



How the U.S. Legal Immigration System Works

EXPLAINER

By *Julia Gelatt*

Legal immigration to the United States occurs through an [alphabet soup](#) of visa categories, but a small number of pathways. Family relationships, ties to employers, or the need for humanitarian protection are the top channels for immigrants seeking temporary or permanent U.S. residence. And to a lesser extent, people can come if they possess sought-after skills or are selected in the green-card lottery. Visa categories have varying requirements, are subject to different numerical caps, and offer differing rights and responsibilities.

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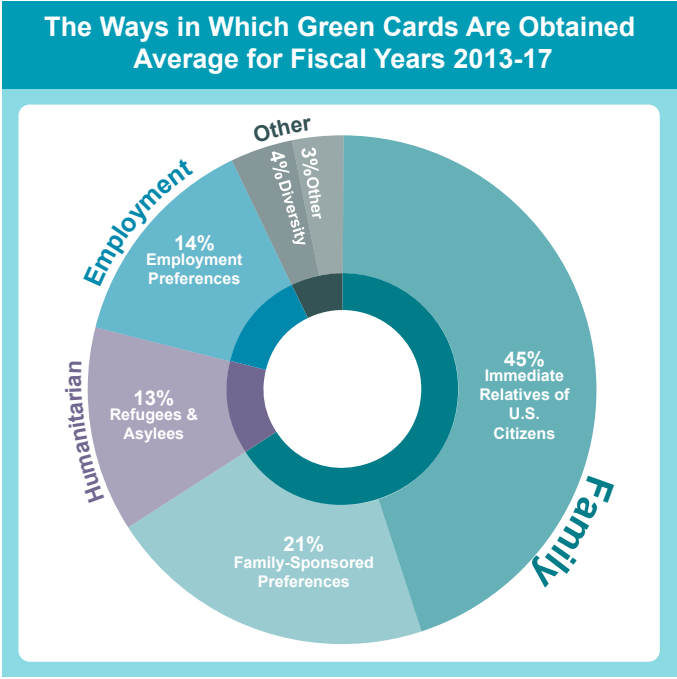
Today’s legal immigration system, which rests on laws enacted in 1965 and 1990, has two main visa categories: permanent visas (formally known as immigrant visas) and temporary ones (nonimmigrant visas).

Permanent Immigration

Immigrants seeking permanent residence in the United States apply for a green card, the informal term for lawful permanent resident (LPR) status. LPRs are allowed to remain indefinitely, provided they are not convicted of a crime that makes them removable. They can apply for U.S. citizenship after five years, or three years if they marry a U.S. citizen.

In recent years, the United States has [granted about 1 million green cards](#) annually; while the share varies a bit from year to year, roughly half are given to immigrants already in the United States who are adjusting from another status (for example temporary worker or student). The remainder go to applicants outside the United States. In both cases, the majority of these visas require sponsorship by a relative or employer.

Family reunification has long had a central role in the U.S. immigration system, more so than some other major immigrant-receiving countries. (Family migration accounts for [about 40 percent](#) of all permanent immigration across Organization for Economic Cooperation and Development countries). While the share varies from year to year, roughly two-thirds of legal immigration to the United States is on the basis of family ties, with the rest divided between employment-based and humanitarian immigration and those arriving through the [green-card lottery](#) (also called the diversity visa).



Note: The preference categories listed above have annual caps, as is explained below.
Source: Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics*, “Lawful Permanent Residents,” multiple years, [available online](#).



The Family Route

There are both numerically limited and unlimited categories that U.S. citizens and green-card holders can access to petition to bring in a relative.

Immediate family of U.S. citizens. U.S. citizens can sponsor their spouses, unmarried children under age 21, and parents for a green card. This category does not have annual numerical limits.

Family-sponsored preference visas. There are 226,000 green cards reserved each year for other categories of relatives. U.S. citizens can sponsor adult children and siblings, while green-card holders can sponsor their spouses and unmarried minor or adult children.



