percent of the domestic workers on survey farms regardless of whether they are employed on farms which also employ Mexicans or whether they are employed on farms which do not use braceros. However, BES studies indicate that, in the same area and for the same activities, there is a tendency for employers who use Mexicans to pay less than those who do not. These wage studies show that users paid less than non-users in nearly half of the wage surveys examined between January 1957 and May 1959; no difference was reported in one-third of the instances; and in one-fifth of the cases users paid more. This supports the conclusion that prevailing wages, as presently determined, are based on wage rates which, in themselves, are partially influenced by the presence of Mexican nationals.

4. Earnings of Mexican Workers. The Mexican Government has set

foreign workers are employed but above prevailing levels in the Lower Rio Grande Valley in Texas, Arkansas Delta areas, and parts of New Mexico.

Studies of earnings of Mexican workers have revealed that many paid on a piece rate basis were not realizing the equivalent of 50 cents an hour. Therefore, in 1958, the Bureau of Employment Security adopted a policy that workers of reasonable diligence must realize a minimum of 50 cents an hour or the piece rate must be adjusted to assure this.

This does not, however, set an absolute minimum wage since 10 percent of the workers, who are presumed to be less diligent than others may earn less than 50 cents an hour. Adjustment of piece rates to eliminate unsatisfactory earnings has been generally accomplished through negotiation with growers.

In addition, the Bureau adopted a policy to compare the average hourly earnings of Mexican piece-rate workers with time rates for similar work. If the average earnings of a group of workers appear to be lower than the prevailing hourly rate, the Bureau informs employers and consults with them in the appraisal of wage-rate actions or adjustments. Negotiated adjustments in piece rates have resulted under this arrangement.

D. Conditions of Employment

One of the reasons that shortages of labor cannot always be filled by American workers is that conditions of employment are less satisfactory than those offered foreign workers. Contract guarantees give Mexican workers a number of advantages; the principal ones are provided by the International Agreement listed below.

1. Transportation. Transportation from migration centers in the interior of Mexico to the border, as well as subsistence en-route, is paid from a revolving fund to which employers contribute. Employers also arrange for transportation of braceros from the border to the work site. When the employer provides a bus or truck to pick up the worker at reception centers, the vehicle must meet rigid standards. Return transportation from work area to the worker's home in Mexico is also the employer's responsibility.

Domestic migratory workers generally pay their own transportation to and from work areas. Employers frequently advance partial transportation costs, reimbursing themselves through payroll deductions. In some instances, employers will offer return transportation to workers who remain until the end of the season. Domestic migrants are usually transported by crew leaders whose trucks are subject to ICC regulations [illegible]

2. Work Guarantee. The Mexican-worker contract guarantees the worker the opportunity to work on at least three-fourths of the work days in the contract period, which is usually for a minimum of 6 weeks. If the employer does not provide the guaranteed number of days of employment, the worker is paid the amount he would have earned had he worked. Under the contract, workers who are offered employment for less than 64 hours in any two-week period, are entitled to subsistence, consisting of 3 meals per day or cash equivalent, for each 8 hours less than 64. Domestic workers generally have no contract, work guarantee, or subsistence allowance.

3. Housing. Foreign workers are provided free housing which must meet minimum standards of sanitation, space, cleanliness, etc., prescribed by the Bureau of Employment Security. Blankets and bedding must be provided, as well as cooking facilities separate from sleeping quarters in camps which do not have central feeding facilities.

Housing for domestic workers varies greatly as to type and quality. Typically, migrants carry their own bedding and cooking facilities. They are housed in small cabins or in rooms in partitioned barracks, either on the employer's farms or in public camps. Many seek out rooms in small towns in rural areas. Migratory worker housing is subject to standards and inspection in States with farm labor camp, codes. About half the States, including Arizona, California, and New Mexico, which employ large numbers of foreign workers, have laws or regulations that apply to farm labor camps, ranging from very limited to comprehensive regulations. Even in States with codes, inspection is limited or virtually impossible because of inadequate staff. Texas and Michigan are outstanding examples of States with high employment of domestic migrants and foreign workers without States codes, although local health ordinances may apply. To some extent the foreign-worker program has helped to improve standards of housing for domestic workers. Employers of Mexicans who also employ domestic workers often provide equivalent housing conditions for both.

