# Topic

Resolved: The United States federal government should substantially reduce its restrictions on legal immigration to the United States.

# 1nc Shell

## Regulations Not Restrictions

#### ‘Restriction’ means to ‘confine within bounds’ – it’s distinct from regulation, which prescribes a specific action

Erwin, 13 **–** Judge for the Supreme Court of Indiana (Curless et al. v. Watson. No. 22,422. SUPREME COURT OF INDIANA 180 Ind. 86; 102 N.E. 497; 1913 Ind. LEXIS 99 June 27, 1913, Filed, lexis)

In the section of the Constitution referring to circuit courts, there is this provision, as follows: HN13Go to this Headnote in the case."The circuit court shall consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law." § 8, Art. 7, Constitution. HN14Go to this Headnote in the case.In the section relating to justices of the peace, the Constitution provides, "They shall continue in office four years and their powers and duties shall be prescribed by law." In these last two sections mentioned, it was intended that the legislature should fix the jurisdiction of circuit courts and justices of the peace; and if the same provision had been intended, by the framers of the Constitution, as to the jurisdiction of the Supreme Court, they would have so expressed it. [\*\*502] It is contended that the power to regulate and restrict the Supreme Court, in appeals, gives the legislature the right to take away the final jurisdiction of appeals, and bestow it upon whomsoever it may see fit. "Restriction" as defined [\*\*\*20] by Webster, is the act of restricting, confining or limiting; the state of being restricted, limited or confined within bounds. "Regulation" is defined, by the same authority, as the act of regulating; the act of reducing to order or of disposing in accordance with rule or established custom; a rule, order or direction from a superior [\*99] or competent authority; a governing or prescribing a course of action. And while the legislature may withhold from this court jurisdiction in certain cases, it cannot confer final jurisdiction upon any other tribunal "To hear and determine the questions of law arising upon the face of the record without any evidence to substantiate it," and make its actions final. While the legislature may regulate and restrict the Supreme Court, as to how it may take jurisdiction, it cannot take away from the court the jurisdiction over this particular subject, granted by the Constitution, and bestow it upon any other tribunal, and a legislative enactment, which seeks to do so is contrary to the Constitution. The legislature has the undoubted right to regulate appeals, but the power to regulate does not give authority to take away, or bestow it upon another [\*\*\*21] tribunal.

#### In the immigration context – that means a numerical quota – the plan lifts a regulation which is not a restriction.

Micallef, 13 **-** a dissertation by René Mario Micallef, S.J. submitted in partial fulfilment of the requirements for the degree of Doctorate in Sacred Theology at Boston College (“Gates Fair on All Sides. Christian Reflections on Establishing Ethical and Sustainable Border Policies and Citizenship Laws in a “Globalised” World.” June, <https://dlib.bc.edu/islandora/object/bc-ir:104082/datastream/PDF/download/citation.pdf>

**CST = Catholic Social Teaching**

2.3.1.2 What Does “Regulation” Mean? To be sure, the documents also speak of “regulating migration”62. It is important to understand what CST means by this expression. On the local level, “regulating migration” means designing generous and realistic laws which allow people to enter one´s country in an orderly and legal manner so as to avoid discrimination, employment in the informal economy and the concentration of immigrants in poor and crime-prone ghetto neighbourhoods. On the international level, which is deemed the most appropriate level for regulating asylum and migration, this means establishing fair and reasonable agreements among sending, transit and receiving countries to ensure that the rights of migrants are respected, and that migrants do not have to resort to illegal channels and traffickers to enter countries which can support them and need their labour. More generally, international “regulation” in CST means signing and ratifying without undue geographical restrictions documents like: (1) the Refugee Convention (1951) and the Protocol relating to the Status of Refugees (1967); (2) international agreements which offer subsidiary protection to forced migrants not considered refugees by (1); (3) the covenants associated with the Universal Declaration of Human Rights (1948); (4) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). For example, several documents insist that receiving countries should urgently ratify the latter convention (cf. EM 6, M2007, USMX-SNL 77 and Caritas Europa et al. (2006b)) but no migrant-receiving state in Western Europe or North America has done so until now, nor have other important receiving countries, such as Australia, the Arab states of the Persian Gulf, India and South Africa. “Regulation”, in this sense, is not the same as “restriction”, which is often a knee-jerk reaction to rates of immigration perceived as excessive; restriction is often disproportionate and forces many immigrants, needed by the economy, into precisely those shady situations that proper regulation seeks to avoid63. If we were to reduce this to a slogan, we would say that the Catholics have been crying, at least since the 1950s: “No to unilateral restriction! Yes to multilateral regulation!” That cry has not changed, but has become muffled in more recent Church documents, while, ironically, more and more experts and reports are adopting precisely this position, and implying that what Pius XII was saying 60 years ago was not only morally right, but also politically prudent to maintain the rule of law and sustain economic growth64. Restrictive “migration reduction” policies, such as those introduced by the US in the 1920s on the basis of the “findings” of the Dillingham Commission65, have been very harshly criticized by the Catholic Church. Pius XII, in his 1952 Christmas Address (AAS 45 [1953]: 41-24), attacks the “nude calculus” — at the time mostly based on Malthusian arguments — that gives rise to the policies which wealthy nations use to shut the door in the face of people who have a right (and duty) to migrate66. Pope Pius considers immigration restriction akin to state-imposed birth control. He claims that recipient countries often go as far as “mechanizing consciences” by manipulating public opinion so that “the natural right of the individual to be unhampered in immigration or emigration is not recognised or, in practice, is nullified under the pretext of a common good which is falsely understood or falsely applied, but sanctioned and made mandatory by legislative or administrative measures” (ibid.). **(footnote 63)** 63 Exsul Familia says that “there would be very great benefits from international regulations in favour of emigration and immigration” (§111 in Baggio and Pettenà 2009), referring to an address given in Rome by Pius XII on the 2nd July 1951 to the members of an International Catholic Congress for the Improvement of Rural Living Conditions. The accent here is on regulations in favour of migrants, not in favour of states or receiving communities; Pius XII was inviting the international community to deal effectively with the problem of statelessness and to ensure that the human rights of migrants are respected. To appreciate this, we should remember that the Refugee Convention was adopted that same month on the 28th July, and that the Universal Declaration of Human Rights had been adopted a year and a half before, on the 10th December, 1948. Neither does Vatican II take a position in favour of the right of states to restrict immigration. Although EM 21 states that “the Council recognized the right of the public authorities, in a particular context, to regulate the flow of migration (cf. GS 87)”, this statement could be misleading. The “particular context” was the movement of country dwellers to the cities in the same country, transitum ruricolarum ad urbes; the text in Latin makes no reference to (cross-border) migration or sovereignty. The other major Church documents on migration before the papacy of John Paul II, namely De Pastorali Migratorum Cura (1969) and The Church and Human Mobility (1978, May) do not speak of “regulation” of migration in terms of restriction, or the closing of borders. **(footnote 64)** 64 Current authors use the term “management” instead of regulation, given that “regulation” tends to be confused with restriction. For instance, John Salt´s (2005, 41) Report to the Council of Europe concludes as follows: “First, management rather than control is now the name of the game. There is a recognition by individual states and by intergovernmental organisations that international migration cannot be controlled, in the sense that countries can turn the taps of movement on or off at their borders. In reality they were never able to do that anyway. Second, there is an acceptance that migration is generally a positive phenomenon and that the prime purpose of management is to ensure an all-round positive outcome. Third, migration management strategies require a comprehensive approach that takes in the complete spectrum of movement and deals with both legal and illegal moves. […] Fourth, countries can no longer act alone. Cooperation is vital, both with European neighbours and with countries further afield.”