The Employment Route

There are 140,000 green cards available each year for immigrants in five employment-based categories (formally known as “preferences”). The categories were created as part of the Immigration Act of 1990, and the numerical caps were set then and have not been adjusted since, as is also the case with the family preferences.

Almost all employment-based immigrants, except some very high-skilled immigrants and investors, must have an employer who will sponsor them for a visa.

Spouses and children of immigrants who get an employment-based green card count against the 140,000 cap. This means in reality that less than half of employment green cards given out annually go to people selected for employment reasons.

Categories of Permanent Legal Immigration to United States, Capped and Uncapped

Immediate family of U.S. citizens		Numerical Limit
Spouses		None
Unmarried children under age 21		None
Parents of U.S. citizens who are age 21 and older		None
Family-sponsored preference immigrants		Numerical Limit
1 st Preference	Unmarried children age 21 and older of U.S. citizens	23,400
2 nd Preference	(A) Spouses and children of green-card holders (B) Unmarried adult sons and daughters of green-card holders	114,200*
3 rd Preference	Married adult sons and daughters of U.S. citizens	23,400
4 th Preference	Siblings of U.S. citizens who are age 21 and older	65,000
Employment-based preference immigrants		Numerical Limit
1 st Preference	Foreign nationals of “extraordinary ability,” outstanding professors and researchers, multinational executives and managers	40,040
2 nd Preference	Foreign nationals who hold advanced degrees or demonstrate exceptional ability in the sciences, arts, or business	40,040
3 rd Preference	-- “Skilled workers” (foreign nationals capable of performing skilled labor, requiring at least two years of experience) -- “Professional workers” (foreign nationals who hold at least a baccalaureate degree) -- “Other workers” (foreign nationals capable of performing unskilled labor)	40,040 (but no more than 10,000 visas are available for “other workers”)**
4 th Preference	“Special immigrants,” including religious workers, international organization employees, and children who cannot be reunited with a parent because of abuse, abandonment, or neglect.	9,940
5 th Preference	Immigrant investors	9,940
Humanitarian Immigrants		Numerical Limit
Refugees		President sets an annual ceiling for refugee arrivals
Asylees		None
Other		Numerical Limit
Diversity Visa		55,000**
There are certain small classes of visas, including for certain Iraqis and Afghans who worked on behalf of the U.S. government, and for victims of crimes or human trafficking		None

* At least 77 percent of the 2nd family preference green cards must be allocated to the 2A category.

** In reality, there are only 5,000 green cards in the 3rd preference “other worker” category and 50,000 green cards in the Diversity Visa category because the 1997 *Nicaraguan and Central American Relief Act* (NACARA) annually recaptures 5,000 green cards in both the “other worker” and Diversity Visa categories to offset visas issued to NACARA beneficiaries.