4. Wage Guarantee. Mexican-worker contracts specify a minimum wage based on the prevailing wage in the area of employment ascertained by the local employment office. If the prevailing wage is found, on the basis of surveys, to be higher than the contract minimum, the worker must be paid the higher wage. If paid on a piece-rate, the contract guarantees the worker at least $2.00 a day for the first 48 hours of employment while he is learning.

Domestic agricultural workers are not protected by a contract minimum. The wage and hour provisions of the Fair Labor Standards Act do not cover agriculture. None of the State minimum-wage laws, except in Alaska, Hawaii, and Puerto Rico, apply to all agricultural workers.

5. Insurance. Employers of Mexican workers are required to provide insurance or establish sufficient financial responsibility to cover major occupational risks. They are obligated to pay all expenses for hospital, medical and surgical attention and other similar services necessitated by occupational injury or disease. They must also pay for the workers' subsistence during days the workers are unable to work because of illness or injury. Employers of Mexican nationals also carry non-occupational insurance for their workers, the cost of which is paid by deductions from wages.

Domestic workers are not protected by occupational insurance except to the extent that they are covered by workmen's compensation laws. Only Ohio and California have compulsory coverage of farm workers. In certain other States (including Arizona), farm workers engaged in mechanized occupations are covered.

6. Performance Guarantee. The United States Government guarantees the performance by employers of the provisions of the Mexican's work contract relating to wages and transportation. The worker may also contact the Mexican consul with respect to contract provisions, and they may elect their own representatives as spokesmen in dealing with employers.

Unemployed domestic workers may contact the local employment office for preference in employment in cases where Mexican workers are employed. They have no protection regarding wages or working conditions except in 3 States which have wage collection laws which apply to agriculture. The California and Massachusetts laws apply specifically to farm workers; Minnesota's, to "transient" labor. Generally, domestic workers are not organized in unions. A crew leader may act as spokesman for workers or as intermediary between workers and employers.

E. Recruitment and Availability of Domestic Workers

1. Recruitment Efforts. Section 503 (3) provides that reasonable efforts must be made to attract domestic workers at wages and standards of work comparable to those offered

Bureau of Employment Security procedures require employers seeking foreign workers to file orders which are treated as requests for domestic workers. They are circulated in interstate clearance, but generally are not filled, presumably because workers are needed in supply States at the same time. The number of foreign workers authorized and the prevailing wage must be posted in public places. If, during the contract period, qualified domestic workers become available for jobs held by Mexican workers, the employment office has the responsibility to refer them to employers using foreign workers, and the employer is obligated to employ them.

It is the Bureau's policy to require employers of foreign labor to participate in efforts to obtain domestic workers. There is evidence, however, that many users of foreign workers do not make as great an effort as those who rely on domestic workers. Employers successful in recruiting domestic workers offer competitive wages, housing suitable for family groups, participate in dayhaul, youth programs and other local recruitment efforts. Many of them send agents to supply States to participate with the employment service in positive recruitment efforts. They try to make preseason arrangements with crew leaders through the Annual Worker Plan.

On the other hand, some employers of foreign labor make only token efforts to cooperate in obtaining domestic workers. For example, in one of the major agricultural areas, more than 80 percent of the workers engaged in harvesting tomatoes--generally a popular crop for domestic workers--are foreign, while in the same area only about 6 percent of the workers in other crops are foreign. Evidently, employers in the tomato crop are substantially withdrawn from the domestic labor market. In many instances, housing is built only for single males which deters use of domestic workers who are in family groups. Artificial shortages may exist in these areas because of unsuitable housing facilities.

Studies of the Department of Labor have shown that wage rates paid to domestic workers by farmers who use Mexicans are generally lower than those paid by non-users for comparable work in the same area. This indicates that employers of foreign labor frequently do not make the same effort as other employers in competing for domestic farm workers.