#### The plan ends regulations rather than just lift a numerical cap.

#### Vote negative on extra topicality – there are thousands of individual regulation with each specific visa having its own set of conditions. Creates an impossible negative research burden while skirting the core controversy of the topic.

# Topic Definitions

## Restrictions

### Numerical Caps

#### Immigration restrictions refer to quotas – the plan affects a regulation

Shvarts, 5(Shifra Shvarts, Nadav Davidovitch, Rhona Seidelman and Avishay Goldman, Department of Health Policy and Management, Ben-Gurion University of the Negev, Beer-Sheva, Israel. “Medical Selection and the Debate over Mass Immigration in the New State of Israel (1948-1951)1” <https://www.utpjournals.press/doi/pdf/10.3138/cbmh.22.1.5>)

Later in May, the growing tension brought Dr. Meir, just appointed Director General of the Ministry of Health, to publish an open letter in Davar. He hoped that by clarifying the ministry’s position he could ease the tensions. Like Shapira, Meir tried to explain the difference between regulation and restriction, casting the former in more benign terms: “We are not dealing with quotas for immigrants but with regulating immigration, and anyone who says that all regulation of immigrant means restrictions on immigration is merely admitting our utter failure—a sign that [the speaker] feels despair and believes that there is no possibility of regulation and therefore it is essential to restrict immigration.”54

#### Restrictions refer to quantifiable limits whereas regulations are the management of behavior.

**Shackleford 1917** (Florida SC Justice Opinion in ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION, et al., Plaintiff in Error, v. THE STATE OF FLORIDA, Defendant in Error~[NO DOCKET NUMBER~]SUPREME COURT OF FLORIDA73 Fla. 609; 74 So. 595; 1917 Fla. LEXIS 487March 12, 1917; Petition for Rehearing Denied March 17, 1917)

There would seem to be no occasion to discuss whether or not the Railroad Commissioners had the power and authority to make the order, requiring the three specified railroads running into the City of Tampa to erect a union passenger station in such city, which is set out in the declaration in the instant case and which we have copied above. [\*\*\*29] It is sufficient to say that under the reasoning and the authorities cited in State v. Atlantic Coast Line R. Co., 67 Fla. 441, 458, 63 South. Rep. 729, 65 South. Rep. 654, and State v. Jacksonville Terminal [\*631] Co., supra, it would seem that HN14the Commissioners had power and authority. The point which we are required to determine is whether or not the Commissioners were given the authority to impose the fine or penalty upon the three railroads for the recovery of which this action is brought. In order to decide this question we must examine Section 2908 of the General Statutes of 1906, which we have copied above, in the light of the authorities which we have cited and from some of which we have quoted. It will be observed that the declaration alleges that the penalty imposed upon the three railroads was for the violation of what is designated as "Order No. 282," which is set out and which required such railroads to erect and complete a union depot at Tampa within a certain specified time. If the Commissioners had the authority to make such order, it necessarily follows that they could enforce a compliance with the same by appropriate proceedings in the courts, but [\*\*\*30] it does not necessarily follow that they had the power and authority to penalize the roads for a failure to comply therewith. That is a different matter. HN15Section 2908 of the General Statutes of 1906, which originally formed Section 12 of Chapter 4700 of the Laws of Florida, (Acts of 1899, p. 86), expressly authorizes the imposition of a penalty by the Commissioners upon "any railroad, railroad company or other common carrier doing business in this State," for "a violation or disregard of any rate, schedule, rule or regulation, provided or prescribed by said commission," or for failure "to make any report required to be made under the provisions of this Chapter," or for the violation of "any provision of this Chapter." It will be observed that the word "Order" is not mentioned in such section. Are the other words used therein sufficiently comprehensive to embrace an order made by the Commissioners, such as the one now under consideration? [\*632] It could not successfully be contended, nor is such contention attempted, that this order is covered by or embraced within the words "rate," "schedule" or "any report,' therefore we may dismiss these terms from our consideration and [\*\*\*31] direct our attention to the words "rule or regulation." As is frankly stated in the brief filed by the defendant in error: "It is admitted that an order for the erection of a depot is not a 'rate' or 'schedule' and if it is not a 'rule' or 'regulation' then there is no power in the Commissioners to enforce it by the imposition of a penalty." It is earnestly insisted that the words "rule or regulation" are sufficiently comprehensive to embrace such an order and to authorize the penalty imposed, and in support of this contention the following authorities are cited: Black's Law Dictionary, defining regulation and order; Rapalje & Lawrence's Law Dictionary, defining rule; Abbott's Law Dictionary, defining rule; Bouvier's Law Dictionary, defining order and rule [\*\*602] of court; Webster's New International Dictionary, defining regulation; Curry v. Marvin, 2 Fla. 411, text 515; In re Leasing of State Lands, 18 Colo. 359, 32 Pac. Rep. 986; Betts v. Commissioners of the Land Office, 27 Okl. 64, 110 Pac. Rep. 766; Carter V. Louisiana Purchase Exposition Co., 124 Mo. App. 530, 102 S.W. Rep. 6, text 9; 34 Cyc. 1031. We have examined all of these authorities, as well as those cited by the [\*\*\*32] plaintiffs in error and a number of others, but shall not undertake an analysis and discussion of all of them. While it is undoubtedly true that the words, rule, regulation and order are frequently used as synonyms, as the dictionaries, both English and law, and the dictionaries of synonyms, such as Soule's show, it does not follow that these words always mean the same thing or are interchangeable at will. It is well known that the same word used in different contexts may mean a different thing by virtue of the coloring which the word [\*633] takes on both from what precedes it in the context and what follows after. Thus in discussing the proper constructions to be placed upon the words "restrictions and regulations" as used in the Constitution of this State, then in force, Chap. 4, Sec. 2, No. 1, of Thompson's Digest, page 50, this court in Curry v. Marvin, 2 Fla. 411, text 415, which case is cited to us and relied upon by both the parties litigant, makes the following statement: "The word restriction is defined by the best lexicographers to mean **limitation**, confinement within bounds, and would seem, as used in the constitution, to apply to the amount and to the time [\*\*\*33] within which an appeal might to be taken, or a writ of error sued out. The word regulation has a different signification -- it means method, and is defined by Webster in his Dictionary, folio 31, page 929, to be 'a rule or order prescribed by a superior for the management of some business, or for the government of a company or society.' This more properly perhaps applies to the mode and form of proceeding in taking and prosecuting appeals and writs of error. By the use of both of those terms, we think that something more was intended than merely regulating the mode and form of proceedings in such cases." Thus, in Carter v. Louisiana Purchase Exposition Co., 124 Mo. App. 530, text 538, 102 S.W. Rep. 6, text 9, it is said, "The definition of a rule or order, which are synonymous terms, include commands to lower courts or court officials to do ministerial acts." In support of this proposition is cited 24 Amer. & Eng. Ency. of Law 1016, which is evidently an erroneous citation, whether the first or second edition is meant. See the definition of regulate and rule, 24 amer. & Eng. Ency. of Law (2nd Ed.) pages 243 to 246 and 1010, and it will be seen that the two words are not always [\*\*\*34] synonymous, much necessarily depending upon the context and the sense in which the words are used. Also see the discussion [\*634] of the word regulation in 34 Cyc. 1031. We would call especial attention to Morris v. Board of Pilot Commissioners, 7 Del. chan. 136, 30 Atl. Rep. 667, text 669, wherein the following statement is made by the court: "These words 'rule' and the 'order,' when used in a statute, have a definite signification. They are different in their nature and extent. A rule, to be valid, must be general in its scope, and undiscriminating in its application; an order is specific and not limited in its application. The function of an order relates more particularly to the execution or enforcement of a rule previously made." Also see 7 Words & Phrases 6271 and 6272, and 4 Words & Phrases (2nd Ser.) 419, 420. As we held in City of Los Angeles v. Gager, 10 Cal. App. 378, 102 Pac. Rep. 17, "The meaning of the word 'rules' is of wide and varied significance, depending upon the context; in a legal sense it is synonymous with 'laws.'" If Section 2908 had contained the word order, or had authorized the Commissioners to impose a penalty for the violation of any order [\*\*\*35] made by them, there would be no room for construction. The Georgia statute, Acts of 1905, p. 120, generally known as the "Steed Bill," entitled "An act to further extend the powers of the Railroad Commission of this State, and to confer upon the commission the power to regulate the time and manner within which the several railroads in this State shall receive, receipt for, forward and deliver to its destination all freight of every character, which may be tendered or received by them for transportation; to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said commission in the execution of these powers, and for other purposes," expressly authorized the Railroad Commissioners "to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said Commision." [\*635] See Pennington v. Douglas, A. & G. Ry. Co., 3 Ga. App. 665, 60 S.E. Rep. 485, which we cited with approval in State v. Atlantic Coast Line R. Co., 56 fla. 617, text 651, 47 South. Rep. 969, 32 L.R.A. (N.S.) 639. Under the reasoning in the cited authorities, especially State v. Atlantic Coast Line R. Co., [\*\*\*36] supra, and Morris v. Board of Pilot Commissioners, we are constrained to hold that the fourth and eighth grounds of the demurrer are well founded and that HN16the Railroad Commissioners were not empowered or authorized to impose a penalty upon the three railroads for failure to comply with the order for the erection of a union depot.