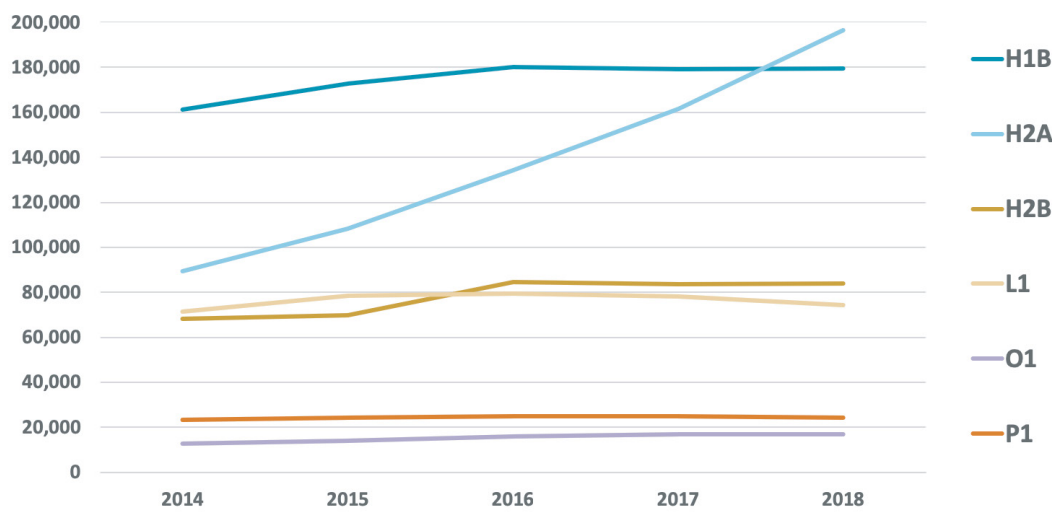
Other Routes

While about 80 percent of green cards annually are issued via the family and employment routes, the U.S. immigration system has a few other channels for entry for permanent residence.

Diversity visa. Nationals from countries that send [few immigrants](#) to the United States can enter the Diversity Visa program, which allocates up to 50,000 visas annually. After all lottery applications are submitted in a given year, a number that spanned more than [14 million](#) in fiscal year (FY) 2018, the U.S. government conducts a virtual lottery of qualified applicants, randomly selecting winners who will be invited to apply for a green card if they meet some basic criteria.

Refugees and asylees. People may be granted refugee status or asylum, and given the right to live in the United States permanently, if they can demonstrate they have experienced persecution or have a well-founded fear that they will be persecuted “on account of race, religion, nationality, membership in a particular social group, or political opinion.” Asylum is granted to people who are already in the United States, while refugee status is provided to people who are vetted abroad and approved for resettlement. Resettled refugees and those granted asylum are eligible to apply for a green card after one year.

Visas Issued by the State Department for Selected Temporary Worker Visas, FY 2014-18

