**Question 2: Information about recent or current legislation/policies/management measures with the goal of controlling, reducing, or impeding the arrival of migrants**

* [DHS Re-implementation of Migrant Protection Protocols (MPP) Program](https://www.dhs.gov/migrant-protection-protocols)
  + MPP returns asylum seekers at the US-Mexico border back to Mexico with a court date to return for their immigration proceedings.
  + This program applies to individuals from countries other than Mexico who are migrating by land from Mexico to the US.
  + The Biden administration and Mexico reached an agreement to restart the program in December 2021.
  + Chronology
    - MPP was initiated in January 2019 under the Trump administration and dismantled when President Biden took office.
    - In December 2021, a [court order refused to vacate the injunction, requiring the continuation of MPP](https://www.aila.org/advo-media/issues/all/port-courts), but the program could only be reimplemented with the independent consent of the Mexican government agreeing to accept returns.
    - [Biden’s administration is planning to terminate the program once the injunction is lifted](https://www.dhs.gov/news/2021/10/29/dhs-issues-new-memo-terminate-mpp#:~:text=Mayorkas%20today%20issued%20a%20new,to%20achieve%20needed%20systemic%20change.).
  + Border crossing has been closed to asylum seekers while remaining open to plane traffic and long-haul truckers.
  + The program sends asylum seekers to Mexico despite the [dangers and insecurities](https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols) migrants face there.
    - [MPP “could put the safety and wellbeing of asylum-seeking children and their families at risk.”](https://www.unicef.org/press-releases/unicef-statement-reimplementation-migrant-protection-protocols-remain-mexico-policy)
  + Changes compared to the program’s original implementation ([All publicly available guidance here](https://www.aila.org/advo-media/issues/all/port-courts))
    - The program now includes anyone from the Western Hemisphere, adding Haitians and other Caribbean nationals, a provision not required by the court order.
    - Exceptions have increased for vulnerable individuals.
      * Exceptions now include those “with a known mental or physical health issue” and “those at risk of harm in Mexico due their [sic] sexual orientation or gender identity.”
        + [“CBP failed to conduct thorough health screenings.”](https://twitter.com/JuliaNeusner/status/1470789732032516109)
        + [CBP threw away one Nicaraguan asylum seeker’s chronic migraine medication without conducting a health screening.](https://twitter.com/JuliaNeusner/status/1470789736503681025)
      * Unaccompanied children remain exempt.
    - The reimplementation includes an increased ability for individuals to petition being removed from the program due to a fear of persecution in Mexico.
      * The new implementation includes access to a *Nonrefoulement* interview.
        + The new implementation permits migrants to speak to an attorney during this interview, but there is a limited number of attorneys available.
      * [The standard of proof that a migrant will face persecution in Mexico is reduced from “more likely than not” to a “reasonable possibility.”](https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols)
    - The reimplementation includes supposed increased access to counsel, safety, and assistance, [but migrants do not have access to due process](https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols).
      * Of the 70,000 migrants sent to Mexico under the original implementation, 7.5% were able to hire attorneys.
      * “By December 2020, of the 42,012 MPP cases that had been completed under MPP 1.0 [the original implementation], only 521 people were granted relief in immigration court.”
    - All those in the program will be vaccinated and required to show proof of vaccination upon reentry.
    - Court dates will be heard within 6 months for everyone in the MPP program.
  + Venezuelans who were stranded in Mexico due to MPP are excluded from the Temporary Protected Status designation because the Biden administration limits [TPS eligibility to those who were already physically present in the US at the time of designation](https://www.dhs.gov/news/2021/03/08/secretary-mayorkas-designates-venezuela-temporary-protected-status-18-months), March 8, 2021.
* [Title 42 Extension](https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-_Final_8-2-21.pdf)
  + Title 42 is a provision of US health law used to expel migrants and asylum seekers back to Mexico or their home countries, meanwhile allowing other travelers to cross the border without COVID-19 testing or quarantine requirements.
  + Chronology
    - On March 20, 2020, this provision was invoked by the Trump administration and continued by the Biden administration.
    - On September 16, 2021, a federal judge blocked the administration from using Title 42 to expel migrant families, ruling that the law cannot prevent individuals from seeking asylum. Then, the Washington D.C. Circuit Court of Appeals issued a stay of that ruling, preserving the administration’s ability to use Title 42 to expel migrants.
    - On July 16, 2021, the Biden administration issued a [Title 42 Order Reassessment and Exception for Unaccompanied Noncitizen Children.](http://html)
    - In August 2021, the CDC issued a [memo](https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-_Final_8-2-21.pdf) to renew the policy per the Biden administration's orders.
  + Title 42 is the Biden administration’s primary border control strategy, used in conjunction with MPP.
    - [There have been over 1.2 million Title 42 expulsions since the beginning of the pandemic.](https://www.americanimmigrationcouncil.org/research/guide-title-42-expulsions-border)
  + This strategy is not a valid public health protective measure.
    - The CDC originally objected to this use of Title 42, with agency scientists reporting that [there is no evidence showing that the use of Title 42 to expel migrants will reduce the spread of COVID-19](https://phr.org/our-work/resources/neither-safety-nor-health/).
    - Olivia Troye, a former top aide to Mike Pence resigned in protest to this implementation of Title 42.
  + Title 42 largely prevents migrants from seeking asylum, requesting humanitarian assistance, or accessing other legal provisions before rapidly expelling them.
    - [Thousands of Haitians](https://www.whitehouse.gov/briefing-room/press-briefings/2021/09/24/press-briefing-by-press-secretary-jen-psaki-and-secretary-of-homeland-security-alejandro-mayorkas-september-24-2021/) have been expelled back to Haiti and other unsafe countries, despite their well-documented dangers and instability.
      * Haitians reported inhumane treatment and being deported [“like animals.”](https://www.theguardian.com/global-development/2021/sep/26/they-treated-us-like-animals-haitians-angry-and-in-despair-at-being-deported-from-us)
      * The US special envoy for Haiti [Daniel Foote](https://www.theguardian.com/us-news/2021/sep/23/haiti-us-envoy-resigns-daniel-foote-migrant-deportations-letter) and Top State adviser Harold Koh resigned due to the [“inhumane”](https://www.politico.com/news/2021/10/04/top-state-adviser-leaves-post-title-42-515029) treatment of Haitian migrants.
    - [Venezuelans seeking asylum at the US-Mexico border, who previously resided in Colombia, are regularly transferred back to Colombia without access to asylum in the US](https://www.humanrightsfirst.org/sites/default/files/LetterTitle42ExpulsionsVenezuelansColombia.pdf).
      * Many Venezuelans have successfully sought asylum in Colombia, but [it is not safe for all Venezuelans in Colombia](https://codhes.files.wordpress.com/2021/06/20210622_-bci_96_fnl-1.pdf).