#### Limits disad – there are 1300 pages of visa regulations in the CFR

Skrentny, 2011- John D. Skrentny is a Professor of Sociology at the University of California, San Diego. Micah Gell-Redman is a graduate student in Political Science at the University of California, San Diego (“Comprehensive Immigration Reform and the Dynamics of Statutory Entrenchment” 120 Yale L.J. Online 325, lexis)

By 1965 there was much evidence of at least a cognitive entrenchment of statutory immigration control. Not only has Congress continually legislated in this area since 1875, the Departments of Justice, Labor, and Homeland Security have joined in, issuing regulations refining visa policy that now take up more than 1300 pages of the Code of Federal Regulations. The entrenchment of border enforcement that legislators now take for granted thus built on venerable statutory norms of exclusion and the [\*336] perception of immigration as a threat. With IRCA in 1986, Congress made the move from immigration restriction in the form of passport and visa controls to immigration restriction as border and internal enforcement against unauthorized entry. It called for increased enforcement by the Border Patrol, authorized a fifty percent increase in appropriations for the Immigration and Naturalization Service's enforcement budget, revamped criminal penalties for immigrant smugglers, and gave Presidents the power to declare an "immigration emergency." n56

### Quantity and Quality

#### Restrictions on legal immigration are qualitative and quantitative barriers on admission in 5 categories

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Quantitative and Qualitative Restrictions on Legal Immigration There are two barriers stopping the masses from legally immigrating to the U.S. First there are quantitative restrictions, quotas, which limit the number of people who can come to the U.S. in any one category of eligibility or from a specific country5 . Second, there are qualitative restrictions – people that Congress has determined should not be allowed to live here due to a myriad of reasons ranging from criminal convictions and health issues to membership in terrorist organizations6 . Although there are waivers for some grounds, most require a showing of extreme hardship to a close U.S. citizen or LPR relative. The various categories of noncitizens that Congress has given a path to LPR status can be basically broken down into five groups: family based immigration, employment based immigration, refugees/asylees, investors and successful applicants to a “diversity” lottery selection process. See the accompanying Chart for more details regarding the family and employment based categories.

#### Restrictions govern quantity, type, and terms of admission

Posner, 2006 - Kirkland and Ellis Professor of Law, University of Chicago Law School (Eric Posner & Adam B. Cox, "The Second-Order Structure of Immigration Law" ( John M. Olin Program in Law and Economics, Working Paper No. 314, 2006) <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1571&context=law_and_economics>

A central goal of immigration policy for all states is, at a very high level of abstraction, to expand the polity by admitting desirable people.13 Nonetheless, states have different attitudes about which potential immigrants are desirable under various circumstances. These differences lead states’ first-order policy preferences to diverge along three main dimensions: with respect to the quantity of immigrants, the type of immigrants, and the terms of admission.14 *Quantity*. States can choose a range of numerical restrictions. At one extreme, a state permits no immigration; at the other extreme, a state permits unlimited immigration.15 Nearly all states choose intermediate points, but there is still a great deal of variation. Prior to the twentieth century, the United States had no formal numerical limits; beginning in 1921, the United States imposed an immigration ceiling of 350,000 on the Eastern Hemisphere.16 Over time, that ceiling ranged from 150,000 (in 1927) to 700,000 (in 1990) and since 1965 has covered the entire globe.17 Because of exceptions to the ceilings, actual immigration has been somewhat higher; for example, in 2004 legal immigration exceeded 946,000.18 By comparison, legal immigration in the same year was 202,300 in Germany, 175,200 in France, 88,300 in Japan, 235,800 in Canada, and 266,500 in the United Kingdom.19 Quantity restrictions can take various forms. As noted above, the U.S. federal government placed few formal restrictions on immigration prior to the 1870s.20 During this period, the government often took steps to increase the size of the immigrant flow.21 Even after the federal government began to place statutory limits on the types of immigrants who could enter, it did not place numerical restrictions on the overall size of the immigrant flow. The first statutory limits on the annual flow of immigrants were not adopted until shortly after World War I.22 These initially temporary limits were codified in the national origins quota system a few years later, but even these quota laws applied only to the Eastern Hemisphere.23 Only in the last forty years has the United States established relatively rigid global numerical restrictions on the annual number of immigrants the country will admit.24 *Type*. States also regulate the type of person who may immigrate. Some states use a point system that favors applicants with desired characteristics.25 These typically include the ability to speak the native language, work skills, educational achievement, and propensity to obey the law. For example, Canada awards points to applicants who are highly educated; who speak English and French proficiently; who have work experience; who are between twenty-one and forty-nine years old; who have arranged for employment in Canada; and (under the category of “adaptability”) who have an educated spouse or partner, have had prior work experience in Canada, or have a family relation in Canada.26 The United States places more weight on family relationship, though it too favors immigrants who have desired work skills.27 Before it imposed numerical restrictions, the United States did not have such elaborate and specific criteria for type, but it would be a mistake to think that the type of immigrant is a new concern. The Alien and Sedition Acts passed by the first Congress permitted the deportation of disloyal or subversive aliens,28 and many states in the post-founding era had laws that permitted the expulsion (from state territory) of public charges and criminals.29 Starting in 1875, Congress passed laws designed to exclude noncitizens on the basis of race (initially Chinese, then covering noncitizens from most of East and South Asia) and later on the basis of national origin (disfavoring, for example, southern Europeans).30 Today, the United States treats a criminal record as an important indication that a person is of an undesired type.31 *Terms of admission*. States also differ in the status that they confer on those permitted to immigrate. At one extreme, a state may confer full citizenship on an immigrant; at the other extreme, a state may permanently deny an immigrant the legal incidents of citizenship. For example, while the United States places substantial constraints on the numbers and types of immigrants it admits, today it places relatively few conditions on their terms of admission. Most noncitizens admitted to lawful permanent residence in the United States have a relatively easy path to citizenship.32 They must live in the country for five years before becoming eligible to naturalize, but this is nearly the only meaningful condition they must satisfy.33 Many other states have been less welcoming. In Germany, for example, a guest worker system under which resident workers (and their children) were ineligible for citizenship was the norm for much of the twentieth century.34 Moreover, the naturalization requirements have not always been so easy to satisfy in the United States. Until 1952, the United States restricted naturalization on the basis of race, which had the effect of permanently depriving some immigrants of access to full membership in the political community.35 We should be clear that we describe here only the immigrant admission system in the United States, not the system used to admit nonimmigrants. Nonimmigrants are those noncitizens admitted for a temporary period, such as tourists or employees who receive temporary authorization to work in the country.36 Immigrants, by contrast, are admitted to permanent residence in the country—residence that is not contingent on retaining employment, learning English, and so forth—and are on a path to eventual citizenship. (For that reason admitted immigrants are typically referred to as “lawful permanent residents”). We focus on the structure of the immigrant system, because our interest here is in the system that the state uses to select those in the immigrant pool whom it considers desirable to add to the country’s population and eventually to the citizenry.37 As we explain below, however, a state might choose to use a temporary immigration system—such as a guest worker program—as a screening mechanism for potential permanent immigrants.38 This highlights one last important point about first-order preferences—a point that foreshadows the following discussion on second-order design. Though restrictions concerning immigrant numbers, types, and terms of admission often reflect a state’s first-order preferences, they need not always do so. Because such restrictions are closely interrelated, a restriction along one dimension can be used as an instrument to advance a different first-order preference. Restrictions on terms of admission are, as we note above, one example of this. Numerical restrictions offer another example: they can reflect a first-order preference, but can also be used as a second-order mechanism to control the types of immigrants (and vice versa). The national origins quota system that Congress enacted in 1924 was designed to do just this: the quota law’s formula was intended to constrict the flow of immigrants from southern and eastern Europe, whom Congress saw as racially inferior to their western and northern European counterparts.39