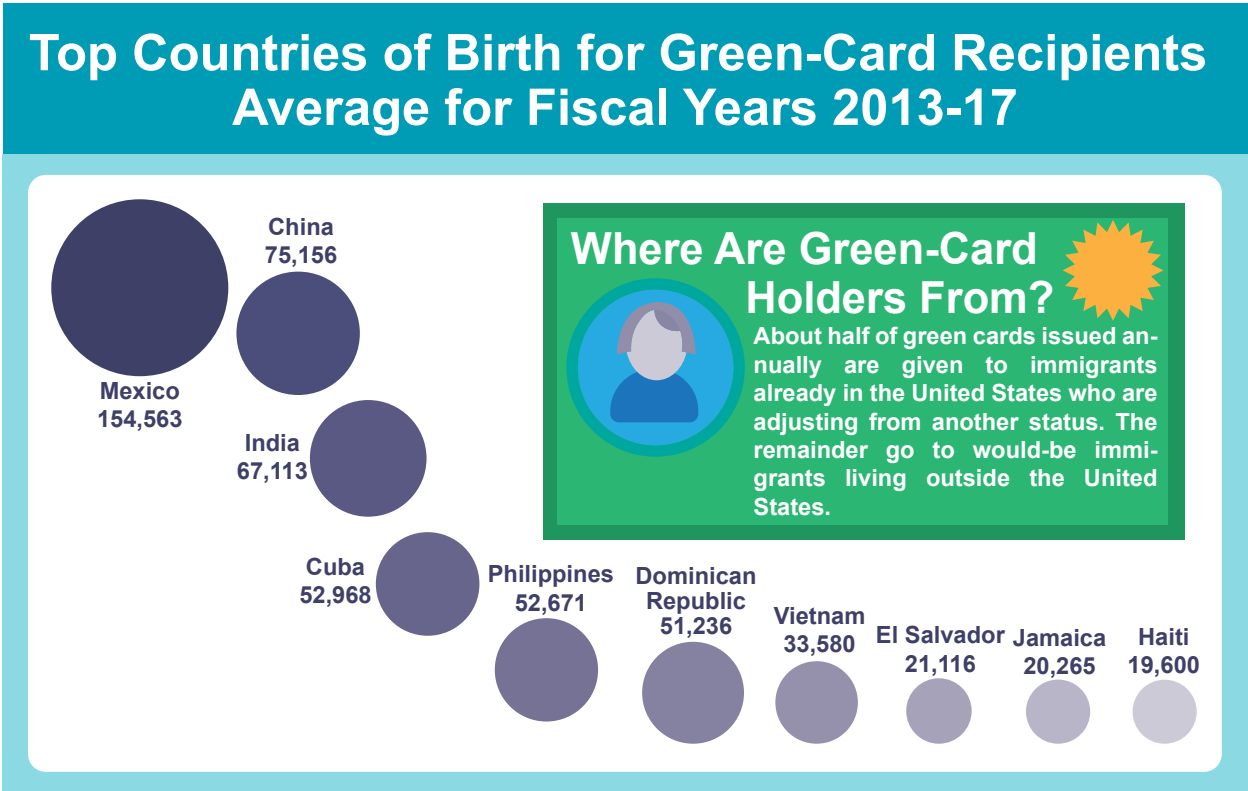


Note: This figure reflects admissions, not green-card grants.
Source: Department of Homeland Security, Office of Immigration Statistics, *Yearbook of Immigration Statistics 2017*, “Refugees and Asylees,” [available online](#).

There are a number of other small categories of green cards available. Some are paths created to respond to particular situations, such as visas made available to people who worked as interpreters or translators for the U.S. military in Iraq or Afghanistan. Other green cards are available to people who it is in the national interest to help, such as victims of crimes or human trafficking who aid in the investigation and/or prosecution of their perpetrators.

Which National-Origin Groups Are the Top Recipients of Green Cards?

While a small number of countries predominate—Mexico, China, Cuba, India, the Dominican Republic, and the Philippines at the top of the list—the diversity of origins is such that no individual country has a sizeable share of the overall number of green cards issued in a particular year.

