

The Americas

U.S. and Mexico discussing a deal that could slash migration at the border

By [Joshua Partlow](#) and

[Nick Miroff](#)

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MEXICO CITY — While President Trump regularly berates Mexico for “doing nothing” to stop illegal migration, behind the scenes the two governments are considering a deal that could drastically curtail the cross-border migration flow.

The proposal, known as a “safe third country agreement,” would potentially require asylum seekers transiting through Mexico to apply for protection in that nation rather than in the United States. It would allow U.S. border guards to turn back such asylum seekers at border crossings and quickly return to Mexico anyone who has already entered illegally seeking refuge, regardless of their nationality.

U.S. officials believe this type of deal would discourage many Central American families from trying to reach the United States. Their [soaring numbers](#) have strained U.S. immigration courts and overwhelmed the U.S. government’s ability to detain them. The Trump administration says the majority are looking for jobs — rather than fleeing persecution — and are taking advantage of American generosity to gain entry and avoid deportation.

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“We believe the flows would drop dramatically and fairly immediately” if the agreement took effect, said a senior Department of Homeland Security official, speaking on the condition of anonymity to

discuss negotiations with the Mexican government, which the official said had gathered momentum in recent weeks.

The proposed agreement has divided the Mexican government and alarmed human rights activists who maintain that many of the migrants are fleeing widespread gang violence and could be exposed to danger in Mexico.

The possible accord is likely to be discussed this week at high-level meetings in Latin America. Homeland Security Secretary Kirstjen Nielsen was scheduled to meet Tuesday and Wednesday with foreign ministers from Central America and Mexico in Guatemala City. Secretary of State Mike Pompeo is due to visit Mexico City on Friday.

On the surface, such an agreement would appear difficult for Mexico. The number of Central Americans claiming asylum in Mexico has risen sharply in recent years, and many analysts warn that the country does not have the capacity to settle fresh waves of people. Last year, Mexico's refugee agency failed to attend to more than half of the 14,000 asylum applications it received, [according](#) to Mexico's National Human Rights Commission.

Critics of the plan say that President Enrique Peña Nieto's government should not reach a deal at a time when the Trump administration has used tactics such as [separating migrant parents](#) from their children at the border.

"It's ridiculous," said one Mexican official who was not authorized to comment publicly and spoke on the condition of anonymity. "Nobody really knows what it is we're getting in return."

Even so, some Mexican officials have warmed to the idea.

They argue that requiring Central Americans to apply for asylum in Mexico would undercut the [smuggling networks](#) that charge fees of \$10,000 or more for a journey from Central America to the United States.

The senior DHS official said the U.S. government has signaled to Mexico that it would be prepared to offer significant financial aid to help the country cope with a surge of asylum seekers, at least in the short term. The investment, which would be paid through the U.S. security-assistance plan for Mexico, [the Merida Initiative](#), would quickly pay for itself, the DHS official argued.

"Look at the amount of money spent on border security, on courts, on detention and immigration enforcement," the senior official said. "It'd be pennies on the dollar to support Mexico in this area."

Such an agreement could also allow Mexico's government to develop its capacity to settle asylum seekers and improve its battered international reputation by taking a public stance in favor of human rights, according to supporters.

“Mexico is interested [in] addressing the fact that both the United States and Mexico have experienced a significant increase in the number of asylum and refugee requests and that a large number of Central American nationals enter Mexico with the intent to reach the United States,” Gerónimo Gutiérrez, Mexico’s ambassador to Washington, said in an emailed statement. “We have engaged the U.S. government in conversations about this matter in order to identify possible areas of cooperation, but we have not [reached] any conclusion.”

The U.S. government has had a “safe third country agreement” [with Canada](#) since 2004, preventing migrants from transiting through that country to apply for asylum in the United States.

But violence has reached record [levels](#) in Mexico, and the border states are particularly dangerous, which could put migrants at risk if U.S. authorities began busing Central Americans back into Mexico.

The State Department’s travel advisories warn U.S. citizens against visiting parts of Mexico, including the border state of Tamaulipas.

“Violent crime, such as homicide, kidnapping, carjacking, and robbery, is widespread” in the state, a [warning from March](#) said.

“It’s one thing to say we’re going to have a ‘safe third country agreement’ with Canada,” said Roberta Jacobson, who left her post as U.S. ambassador to Mexico this spring. “It’s another thing to say you’re safe and well as soon as you cross the Guatemalan border into Mexico.”

It might seem surprising that Mexico and the United States are in negotiations at all on migration. Relations between the countries have slumped to their lowest point in years, with the United States threatening to dump the North American Free Trade Agreement and Mexico [leading a push](#) recently at the Organization of American States to condemn the Trump administration’s family separation practices as “cruel and inhumane.”

But DHS officials believe they have a window to secure a deal in the lame-duck phase of Peña Nieto’s administration, which ends on Dec. 1. Some on the Mexican side see such an accord as a possible valuable chit in broader negotiations over tariffs and the future of North American free trade.

Under U.S. asylum laws, applicants can generally make a claim only once they are on American soil. That can occur at an airport or a land or sea port of entry and is known as an “affirmative asylum” claim.

But the process can also be initiated by someone who seeks to avoid deportation after crossing illegally, and such “defensive asylum” claims account for the majority of those filed by Central Americans taken into custody along the border. The courts received 119,144 defensive asylum applications in 2017, up from 68,530 in 2016 and just 13,214 in 2008.

Attorney General Jeff Sessions's "zero tolerance" crackdown at the border this spring attempted to deter the practice by charging anyone crossing illegally with a federal crime, regardless of whether the person planned to claim asylum. Those criminal proceedings were the mechanism used to separate migrant parents from their children, until Trump's executive order suspended the practice last month.

"I think the U.S. is looking at a wide range of ways to deter people from coming or to block them entirely, and this would be one way to outsource many of the issues related to migrants and asylum seekers to our southern neighbor," said Royce Murray, policy director at the American Immigration Council, a migrant advocacy group.

Arrests along the U.S.-Mexico border — a barometer of overall illegal crossings — had plunged in the months after Trump's inauguration but began climbing again last summer. A sudden surge this spring infuriated the president, who leveled his anger at Nielsen.


She broached the "safe third country agreement" when she visited Mexico in mid-April. But she received contradictory signals from Mexican counterparts, according to two people with knowledge of the talks.

Mexican officials say the plan has divided Peña Nieto's government. Some in the Foreign Ministry who want to improve ties with the United States remain in favor of at least a pilot project, while others in the Interior Ministry, who would have to handle resettling thousands of Central Americans, stand opposed, officials said.

The winner of the July 1 presidential election, Andrés Manuel López Obrador, has yet to weigh in publicly on the issue. Roberto Velasco, a spokesman for the incoming foreign minister, Marcelo Ebrard, said that the new administration does not "have a position yet since we don't know the details of the proposal or the negotiations between the two countries."




Joshua Partlow

Joshua Partlow is The Washington Post's bureau chief in Mexico. He has served previously as the bureau chief in Kabul and as a correspondent in Brazil and Iraq. Follow 



Nick Miroff

Nick Miroff covers immigration enforcement, drug trafficking and the Department of Homeland Security on The Washington Post's National Security desk. He was a Post foreign correspondent in Latin America from 2010 to 2017, and has been a staff writer since 2006. Follow 

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