

Title 3—

Proclamation 9822 of November 9, 2018

The President

Addressing Mass Migration Through the Southern Border of the United States

By the President of the United States of America

A Proclamation

The United States expects the arrival at the border between the United States and Mexico (southern border) of a substantial number of aliens primarily from Central America who appear to have no lawful basis for admission into our country. They are traveling in large, organized groups through Mexico and reportedly intend to enter the United States unlawfully or without proper documentation and to seek asylum, despite the fact that, based on past experience, a significant majority will not be eligible for or be granted that benefit. Many entered Mexico unlawfully—some with violence—and have rejected opportunities to apply for asylum and benefits in Mexico. The arrival of large numbers of aliens will contribute to the overloading of our immigration and asylum system and to the release of thousands of aliens into the interior of the United States. The continuing and threatened mass migration of aliens with no basis for admission into the United States through our southern border has precipitated a crisis and undermines the integrity of our borders. I therefore must take immediate action to protect the national interest, and to maintain the effectiveness of the asylum system for legitimate asylum seekers who demonstrate that they have fled persecution and warrant the many special benefits associated with asylum.

In recent weeks, an average of approximately 2,000 inadmissible aliens have entered each day at our southern border. In Fiscal Year 2018 overall, 124,511 aliens were found inadmissible at ports of entry on the southern border, while 396,579 aliens were apprehended entering the United States unlawfully between such ports of entry. The great number of aliens who cross unlawfully into the United States through the southern border consumes tremendous resources as the Government seeks to surveil, apprehend, screen, process, and detain them.

Aliens who enter the United States unlawfully or without proper documentation and are subject to expedited removal may avoid being promptly removed by demonstrating, during an initial screening process, a credible fear of persecution or torture. Approximately 2 decades ago, most aliens deemed inadmissible at a port of entry or apprehended after unlawfully entering the United States through the southern border were single adults who were promptly returned to Mexico, and very few asserted a fear of return. Since then, however, there has been a massive increase in fear-of-persecution or torture claims by aliens who enter the United States through the southern border. The vast majority of such aliens are found to satisfy the credible-fear threshold, although only a fraction of the claimants whose claims are adjudicated ultimately qualify for asylum or other protection. Aliens found to have a credible fear are often released into the interior of the United States, as a result of a lack of detention space and a variety of other legal and practical difficulties, pending adjudication of their claims in a full removal proceeding in immigration court. The immigration adjudication process often takes years to complete because of the growing volume of claims and because of the need to expedite proceedings for detained aliens. During that time, many released aliens fail to appear for hearings, do not

comply with subsequent orders of removal, or are difficult to locate and remove.

Members of family units pose particular challenges. The Federal Government lacks sufficient facilities to house families together. Virtually all members of family units who enter the United States through the southern border, unlawfully or without proper documentation, and that are found to have a credible fear of persecution, are thus released into the United States. Against this backdrop of near-assurance of release, the number of such aliens traveling as family units who enter through the southern border and claim a credible fear of persecution has greatly increased. And large numbers of family units decide to make the dangerous and unlawful border crossing with their children.

The United States has a long and proud history of offering protection to aliens who are fleeing persecution and torture and who qualify under the standards articulated in our immigration laws, including through our asylum system and the Refugee Admissions Program. But our system is being overwhelmed by migration through our southern border. Crossing the border to avoid detection and then, if apprehended, claiming a fear of persecution is in too many instances an avenue to near-automatic release into the interior of the United States. Once released, such aliens are very difficult to remove. An additional influx of large groups of aliens arriving at once through the southern border would add tremendous strain to an already taxed system, especially if they avoid orderly processing by unlawfully crossing the southern border.

The entry of large numbers of aliens into the United States unlawfully between ports of entry on the southern border is contrary to the national interest, and our law has long recognized that aliens who seek to lawfully enter the United States must do so at ports of entry. Unlawful entry puts lives of both law enforcement and aliens at risk. By contrast, entry at ports of entry at the southern border allows for orderly processing, which enables the efficient deployment of law enforcement resources across our vast southern border.

Failing to take immediate action to stem the mass migration the United States is currently experiencing and anticipating would only encourage additional mass unlawful migration and further overwhelming of the system.