2. Wage Payment to Domestic Workers. In carrying out the provisions of Section 503 (3) of Public Law 78, the Bureau of Employment Security requires users of Mexican workers to

offer the same wages to domestic as to foreign workers. However, domestic workers who are employed at a lower wage prior to the time Mexican workers are recruited do not necessarily receive an increase when higher paid Mexicans arrive on the job. Reports from some areas show American workers being paid $.35 and $.40 per hour for chopping cotton on the same farms where Mexicans receive the contract minimum of $.50 an hour.

F. International Relations

Would the non-renewal of the Mexican farm labor program have an adverse effect on relations between the United States and Mexico? It is difficult to answer this question with certainty. On one hand, it can be assumed that Mexico strongly favors the program because of the economic benefits it derives. On the other hand, there are some aspects of the program over which Mexico has some reservations.

All things considered, it is probably accurate to conclude--on the basis of private as well as public information--that the government of Mexico, notwithstanding these reservations, would regret and possibly resent the termination of the program in 1961. This could have an adverse effect on relations between Mexico and the United States

Another international consideration is the possibility of a large scale recurrence of "wetbacks" if PL 78 is not renewed. Such a development would be unfortunate for our own domestic workers, for the wetbacks themselves, and for the two governments involved. Still another possibility, if PL 78 were to be terminated, would be the recruitment of Mexicans under PL 414, the "Immigration and Nationality Act" but under procedures and conditions less desirable than PL 78.

However, these considerations should not constitute a conclusive argument in favor of extending PL 78. The Congress of the United States should assess the Mexican farm labor program on its own merits and in terms of its impact on the agricultural economy and the labor force of the U. S.

III. Recommendations

A. Continuation of Program

The Mexican farm labor program, administered under the terms of PL 78, has always been thought of as an emergency program designed to meet a temporary need for supplementary agricultural labor. Although the Law was amended several times, its

basic purpose was never changed. It is still intended to relieve temporary shortages of unskilled labor.

Do the original arguments in favor of the "Bracero" program still apply? In the judgment of the Committee, it is impossible to give a definitive and unqualified answer to this question. On the one hand, it can be argued that all of the labor needs of American agriculture are not, and in the foreseeable future will not be available from domestic sources. On the other hand, it can be contended that the shortage of domestic agricultural labor does not constitute a real emergency, except in certain crops and areas and that, even in these specific cases, the shortage is not unavoidable. More specifically, there is reason to believe that the real or presumed shortage of domestic agricultural labor could in large measure eventually be eliminated if more satisfactory wages and conditions of work were offered to domestic farm workers and if the farm labor market operated on a more rational basis.

Furthermore, the renewal of PL 78 without changes in 1961 would almost certainly tend to postpone the adoption of necessary reforms and would tend to increase rather than diminish the shortage of domestic farm labor.

The arguments for and against the renewal of PL 78 are not entirely conclusive. As a practical judgment, however, the Committee has concluded that on balance, the case in favor of renewing PL 78 on a temporary basis is more conclusive than the arguments against its renewal.

However, the Committee doubts whether it is possible to prevent adverse effect on our citizen agricultural work force by such use of imported workers until and unless the Law provides the necessary enforceable authority to prevent adverse effect. Part II of this report shows clearly the continuing problems in administering the Law as presently written. In order to provide effective tools by which the Secretary of Labor may continue to authorize the orderly importation of Mexican nationals only where necessary and justified, the Committee has incorporated in this part of the report, its recommendations for changes in PL 78. The Committee's support of a temporary renewal of PL 78 is conditioned on its being substantially amended so as to prevent adverse effect, ensure utilization of the domestic work force and limit use of Mexicans to unskilled seasonal jobs.

To overcome the shortcomings of PL 78, several basic principles need to be established and incorporated into the legislation. This may be done in a preamble, or by means of

amendments to specific sections of the Law. These principles are included in the recommendations in items "B" through "F" listed below.