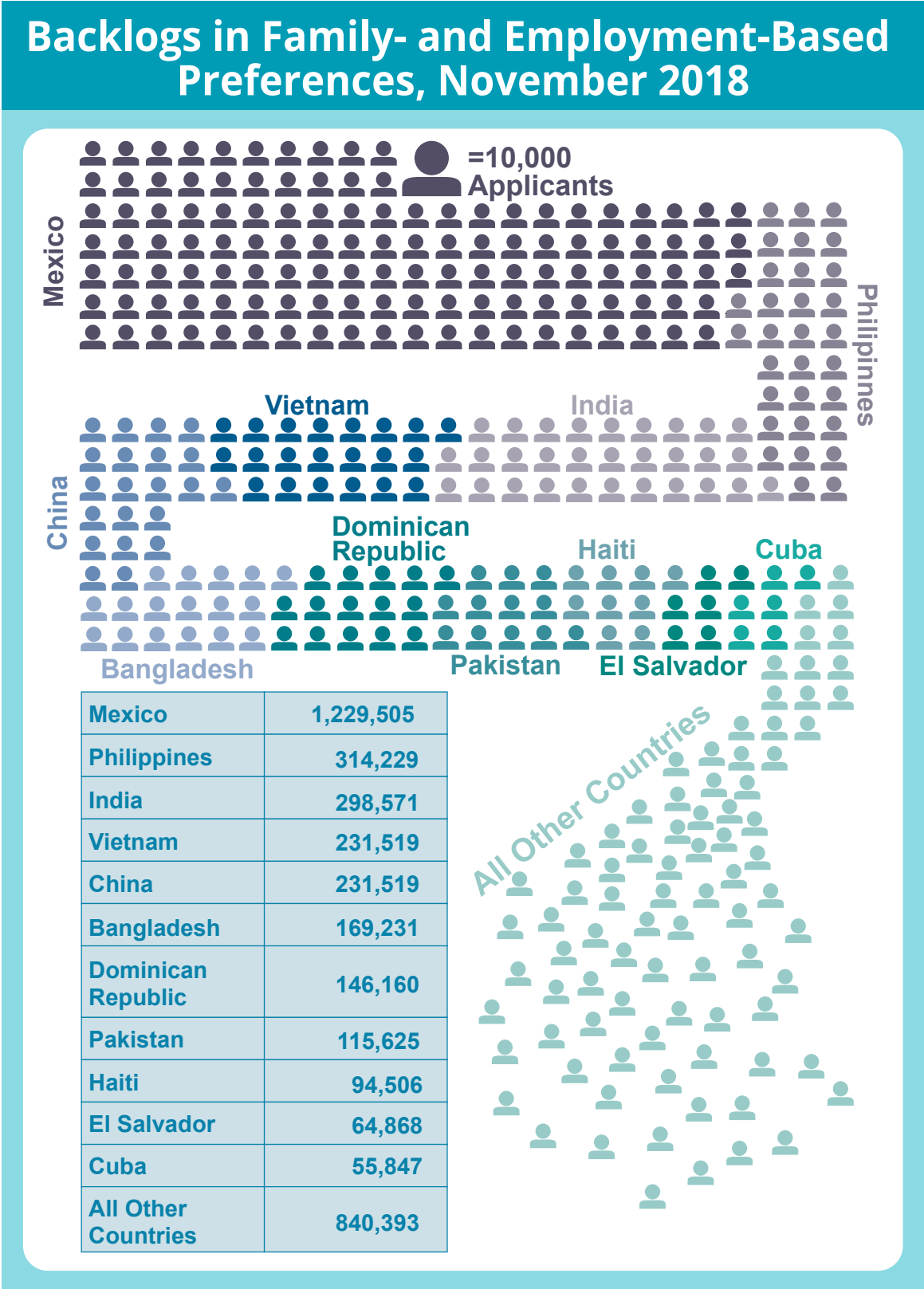


Note: On an annualized basis for fiscal years 2013-17, the United States issued a total of 1,073,755 green cards.
Source: U.S. Department of Homeland Security, “Lawful Permanent Residents,” [available online](#).

Limitations on Green Cards

For the capped preference categories in the family and employment streams, U.S. law imposes a limit on how many immigrants from any particular country can receive green cards in a given year. Under the per-country cap set in the Immigration Act of 1990, no country can receive more than 7 percent of the total number of employment-based and family-sponsored preference visas in a given year. There are no per-country limits for uncapped categories, such as immediate relatives of U.S. citizens.

Because of the numerical caps and per-country caps on certain green-card categories, there are [significant waits](#) for some categories, with sharper effects on a few countries. For example, as of April 2019, the wait for U.S. citizens to sponsor adult, unmarried children was more than seven years for most parts of the world, but was 12 years for relatives from the Philippines—and more than 21 years for those from Mexico. As of November 2018, there were 3.7 million people waiting in line abroad for a family-sponsored green card, and 121,000 awaiting an employment-sponsored green card.



Source: State Department, “Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018,” [available online](#).

Temporary Immigration

Beyond permanent admissions, the United States also admits hundreds of thousands of workers, foreign students, and exchange visitors annually for temporary residence through a broad swath of visa categories, assigned letters of the alphabet from A through V. While temporary visas do not lead directly to a green card, temporary visa holders in some cases can get one if they are able to find a family member or employer to sponsor them.

Some temporary visas (B, C, and D) allow foreigners to enter for tourism or short business trips. Others allow students to study at U.S. colleges and universities or to participate in cultural exchange programs (F, J, and M visas). And there are many other temporary visa classes, including for temporary workers.

In most cases, temporary workers can bring spouses and minor children with them, but those family members do not have the right to work. Temporary workers usually have to remain with their sponsoring employer in order to maintain the right to stay in the United States, unless they can find another employer to sponsor them.

Below are some examples of temporary worker visas:

H-1B: The H-1B visa for “specialty occupations” allows workers to stay for up to two three-year work periods, or longer if they are in line for a green card. H-1B visas are capped at 85,000 visas per year, but renewals do not count against the cap, nor do H-1Bs sponsored by a college, university, or certain nonprofit organizations. Employers wishing to sponsor an H-1B worker must attest to the Labor Department about the wages and working conditions they will offer H-1B workers.

H-2A: The H-2A visa is for foreign agricultural workers, who can stay in the United States for up to three years. There is no numerical limit on H-2A visas. Employers sponsoring H-2A workers must demonstrate that they have tried and failed to hire U.S. workers, must be certified by the Labor Department, and must provide housing and pay at least a specified wage, which is set above the local minimum wage.