Other presidents have taken strong action to prevent mass migration. In Proclamation 4865 of September 29, 1981 (High Seas Interdiction of Illegal Aliens), in response to an influx of Haitian nationals traveling to the United States by sea, President Reagan suspended the entry of undocumented aliens from the high seas and ordered the Coast Guard to intercept such aliens before they reached United States shores and to return them to their point of origin. In Executive Order 12807 of May 24, 1992 (Interdiction of Illegal Aliens), in response to a dramatic increase in the unlawful mass migration of Haitian nationals to the United States, President Bush ordered additional measures to interdict such Haitian nationals and return them to their home country. The Supreme Court upheld the legality of those measures in *Sale v. Haitian Centers Council, Inc.*, 509 U.S. 155 (1993).

I am similarly acting to suspend, for a limited period, the entry of certain aliens in order to address the problem of large numbers of aliens traveling through Mexico to enter our country unlawfully or without proper documentation. I am tailoring the suspension to channel these aliens to ports of entry, so that, if they enter the United States, they do so in an orderly and controlled manner instead of unlawfully. Under this suspension, aliens entering through the southern border, even those without proper documentation, may, consistent with this proclamation, avail themselves of our asylum system, provided that they properly present themselves for inspection at a port of entry. In anticipation of a large group of aliens arriving in the coming weeks, I am directing the Secretary of Homeland Security to commit additional resources to support our ports of entry at the southern border

to assist in processing those aliens—and all others arriving at our ports of entry—as efficiently as possible.

But aliens who enter the United States unlawfully through the southern border in contravention of this proclamation will be ineligible to be granted asylum under the regulation promulgated by the Attorney General and the Secretary of Homeland Security that became effective earlier today. Those aliens may, however, still seek other forms of protection from persecution or torture. In addition, this limited suspension will facilitate ongoing negotiations with Mexico and other countries regarding appropriate cooperative arrangements to prevent unlawful mass migration to the United States through the southern border. Thus, this proclamation is also necessary to manage and conduct the foreign affairs of the United States effectively.

NOW, THEREFORE, I, DONALD J. TRUMP, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(f) and 1185(a), respectively) hereby find that, absent the measures set forth in this proclamation, the entry into the United States of persons described in section 1 of this proclamation would be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Suspension and Limitation on Entry.* The entry of any alien into the United States across the international boundary between the United States and Mexico is hereby suspended and limited, subject to section 2 of this proclamation. That suspension and limitation shall expire 90 days after the date of this proclamation or the date on which an agreement permits the United States to remove aliens to Mexico in compliance with the terms of section 208(a)(2)(A) of the INA (8 U.S.C. 1158(a)(2)(A)), whichever is earlier.

Sec. 2. *Scope and Implementation of Suspension and Limitation on Entry.* (a) The suspension and limitation on entry pursuant to section 1 of this proclamation shall apply only to aliens who enter the United States after the date of this proclamation.

(b) The suspension and limitation on entry pursuant to section 1 of this proclamation shall not apply to any alien who enters the United States at a port of entry and properly presents for inspection, or to any lawful permanent resident of the United States.

(c) Nothing in this proclamation shall limit an alien entering the United States from being considered for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) or protection pursuant to the regulations promulgated under the authority of the implementing legislation regarding the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or limit the statutory processes afforded to unaccompanied alien children upon entering the United States under section 279 of title 6, United States Code, and section 1232 of title 8, United States Code.

(d) No later than 90 days after the date of this proclamation, the Secretary of State, the Attorney General, and the Secretary of Homeland Security shall jointly submit to the President, through the Assistant to the President for National Security Affairs, a recommendation on whether an extension or renewal of the suspension or limitation on entry in section 1 of this proclamation is in the interests of the United States.

Sec. 3. *Interdiction.* The Secretary of State and the Secretary of Homeland Security shall consult with the Government of Mexico regarding appropriate steps—consistent with applicable law and the foreign policy, national security, and public-safety interests of the United States—to address the approach of large groups of aliens traveling through Mexico with the intent of entering the United States unlawfully, including efforts to deter, dissuade, and return

such aliens before they physically enter United States territory through the southern border.

Sec. 4. Severability. It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its other provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the failure to follow certain procedures, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 5. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.