## Legal Immigration

### LPR

#### **Legal immigration means admission for lawful permanent residence**

Cheng, 2004–Social Security Administration (Anthony, A Stochastic Model of the Long-Range Financial Status of the OASDI Program, September 2004, <https://www.ssa.gov/oact/NOTES/pdf_studies/study117.pdf>)

*Legal immigration* is defined as persons lawfully admitted for permanent residence into the United States.7 The level of legal immigration largely depends on legislation which basically serves to define and establish limits for certain categories of immigrants. The Immigration Act of 1990, which is currently the legislation in force, establishes limits for three classes of immigrants: family-sponsored preferences, employment-based preferences, and diversity immigrants. However, no numerical limits currently exist for immediate relatives of U.S. citizens. Historical data for legal U.S. immigration for years 1901 through 2002 are from the U.S. Citizenship and Immigration Services.8 Legal immigration averaged nearly one million per year from 1900 through 1914, then decreased substantially to about 23,000 in 1933. Since the mid-1940s, legal immigration increased steadily to over one million in 2002. An ARMA(4,1) equation was selected and parameters were estimated using the entire range of historical data. The R-squared value was 0.92. Figure II.2 presents the actual and fitted values. The modified equation is: (3) In this equation, IMt represents the annual level of legal immigration in year t; represents the projected level of legal immigration from the TR04II in year t; imt represents the deviation of the annual level of legal immigration from the TR04II value in year t; and εt represents the random error in year t. 2. Legal Emigration Legal emigration is defined as the number of persons who lawfully leave the United States, and are no longer considered to be a part of the Social Security program. Although annual emigration data are not collected in the United States, the U.S. Census Bureau estimates that the level of emigration for the past century roughly totaled one-fourth of the level of legal immigration. Using the Census estimates as an approximate guide, the parameters of Equation (3) are multiplied by one-fourth.9 The modified equation is: (4) In this equation, EMt represents the annual level of legal emigration in year t; represents the projected annual level of legal emigration from the TR04II in year t; emt represents the deviation of the annual level of legal emigration from the TR04II value in year t; and εt represents the random error in year t. 3. Net Other Immigration *Net other immigration* is defined as the annual flow of persons into the United States minus the annual flow of persons out of the United States who do not meet the above definition of legal immigration or legal emigration. Thus, net other immigration includes unauthorized persons and those not seeking permanent residence.

#### Legal immigration is persons admitted under LPR status – it excludes nonimmigrants

Wilcox, 2005 - professor of philosophy at San Francisco State University. (Shelley, Feminist Interventions in Ethics and Politics: Feminist Ethics and Social Theory edited by Barbara S. Andrew, Jean Keller, Lisa H. Schwartzman, p. 228

10. Legal immigration, as defined by U.S. immigration law, includes persons who have been admitted under legal permanent resident status. Legal immigrants may remain in the United States permanently under this status unless they relinquish it by living abroad for lengthy periods or by committing a crime that subjects them to de- portation. After five years of residence, permanent residents have the right to petition for naturalized U.S. citizenship. The category of legal immigration excludes noncitizens who are authorized to enter and remain in the United States for short periods of time for the purposes of employment, education, tourism, and commerce without the right to reside permanently or petition for citizenship.

### Excludes Status Adjustment

#### Admission requires physical entry- it excludes adjustment of status

Cicchini, 2012–Daniel Cicchini and Joseph Hassell are Attorney Advisors at the Immigration Court in Eloy, Arizona(“The Continuing Struggle To Define “Admission” and “Admitted” in the Immigration and Nationality Act” Immigration Law Advisor, June, <https://www.justice.gov/sites/default/files/eoir/legacy/2012/08/07/vol6no6.pdf>