B. Limitations on Use of Mexican Nationals

(1) The legislation should clearly confine the use of Mexicans to necessary crops in temporary labor shortage situations and to unskilled, non-machine jobs. To accomplish this, the Committee recommends that the Law be amended to: (a) prohibit employment of Mexicans in specific occupations involving year-round employment such as ranch hands, general farm hands, and other types of non-seasonal employment; (b) prohibit employment of Mexicans in machine operations such as sorting and packing machines, tractors, irrigation equipment, etc.; and (c) delete present provision authorizing the Secretary of Agriculture to designate "necessary" crops on which Mexicans can be used, unless this provision can be clarified and implemented. To avoid undue hardship to growers who have been employing Mexicans in categories (a) and (b), provision might be made for a gradual termination of such employment over a one-year period.

C. Recruitment and Availability of Domestic Labor

(1) The Law should authorize the Secretary of Labor to take such action as may be necessary to insure active competition for the available supply of domestic agricultural workers. The objective of the Secretary should be to reduce reliance on Mexican labor. Some ways in which this could be done include (a) limit the ratio of Mexicans to domestic workers on individual farms, (b) and limit the number of Mexicans in any particular crop-area to a specific proportion based upon previous years' experience.

(2) Sections 503(1) and 503(3) of PL 78, both of which relate to the availability of domestic labor, should be combined. The test of availability of domestic labor, which must be made before the use of foreign workers may be authorized, should be clarified and strengthened. The Law should clearly stipulate that the primary responsibility for the recruitment of domestic workers rests with the employer himself. The Law should direct the Secretary of Labor not to certify as to the unavailability of domestic labor unless: (a) employers have undertaken positive and direct recruitment efforts in addition to the efforts of the public employment offices.

Such efforts should be made sufficiently in advance of the need. They might include, but not be restricted to, publicizing needs, participation in dayhauls, providing adequate housing and transportation. (b) Employment conditions offered are equivalent to those provided by other employers in the area who successfully recruit and retain domestic workers; (c) domestic workers are provided benefits which are equivalent to those given Mexican nationals, i.e., transportation, housing, insurance, subsistence, employment guarantees, etc.; (d) employers of Mexican nationals offer and pay domestic workers in their employment, no less than the wage rate paid to Mexican labor.

D. Adverse Effect Criteria

The test of adverse effect on wages and employment, which if threatened, precludes authorization of Mexican workers, should be more specific. The Secretary should be directed to establish specific criteria for judging adverse effect including but not limited to: (a) failure of wages and earnings in activities and areas using Mexicans to advance with wage increases generally; (b) the relationship between Mexican employment trends and wage trends in areas using Mexican workers; (c) differences in wage and earning levels of workers on farms using Mexican labor compared with non-users.

E. Wages

The Secretary should be authorized to establish wages for Mexicans at no less than the prevailing domestic farm rate in the area or in the closest similar area for like work; and no less than a rate necessary to avoid adverse effect on domestic wage rates.

F. General Rule

While there is inherent authority to issue implementing regulations, Public Law 78 should be amended to include specifically a provision authorizing the Secretary to promulgate such rules and regulations as he deems necessary to effectuate the requirements of the law.

G. Administrative Procedures

Although many of the problems in connection with the Mexican Farm Labor Program can be resolved only by changes in PL 78, there is much that can be done through administrative proce-

the fullest use of the authority he does have to evaluate carefully all requests for foreign labor. Emphasis should also be given to developing procedures and regulations which will avoid, to the greatest extent possible, adverse effect in their employment.

It is recognized that many facets of the Mexican importation program have been decentralized and that other parts of the program are administered through the affiliated State agencies and their local offices. While this undoubtedly results in economies, there is also a serious danger that local pressures and considerations may distort the original intent of the program. It is therefore suggested that sufficient controls and checks be developed to offset this possibility.

For more effective administration of the compliance aspects of the importation program, consideration should be given to the possibility of punitive action against violators which would be less severe than complete withdrawal of Mexicans. Failure to provide less severe penalties often results in no punitive action at all.

It is recommended that a tripartite advisory committee be established to advise the Secretary on the Mexican farm labor program. The committee should consist of representatives of management and labor in equal numbers and of public members.

In recommending changes in PL 78, and in the administration of the Law, the Committee is mindful that these proposed changes will not, of themselves, solve the long standing and complicated manpower problems of American agriculture and may not substantially improve the wages and working conditions of domestic farm labor. These recommendations should therefore be considered minimal in nature.

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