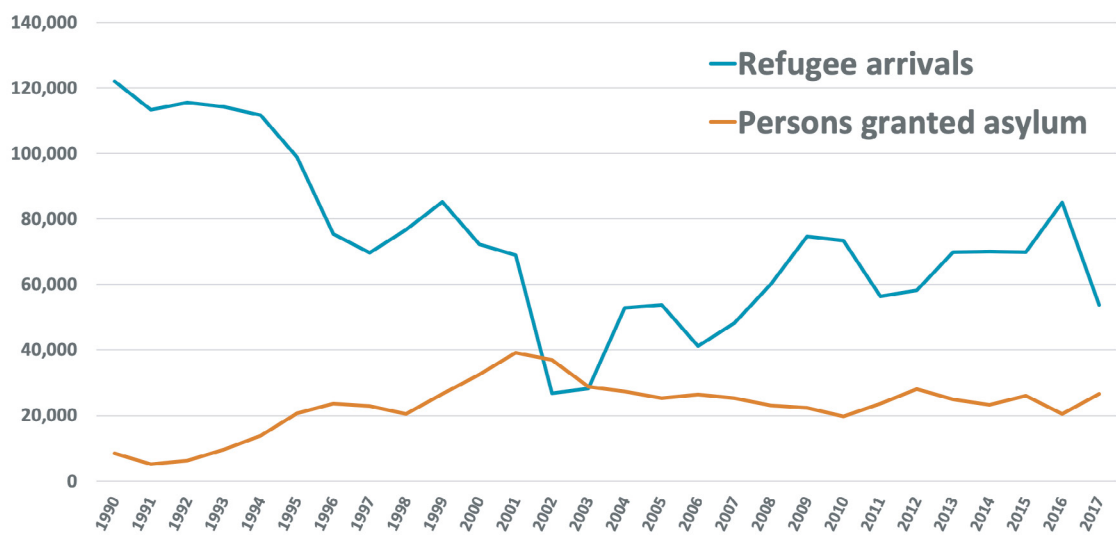
H-2B: The H-2B visa, which is usually granted for short periods but can be extended for up to three years, is available for workers filling nonagricultural seasonal or temporary jobs, such as landscapers, crab pickers, life guards, or resort workers. There are currently 66,000 visas available per year. In recent years, Congress has authorized the Homeland Security Secretary to increase the cap if the determination is made that there is sufficient need for additional workers.

L: The L visa allows entry for workers transferring from a foreign branch of a company to a U.S. branch. There is no numerical limit on L visas. L visa holders can stay for seven years if they are a manager or executive in the company, and for five years if they are a “specialized knowledge” employee. Spouses of L visa holders are allowed to work in the United States.

O: The O visa is for people with extraordinary ability in the sciences, arts, business, or athletics. There is no numerical limit on O visas, and holders can stay for up to three years.

TN: The TN classification, established by the North American Free Trade Agreement, allows professional workers from Mexico and Canada to live and work in the United States. There are no numerical caps for TN workers, and their period of stay is not limited.

Admission of Resettled Refugees and Asylum Recipients, FY 1990-2017



Source: State Department, "Table XVI (B) Nonimmigrant Visas Issued by Classification (Including Border Crossing Cards): Fiscal Years 2014 – 2018," *Report of the Visa Office 2018*, [available online](#).

Resources

To learn more about the U.S. immigration system, here are some useful resources:

- A brief examining family-based migration in the United States and eight other significant immigrant destinations, *It's Relative: A Crosscountry Comparison of Family-Migration Policies and Flows*
- An article examining the Immigration and Nationality Act of 1965 on its 50th anniversary, *Fifty Years On, the 1965 Immigration and Nationality Act Continues to Reshape the United States*
- A brief that examines the Immigration Act of 1990, which created the employment-based preferences, *The Immigration Act of 1990: Unfinished Business a Quarter-Century Later*

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