**Question 3: How is the concept of “safe third country” applied; does your country have a list of safe third countries to help with the process of immigration and asylum at the borders; any bilateral or multilateral agreements of collective or automatic readmission of migrants of certain nationalities**

* The only Safe Third Country agreement the US currently holds is with Canada.
* Through formal and informal Safe Third Country agreements with Mexico and other Latin American countries, the Biden administration has attempted to shift the responsibility of providing migrants with humanitarian assistance onto Latin American countries and avoid upholding migrants’ rights to seek asylum in the US.
* In 2019, the Trump administration attempted to convince Mexico to sign a Safe Third Country agreement, but Mexico refused.
  + Later, the [Biden administration pursued a similar agreement](https://www.cbsnews.com/news/immigration-biden-border-policies-trump-era/) that would allow the US to send all non-Mexican asylum seekers back to Mexico.
  + Still, through the use of MPP and Title 42, the Biden administration has been informally treating Mexico as if it were a Safe Third Country.
* Instead, the [Trump administration signed agreements](https://www.dhs.gov/news/2020/12/29/dhs-announces-guatemala-el-salvador-and-honduras-have-signed-asylum-cooperation) with [Guatemala](https://www.state.gov/wp-content/uploads/2020/01/19-1115-Migration-and-Refugees-Guatemala-ACA.pdf), [El Salvador](https://immpolicytracking.org/policies/united-states-and-el-salvador-sign-agreement-to-transfer-those-seeking-asylum-to-el-salvador/#/tab-policy-documents), and [Honduras](https://immpolicytracking.org/policies/us-signs-safe-third-country-agreement-honduras/#/tab-policy-documents), called Asylum Cooperative Agreements (ACAs).
  + ACAs allowed the US to send individuals back to these countries if they passed through them en route to the US-Mexico border.
  + The rationale of these ACAs was to “[share the distribution of asylum claims](https://www.federalregister.gov/documents/2019/11/19/2019-25137/implementing-bilateral-and-multilateral-asylum-cooperative-agreements-under-the-immigration-and)” among the countries involved.
  + [According to the ACLU](https://www.aclu.org/legal-document/complaint-ut-v-barr), the ACAs were unlawful and risked putting asylum seekers in unsafe environments.
    - The [statutory requirements](https://www.aclu.org/legal-document/complaint-ut-v-barr) for implementing Safe Third Country agreements are not met, namely the requirement that “the asylum seeker would have a full and fair opportunity to seek asylum in the ‘safe third country’ and would not face persecution or torture there.”
    - However, Guatemala, Honduras, and El Salvador are all “[dangerous, refugee-producing countries with asylum systems that are skeletal at best](https://www.aclu.org/legal-document/complaint-ut-v-barr),” and the program has been expelling migrants to remote areas with unfamiliar and unsafe travel conditions.
  + [On February 6, 2021, the Biden administration suspended and began the process of terminating these agreements.](https://www.state.gov/suspending-and-terminating-the-asylum-cooperative-agreements-with-the-governments-el-salvador-guatemala-and-honduras/) 
    - The ACAs in El Salvador and Honduras were never implemented.
    - US-Guatemala transfers under the agreement had been paused since March 2020 due to COVID-19.
* On January 27, 2022, the Biden administration began flying Venezuelans who previously resided in Colombia back to Colombia without a chance to seek asylum in the US.
  + The administration attempted to justify this practice by citing health and safety concerns related to the pandemic.
  + This marks another “[informal and opaque](https://www.humanrightsfirst.org/sites/default/files/LetterTitle42ExpulsionsVenezuelansColombia.pdf)” agreement with a third country without a formal Safe Third Country agreement.
  + There has been a rising number of Venezuelan migrants seeking asylum in the US.
    - [In December 2021, 13,000 single adults from Venezuela arrived at the US-Mexico border, up from 96 in December 2020](https://www.cbp.gov/newsroom/stats/nationwide-encounters), the second highest nationality to cross the US-Mexico border without documentation.
  + The specific number of Venezuelan asylum seekers who will be expelled to Colombia has not been determined, but the Biden administration said that the transfers are occurring in coordination with both countries.