Adjustment of Status: Is It an Admission? Determining if and when an alien has been “admitted” is more complex, however, if an alien becomes an LPR through adjustment of status under section 245 of the Act. Indeed, in such a case, an adjudicator may have to determine whether applicable precedent defines an alien’s adjustment of status as an “admission” within the meaning of the Act, because the Board and the circuit courts appear to be split on the issue. Under section 245 of the Act, the Attorney General may adjust the status of any alien who has previously been inspected, admitted, or paroled. More specifically, adjustment of status is a process that permits aliens already present in the United States to become LPRs without having to depart and procure an immigrant visa from an American consulate, most often in the alien’s country of origin. USCIS, DHS, Adjustment of Status, (Mar. 30, 2011), http://www.uscis.gov/greencard (follow “Green Card Processes and Procedures” hyperlink; then follow “Adjustment of Status” hyperlink); Barr at 3. Because aliens who adjust status are already physically present inside the United States, this process does not involve physical entry into the country after inspection and authorization at a port of entry. Thus, under the plain language of section 101(a)(13)(A) of the Act, it is not an “admission.” As a consequence, an alien who has adjusted status to that of an LPR after entering the country without inspection has not been “admitted” within the meaning of section 101(a)(13)(A) and would therefore be subject to the grounds of inadmissibility under section 212(a) of the Act. To avoid this result, in Matter of Rosas, 22 I&N Dec. 616, 621-23 (BIA 1999), the Board held that an alien who was either authorized to enter after inspection or who has “adjusted status” after an unlawful entry was “admitted” for purposes of determining whether the inadmissibility or deportability grounds should apply. See also Matter of E.W. Rodriguez, 25 I&N Dec. 784, 789 (BIA 2012) (holding that the Board is “constrained to treat adjustment as an admission in order to preserve the coherence of the statutory scheme and avoid absurdities”); Matter of Espinosa Guillot, 25 I&N Dec. 653, 655-56 (BIA 2011) (holding that an alien who adjusted to LPR status under the Cuban Refugee Adjustment Act was admitted and therefore subject to charges of removability under section 237(a)); Matter of Alyazji, 25 I&N Dec. 397, 399- 401 (BIA 2011) (citing Board cases where “adjustment of status” is an admission, as well as circuit decisions concluding otherwise); Matter of Koljenovic, 25 I&N Dec. 219, 225 (BIA 2010) (holding that, for purposes of a section 212(h) waiver of inadmissibility, an alien whose status is adjusted to that of an LPR has been “admitted” on the date he or she adjusted status). Other provisions of the Act additionally suggest that an adjustment of status means that an alien is “in and admitted to the United States,” making him or her deportable. See section 237(a)(1)(A) of the Act (entitled “Inadmissible aliens” and providing, in pertinent part, that “[a]ny alien who at the time of entry or adjustment of status was within one or more classes of aliens [who were] inadmissible . . . is deportable”) (emphasis added). Unlike the Board, the circuit courts’ treatment of the “adjustment-as-admission” issue is mixed. The Ninth Circuit has held that an adjustment of status can be considered an “admission,” albeit in a limited context, but most other circuits disagree. In OcampoDuran v. Ashcroft, 254 F.3d 1133, 1134-35 (9th Cir. 2001), the Ninth Circuit held that adjustment of status was an “admission” within the context of section 237(a)(2)(A)(iii) of the Act, which authorizes removal of any alien convicted “at any time after admission” of an aggravated felony. In that case, an LPR, who had entered without inspection, had never been “admitted” within the meaning of section 101(a)(13)(A) of the Act. Nevertheless, the court found the alien removable because he later adjusted status and then was convicted of an aggravated felony. Id. (quoting section 101(a)(20) of the Act in defining the term “lawfully admitted for permanent residence”). However, in the context of section 237(a)(2)(A)(i)(I) of the Act, which provides, inter alia, that an alien is deportable if he or she is convicted of an offense committed within 5 years “after the date of admission,” the circuit courts have consistently held that an alien’s adjustment of status does not constitute an “admission.” More specifically, the Fourth, Sixth, and Seventh Circuits have all held that the term “admission” in the phrase “date of admission” is governed by the plain, “unambiguous” meaning of “admission” in section 101(a)(13)(A), which requires physical entry after inspection. Zhang v. Mukasey, 509 F.3d 313, 316 (6th Cir. 2007) (holding “that there is only one ‘first lawful admission,’ and it is based on physical, legal entry into the United States, not on the attainment of a particular legal status”); Aremu v. Dep’t of Homeland Sec., 450 F.3d 578, 581 (4th Cir. 2006) (“Because the statutory definition of ‘admission’ does not include adjustment of status, it appears that a straightforward application of Chevron requires us to conclude that the BIA’s determination that ‘the date of admission’ under [section 237(a)(2)(A)(i)] includes the date of an adjustment of status fails step one of the Chevron analysis.”); Abdelqadar v. Gonzales, 413 F.3d 668, 673 (7th Cir. 2005) (“[The alien] accuses the agency of engaging in word play by equating ‘admitted for permanent residence’ with ‘the date of admission.’ The former is a legal status, the latter an entry into the United States. Section [101(a)(13)(A)] defines admission as a lawful entry, not as a particular legal status afterward.”) Additionally, in Shivaraman v. Ashcroft, 360 F.3d 1142, 1147-48 (9th Cir. 2004), the Ninth Circuit distinguished its prior reasoning in Ocampo-Duran, 254 F.3d 1133, holding that the date of an alien’s adjustment of status is not “the date of admission” under section 237(a)(2)(A)(i) if, at the time of the alien’s adjustment, he or she was already lawfully present in the United States pursuant to an earlier nonimmigrant admission. It should be noted, however, that none of the circuit court cases interpreting the term “admission” within the context of section 237(a)(2)(A)(i)(I) concerned an alien who had previously entered without inspection and then adjusted status to that of an LPR. Zhang, 509 F.3d at 314 (alien “admitted . . . as an F-2 nonimmigrant student”); Aremu, 450 F.3d at 579 (alien “admitted as a nonimmigrant visitor for pleasure”); Abdelqadar, 413 F.3d at 672 (alien lawfully admitted after inspection); Shivaraman, 360 F.3d at 1143 (alien “lawfully entered . . . as an F-1 nonimmigrant student”). It is difficult to predict how the circuits would decide a case under section 237(a)(2)(A)(i)(I) concerning an LPR who adjusted status after entering without inspection. However, if the circuits maintain that an adjustment of status is not an “admission” under section 237(a)(2)(A)(i)(I), such an interpretation would effectively immunize such an alien from deportability under this provision and may subject them to the grounds of inadmissibility under section 212 of the Act.

### Includes Status Adjustment

#### Adjustment of status constitutes admission

Board of Immigration Appeals, 1999– US Department of Justice Board of Immigration Appeals (In re Sara Ofelia ROSAS-Ramirez, Respondent File A92 125 313 - San Diego Decided April 7, 1999, <https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/25/3384.pdf>

Our determination that aliens “lawfully admitted for permanent residence” through the adjustment process are considered to have accomplished an “admission” to the United States is supported by the language of the adjustment provisions themselves. Most notably, under the general provision for adjustment of status, the Attorney General is instructed to “record the alien’s lawful admission for permanent residence.” Section 245(b) of the Act, 8 U.S.C. § 1255(b) (1994). Although adjustment of a legalization applicant under section 245A is not similarly recorded, such an alien is nonetheless characterized as being “lawfully admitted for permanent residence.” Section 245A(b)(1) of the Act. Other provisions for adjustment of status to permanent residence also confer upon the applicant the status of “an alien lawfully admitted for permanent residence.” See sections 209(b) (refugees), 210(a)(2) (special agricultural workers), 244(a) of the Act (suspension of deportation), 8 U.S.C. §§ 1159(b), 1160(a)(2), 1254(a) (1994). The IIRIRA adds an additional provision for cancellation of removal and adjustment of status which confers the status of “an alien lawfully admitted for permanent residence” upon an alien granted such relief. Section 240A(b)(1) of the Act, 8 U.S.C. § 1229b(b)(1) (Supp. II 1996). This provision also instructs the Attorney General to “record the alien’s lawful admission for permanent residence” upon cancellation of removal. Section 240A(b)(3) of the Act. Both before and after enactment of the IIRIRA, admission to permanent resident status occurred through two routes: (1) inspection and authorization at the border and (2) adjustment of status while in the United States. This dual approach to admission to permanent residence is reflected, not only in the two definitions discussed earlier, but also in section 101(a)(13)(C) of the Act, which provides that aliens “lawfully admitted for permanent residence . . . shall not be regarded as seeking an admission into the United States for purposes of the immigration laws” except in a number of situations specifically indicated.2 (Emphasis added.) The directive of section 101(a)(13)(C) regarding the treatment of aliens “lawfully admitted for permanent residence” is consistent with our interpretation that the term “admission” includes those aliens described at section 101(a)(20). In this respect, lawful permanent residents who are returning to the United States are not generally treated as seeking admission because they are treated as having already been admitted in the past.

#### Legal immigration includes adjustment of status

Mulder, 2001 – US Census Bureau (T. J., Hollmann, F. W., Lollock, L. R., Cassidy, R. C., Costanzo, J. M., & Baker, J. D. (2001). U.S., Census Bureau measurement of net international migration to the United States: 1990–2000. <https://www.census.gov/population/www/documentation/twps0051/twps0051.html#legimm> **italics in original**

Legal immigration The sub-component of net international migration, *legal immigration* (LPR), refers to non-citizens who are granted legal permanent residence in the United States by the federal government, or who reside in the United States and will ultimately be granted this status. Legal permanent residence includes the right to remai n in the country indefinitely, to be gainfully employed, and to seek the benefits of U.S. citizenship through naturalization.

### Excludes Undocumented Migrants

#### Legal immigration means entry puruant to an immigration visa

Ramirez, 83(Jesus, 18 Tex. Int'l L. J. 347 (1983) The Simpson-Mazzoli Bill: Altering the Policy of Neglect of Undocumented Immigration from South of the Border, Hein Online)

**Footnote 14** 14. "Legal immigration" refers to entry pursuant to an immigration visa that is authorized by immigration statutes and regulations. See generally INA of 1952, 8 USC § 1181 (1976 & Supp V 1981); 8 CFR § 211.1-212.9 (1982); 8 USC §§ 1421-1435, 1444- 1449 (1976 & Supp V 1981); 8 CFR §§ 334.1-342.9 (1982).

#### Restrictions on legal immigration mean the aff has to remove a rule governing legal admission under visa categories- that excludes rules governing humanitarian or unauthorized entry

Passel and Fix, 1994- Jeffrey S. Passel is Director, Program for Research for Immigration Policy, The Urban Institute, Washington, D.C.; Michael Fix is Director, Immigrant Policy Program, The Urban Institute, Washington, D.C (“U. S. Immigration in a Global Context: Past, Present, and Future” GLOBAL LEGAL STUDIES JOURNAL 2:5, <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1024&context=ijgls>

The structure and goals of U.S. immigration policy are frequently misunderstood in contemporary debates. U.S. immigration policy needs to be viewed not as one, but as three fundamentally different sets of rules. There are those that govern legal immigration (i.e., mainly sponsored admission for family and work); those that govern humanitarian admissions (refugees and asylees); and those that govern illegal entry. The distinction is important for several reasons. Each set of rules is governed by different legislation, involves different networks of bureaucracies, is guided by different goals, and results in immigrants with largely different characteristics. Attention focused on the failure to control undocumented immigration has led journalists, the public, and many politicians to conclude that U.S. immigration policy, as a whole, has failed. Our research and that of others (some of which is presented below) indicate that this is not the case. However, as a result of the focus on undocumented immigration, the "bright line" between legal and illegal policy has been blurred and the legitimacy of legal and humanitarian admissions has been eroded. Another result of failure to recognize these distinctions is the common misunderstanding that U.S. immigration policy is driven almost entirely by economic goals. In fact, legal immigration policy serves many goals. The economic ones can sometimes be contradictory-increasing U.S. competitiveness abroad may conflict with raising the standard of living and protecting U.S. jobs. Immigration policy is also intended to serve the important social goal of unifying families (principally of U.S. citizens) and the cultural goals of promoting diversity in the U.S. population and immigrant stream. Refugee policy is intended to serve the moral goal of promoting human rights. Most current assessments of U.S. immigration policy do not acknowledge the power and value of these non-economic goals. Finally, the number, characteristics, and patterns of adaptation of immigrants entering the United States as refugees, as legal immigrants, and as illegal immigrants differ in important ways that are often ignored in research and policy debates.

### Includes Undocumented

#### Immigrants include all aliens in the US who lack nonimmigrant status

Nechman, 2007– immigration attorney (John, “U.S. IMMIGRATION LAW 101” 3/25, <https://www.americanbar.org/content/dam/aba/administrative/labor_law/meetings/2010/2010_eeo_019.authcheckdam.pdf>

Generally speaking, the INA presumes that all aliens are immigrants, except those who are affirmatively shown to be bona fide nonimmigrants.11 Thus, the category "immigrant" includes aliens who already have lawful permanent residence ("green card") status, aliens in the process of applying for such status, undocumented ("illegal") aliens, and indeed all aliens in the United States who are not in bona fide nonimmigrant status.

# Misc Definitions

## Resolved

### Formal Vote

#### Resolved means to express by formal vote—this is the only definition that’s in the context of the resolution.

Webster’s Revised Unabridged Dictionary, 1998 (dictionary.com)

**Resolved:**5. To express, as an opinion or determination, by resolution and vote; to declare or decide by a formal vote; -- followed by a clause; as, the house resolved (or, it was resolved by the house) that no money should be apropriated (or, to appropriate no money).

### Colon Irrelevant

#### The colon is meaningless – everything after it is what’s important.

Webster’s Guide to Grammar and Writing – 2000 (<http://ccc.commnet.edu/grammar/marks/colon.htm>)

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go on… If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, begin the clause after the colon with a capital letter.

#### The colon just elaborates on what the debate community was resolved to debate:

Encarta World Dictionary, 07(<http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861598666>)

**co·lon** (*plural* co·lons)noun

**Definition:1. punctuation mark:**the punctuation mark (:) used to divide distinct but related sentence components such as clauses in which the second elaborates on the first, or to introduce a list, quotation, or speech. A colon is sometimes used in U.S. business letters after the salutation. Colons are also used between numbers in statements of proportion or time and Biblical or literary references.

## USFG

### National Gov in DC

#### Federal government is the national government that expresses power

Black’s Law Dictionary, 8th Edition, June 1, 2004, pg.716.

Federal government. 1. A national government that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national politics matters – Also termed (in federal states) central government. 2. the U.S. government – Also termed national government. [Cases: United States -1 C.J.S. United States - - 2-3]

#### Federal government is central government

PRINCETON UNIVERSITY WORDNET, 1997, p. http://www.dictionary.com/search?q=federal%20government.

Federal government. n: a government with strong central powers.

#### Federal government is in Washington, D.C.

WEST'S LEGAL THESAURUS/DICTIONARY, 1985, p. 744.

United States: Usually means the federal government centered in Washington, D.C.

#### Federal means relating to the national government of the United States

Black’s Law Dictionary, 1999

**federal,** *adj.* Of or relating to a system of associated governments with a vertical division of governments into national and regional components having different responsibilities; esp., of or relating to the national government of the United States.

## Should

### Duty or Obligation

#### Should is a duty or obligation

Webster's II, 1984, p. 1078

Should is used to express duty or obligation

#### Should is equal to obligation

WORDS AND PHRASES 1953, Vol. 39, p. 313.

The word “should”, denotes an obligation in various degrees, usually milder than ought. Baldassarre v. West Oregon Lumber Co., 239 p.2d 839, 842, 198 Or. 556.

#### Should indicates obligation or duty

Compact Oxford English Dictionary, 8(“should”, 2008, http://www.askoxford.com/concise\_oed/should?view=uk)

should modal verb (3rd sing. should) 1 used to indicate obligation, duty, or correctness. 2 used to indicate what is probable. 3 formal expressing the conditional mood. 4 used in a clause with ‘that’ after a main clause describing feelings. 5 used in a clause with ‘that’ expressing purpose. 6 (in the first person) expressing a polite request or acceptance. 7 (in the first person) expressing a conjecture or hope. USAGE Strictly speaking should is used with I and we, as in I should be grateful if you would let me know, while would is used with you, he, she, it, and they, as in you didn’t say you would be late; in practice would is normally used instead of should in reported speech and conditional clauses, such as I said I would be late. In speech the distinction tends to be obscured, through the use of the contracted forms I’d, we’d, etc.

### Desirability

#### Should expresses desirability

Cambridge Dictionary of American English, 2007 ([http://dictionary.cambridge.org/define.asp?key=should\*1+0&dict=A](http://dictionary.cambridge.org/define.asp?key=should*1+0&dict=A))

**should** (DUTY) auxiliary verb used to express that it is necessary, desirable, advisable, or important to perform the action of the following verb

### Lacks Certainty

#### Should isn’t mandatory

Taylor and Howard, 05 - Resources for the Future, Partnership to Cut Hunger and Poverty in Africa (Michael and Julie, “Investing in Africa's future: U.S. Agricultural development assistance for Sub-Saharan Africa”, 9/12, <http://www.sarpn.org.za/documents/d0001784/5-US-agric_Sept2005_Chap2.pdf>)

Other legislated DA earmarks in the FY2005 appropriations bill are smaller and more targeted: plant biotechnology research and development ($25 million), the American Schools and Hospitals Abroad program ($20 million), women’s leadership capacity ($15 million), the International Fertilizer Development Center ($2.3 million), and clean water treatment ($2 million). Interestingly, in the wording of the bill, Congress uses the term *shall* in connection with only two of these eight earmarks; the others say that USAID *should* make the prescribed amount available. The difference between *shall* and *should* may have legal significance—one is clearly mandatory while the other is a strong admonition—but it makes little practical difference in USAID’s need to comply with the congressional directive to the best of its ability.

Should is permissive—it’s a persuasive recommendation

Words and Phrases, 2002 (“Words and Phrases: Permanent Edition” Vol. 39 Set to Signed. Pub. By Thomson West. P. 370)

Cal.App. 5 Dist. 1976. Term “should,” as used in statutory provision that motion to suppress search warrant should first be heard by magistrate who issued warrant, is used in regular, persuasive sense, as recommendation, and is thus not mandatory but permissive. West’s Ann.Pen Code, § 1538.5(b).---Cuevas v. Superior Court, 130 Cal. Rptr. 238, 58 Cal.App.3d 406 ----Searches 191.

#### Should means desirable or recommended, not mandatory

Words and Phrases, 2002 (“Words and Phrases: Permanent Edition” Vol. 39 Set to Signed. Pub. By Thomson West. P. 372-373)

Or. 1952. Where safety regulation for sawmill industry providing that a two by two inch guard rail should be installed at extreme outer edge of walkways adjacent to sorting tables was immediately preceded by other regulations in which word “shall” instead of “should” was used, and word “should” did not appear to be result of inadvertent use in particular regulation, use of word “should” was intended to convey idea that particular precaution involved was desirable and recommended, but not mandatory. ORS 654.005 et seq.----Baldassarre v. West Oregon Lumber Co., 239 P.2d 839, 193 Or. 556.---Labor & Emp. 2857

## Substantially

### Context Key

#### Substantially should be defined by context.

Devinsky, 2002(Paul, IP UPDATE, VOLUME 5, NO. 11, NOVEMBER 2002, “Is Claim "Substantially" Definite?  Ask Person of Skill in the Art”, http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object\_id/c2c73bdb-9b1a-42bf-a2b7-075812dc0e2d.cfm)

In reversing a summary judgment of invalidity, the U.S. Court of Appeals for the Federal Circuit found that the district court, by failing to look beyond the intrinsic claim construction evidence to consider what a person of skill in the art would understand in a "technologic context," erroneously concluded the term "substantially" made a claim fatally indefinite.  Verve, LLC v. Crane Cams, Inc., Case No. 01-1417 (Fed. Cir. November 14, 2002). The patent in suit related to an improved push rod for an internal combustion engine.  The patent claims a hollow push rod whose overall diameter is larger at the middle than at the ends and has "substantially constant wall thickness" throughout the rod and rounded seats at the tips.  The district court found that the expression "substantially constant wall thickness" was not supported in the specification and prosecution history by a sufficiently clear definition of "substantially" and was, therefore, indefinite.  The district court recognized that the use of the term "substantially" may be definite in some cases but ruled that in this case it was indefinite because it was not further defined. The Federal Circuit reversed, concluding that the district court erred in requiring that the meaning of the term "substantially" in a particular "technologic context" be found solely in intrinsic evidence:  "While reference to intrinsic evidence is primary in interpreting claims, the criterion is the meaning of words as they would be understood by persons in the field of the invention."  Thus, the Federal Circuit instructed that "resolution of any ambiguity arising from the claims and specification may be aided by extrinsic evidence of usage and meaning of a term in the context of the invention."  The Federal Circuit remanded the case to the district court with instruction that "[t]he question is not whether the word 'substantially' has a fixed meaning as applied to 'constant wall thickness,' but how the phrase would be understood by persons experienced in this field of mechanics, upon reading the patent documents."

#### Alternative interpretations are even more ambiguous and destroy limits.

Stark, 1997 – patent attorney from Tennessee (Stephen, “NOTE: KEY WORDS AND TRICKY PHRASES: AN ANALYSIS OF PATENT DRAFTER'S ATTEMPTS TO CIRCUMVENT THE LANGUAGE OF 35 U.S.C., Journal of Intellectual Property Law, Fall, 1997 5 J. Intell. Prop. L. 365, lexis)   
In patent law, ambiguity of claim language necessarily results in uncertainty in the scope of protection. This uncertainty impairs all of society--the patentee, the competitor, and the public. The process of determining a particular meaning to define a term in a patent claim may result in ambiguity. 1. Ordinary Meaning. First, words in a patent are to be given their ordinary meaning unless otherwise defined. [n30](http://www.lexisnexis.com.proxy.lib.umich.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1296265187901&returnToKey=20_T11113197108&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.43807.141755266784" \l "n30) However, what if a particular word has multiple meanings? For example, consider the word "substantial." The Webster dictionary gives eleven different definitions of the word substantial. [n31](http://www.lexisnexis.com.proxy.lib.umich.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1296265187901&returnToKey=20_T11113197108&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.43807.141755266784" \l "n31) Additionally, there are another two definitions specifically provided for the adverb "substantially." [n32](http://www.lexisnexis.com.proxy.lib.umich.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1296265187901&returnToKey=20_T11113197108&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.43807.141755266784" \l "n32) Thus, the "ordinary meaning" is not clear. The first definition of the word "substantial" given by the Webster's Dictionary is "of ample or considerable amount, quantity, size, etc." [n33](http://www.lexisnexis.com.proxy.lib.umich.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1296265187901&returnToKey=20_T11113197108&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.43807.141755266784" \l "n33) Supposing that this is the precise definition that the drafter had in mind when drafting the patent, the meaning of "ample or considerable amount" appears amorphous. This could have one of at least the following interpretations: (1) almost all, (2) more than half, or (3) barely enough to do the job. Therefore, the use of a term, such as "substantial," which usually has a very ambiguous meaning, makes the scope of protection particularly hard to determine.

### Means Essential

#### Substantially means in the main, including the essential part

Words and Phrases, 2 (Words and Phrases Permanent Edition, “Substantially,” Volume 40B, p. 324-330 October 2002, Thomson West)

Okla. 1911. “Substantially” means in substance: in the main; essentially; by including the material or essential part.

#### Substantially means essential and material

Words and Phrases, 2(40B W&P – 328)

Ind. 1962. “Substantially” means meeting requirements in essential and material parts.

### W/O Material Quals

#### Substantially is without material qualification

Black’s Law Dictionary 1991[p. 1024]

Substantially - means essentially; without material qualification.

## Reduce

### Decrease

#### Reduce means to decrease the quantity of

Ingram, 1988– law student (Cindi M. Ingram, Plaintiff's Right to Recover from Non-Settling Tortfeasor When Settlement with Joint Tortfeasor Exceeds the Jury Award, 53 Mo. L. Rev. (1988) Available at: <http://scholarship.law.missouri.edu/mlr/vol53/iss2/8>

In answering this question, the Hampton court turned to various principles for guidance. The court looked first to the "plain meaning" of the statute.6 " Interpretation of a statute involves ascertaining the legislative intent behind the enactment of the statute. Consideration of the "plain meaning" of the words used in the statute is a basic principle of statutory construction in determining legislative intent.6 7 The Hampton court discussed the "plain meaning" of the words "reduce" and "claim" in reaching its construction of the statute. The court referred to the dictionary definition of "reduce" as meaning "to diminish in size, amount, extent or number; to make small or to lower, bring down or to change the denomination of a quantity." 68 The court then judicially defined "claim" as "the amount of damages as determined by an impartial fact finder - the jury."'

### Excludes increase

#### Reduce cannot mean increase

US Federal Court of Appeals, 1999 “CUNA MUTUAL LIFE INSURANCE COMPANY, Plaintiff-Appellant, v. UNITED STATES, Defendant-Appellee,” Lexis

"The amount determined" under § 809, by which the policyholder dividend deduction is to be "reduced," is the "excess" specified in § 809(c)(1). Like the word "excess," the word "reduced" is a common, unambiguous, non-technical term that is given its ordinary meaning. See San Joaquin Fruit & Inv. Co., 297 U.S. at 499. "Reduce" means "to diminish in size, amount, extent, or number." Webster's Third International Dictionary 1905. Under CUNA's interpretation of "excess" in § 809(c), however, the result of the "amount determination" under § 809 would be not to reduce the policyholder dividends deduction, but to increase it. This would directly contradict the explicit instruction in § 808(c)(2) that the deduction "be reduced." The word "reduce" cannot be interpreted, as CUNA would treat it, to mean "increase."

### Not eliminate

#### Reduce doesn’t mean eliminate.

Michigan District Court, 2011 “SAGINAW OFFICE SERVICE, INC., Plaintiff, v. BANK OF AMERICA, N.A., Defendant. Civil Action No. 09-CV-13889 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION,” Lexis

In determining whether the words "reduce" and "adjust" are ambiguous, the Court is directed to consider the ordinary meanings of the words, Rory, 703 N.W.2d at 28, and to harmonize [\*11] the disputed terms with other parts of the contract, Royal, 706 N.W.2d at 432 ("construction should be avoided that would render any part of the contract surplusage or nugatory"). "When determining the common, ordinary meaning of a word or phrase, consulting a dictionary is appropriate." Stanton v. City of Battle Creek, 466 Mich. 611, 647 N.W.2d 508 (Mich. 2002). The Court finds that the plain meanings of these terms do not unambiguously support the Bank's position. The dictionary definition of "adjust" is to "adapt" or "to bring to a more satisfactory state." Webster's Third New Int'l Dictionary 27 (2002) ("Webster's"). This is a fairly broad definition, which may be subject to, alternatively, narrower or more expansive scope. To say that the complete elimination of a schedule brings it to a more satisfactory state is undoubtedly **an expansive view** of adjustment. It is the Court's duty to determine the intent of the contracting parties from the language of the contract itself, Rory, 703 N.W.2d at 30 ("the intent of the contracting parties is best discerned by the language actually used in the contract"), and in this case, it cannot unambiguously be said that the sense in which the parties used these [\*12] terms embraces the Bank's more expansive definition. Likewise, "**reduce" means "to diminish** in size, amount, extent, or number," Webster's, at 1905, **but** the term does **not**, in the context of the TSA, unambiguously embody **an expansive scope that views complete deletion** as a subset of diminution.

#### Reduce precludes elimination.

Words and Phrases, 2002 (Volume 36B, p. 80)

The word "reduce," in its ordinary signification, does not mean to cancel, destroy, or bring to naught, but to diminish, lower, or bring to an inferior state. Green v. Sklar, 74 N. E. 595, 596, 188 Mass. 363.

## Its

### Possessive

#### Its is a possessive pronoun showing ownership

Glossary of English Grammar Terms, 2005 (http://www.usingenglish.com/glossary/possessive-pronoun.html)

Mine, yours, his, hers, its, ours, theirs are the possessive pronouns used to substitute a noun and to show possession or ownership. EG. This is your disk and that's mine. (Mine substitutes the word disk and shows that it belongs to me.)

#### Its means possession

Encarta, 2009 (Encarta World English Dictionary, http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861622735)

its [ its ] adjective Definition: **indicating possession**: used to indicate that something belongs or relates to something http://encarta.msn.com/xImages/dictionary/bullet.gifhttp://encarta.msn.com/xImages/trans.gifThe park changed its policy.

#### Its must exclusively refer to the preceding subject to make any sense

Manderino, 1973 (Justice for the Supreme Court of Pennsylvania, Sigal, Appellant, v. Manufacturers Light and Heat Co., No. 26, Jan. T., 1972, Supreme Court of Pennsylvania, 450 Pa. 228; 299 A.2d 646; 1973 Pa. LEXIS 600; 44 Oil & Gas Rep. 214, lexis)

On its face, the written instrument granting easement rights in this case is ambiguous. The same sentence which refers to the right to lay a 14 inch pipeline (singular) has a later reference to "said lines" (plural). The use of the plural "lines" makes no sense because the only previous reference has been to a "line" (singular). The writing is additionally ambiguous because other key words which are "also may change the size of its pipes" are dangling in that the possessive pronoun "its" before the word "pipes" does not have any subject preceding, to which the possessive pronoun refers. The dangling phrase is the beginning of a sentence, the first word of which does not begin with a capital letter as is customary in normal English [\*\*\*10]  usage. Immediately preceding the "sentence" which does not begin with a capital letter, there appears a dangling  [\*236]  semicolon which makes no sense at the beginning of a sentence and can hardly relate to the preceding sentence which is already properly punctuated by a closing period. The above deviations from accepted grammatical usage make difficult, if not impossible, a clear understanding of the words used or the intention of the parties. This is particularly true concerning the meaning of a disputed phrase in the instrument which states that the grantee is to pay damages from ". . . the relaying, maintaining and operating said pipeline. . . ." The instrument is ambiguous as to what the words ". . . relaying . . . said pipeline . . ." were intended to mean.

## Restrictions

## Legal Immigration