

INTERNATIONAL ORGANIZATIONS

Trump Administration Ends Participation in Global Compact on Migration, Citing Concerns Regarding U.S. Sovereignty

doi:10.1017/ajil.2018.36

On December 2, 2017, the Trump administration announced the end of its participation in the Global Compact on Migration, a proposed United Nations commitment that would address global flows of migrants.¹ Citing American sovereign interests as the reason for withdrawal, U.S. officials stated that the Global Compact on Migration would undermine current U.S. immigration policy focused on border security.²

The United States began participating in talks to negotiate the Global Compact on Migration in September 2016, when the Obama administration joined the New York Declaration for Refugees and Migrants.³ The New York Declaration was adopted in part to launch negotiations for two global compacts: the Global Compact on Refugees and the Global Compact on Migration.⁴ As envisioned in the New York Declaration, the Global Compact on Migration would “set out a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions.”⁵

Despite this prior U.S. involvement in developing the Global Compact on Migration, actions by the Trump administration signaled that an international agreement on migration would not be consistent with its “America First” policy agenda. President Trump decided on December 1 that the United States would not participate in a global conference on migration in Mexico.⁶ The next day, the United States announced its decision to withdraw from participation in the Global Compact on Migration, noting that the New York Declaration contained several provisions “inconsistent with U.S. immigration policy and the Trump Administration’s immigration principles.”⁷ Specifically, Ambassador Nikki Haley, U.S. Ambassador to the United Nations, explained:

¹ U.S. Mission to the UN Press Release, United States Ends Participation in Global Compact on Migration (Dec. 2, 2017), at <https://usun.state.gov/remarks/8197> [<https://perma.cc/AR46-EAKW>] [hereinafter U.S. Mission to the UN Press Release]; Rick Gladstone, *U.S. Quits Migration Pact, Saying It Infringes on Sovereignty*, N.Y. TIMES (Dec. 3, 2017), at <https://www.nytimes.com/2017/12/03/world/americas/united-nations-migration-pact.html?rref=collection%2Fsectioncollection%2Fworld>.

² U.S. Mission to the UN Press Release, *supra* note 1.

³ *Id.*

⁴ See GA Res. 71/1, at 21, 23 (Sept. 19, 2016), at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1 (adopting the New York Declaration and incorporating its text). The Global Compact on Migration is also called the Global Compact for Safe, Orderly and Regular Migration. See *id.* at 21.

⁵ *Id.* at 21. The Global Compact on Migration will not be a legally binding international agreement, but rather an “unprecedented opportunity for leaders to . . . lay out a common vision of how to make migration work for all our nations.” UN Secretary-General Press Release, Antonio Guterres, Towards a New Global Compact on Migration (Jan. 11, 2018), at <https://www.un.org/sg/en/content/sg/articles/2018-01-11/towards-new-global-compact-migration>.

⁶ See Colum Lynch, *Trump Boycotts U.N. Migration Talks*, FOR. POL’Y (Dec. 2, 2017), at <http://foreignpolicy.com/2017/12/02/trump-boycotts-u-n-migration-talks> (reporting Trump’s decision to boycott the global conference on migration days before it was scheduled to commence).

⁷ U.S. Mission to the UN Press Release, *supra* note 1.

America is proud of our immigrant heritage and our long-standing moral leadership in providing support to migrant and refugee populations across the globe. No country has done more than the United States, and our generosity will continue. But our decisions on immigration policies must always be made by Americans and Americans alone. We will decide how best to control our borders and who will be allowed to enter our country. The global approach in the New York Declaration is simply not compatible with U.S. sovereignty.⁸

The next day, Secretary of State Rex Tillerson issued a statement with a similar tone:

While we will continue to engage on a number of fronts at the United Nations, in this case, we simply cannot in good faith support a process that could undermine the sovereign right of the United States to enforce our immigration laws and secure our borders.⁹

To date, the Trump administration has not announced a comparable withdrawal from the Global Compact on Refugees.

The decision to leave the Global Compact on Migration follows other measures by the Trump administration to restrict entry into the United States in the name of national security. Indeed, the withdrawal reinforced what has been called “an atmosphere of renewed American isolationism and exceptionalism at the United Nations in the first year of the Trump White House.”¹⁰ Among other things, the Trump administration restricted the entry of nationals from several predominantly Muslim countries into the United States and capped refugee admissions at 45,000 for Fiscal Year 2018—the lowest cap since 1980.¹¹ Comments by Trump further underscore his administration’s “America First” stance on immigration, including an alleged profanity in relation to immigrants from Haiti, El Salvador, and African countries.¹²

Despite the Trump administration’s withdrawal from the Global Compact on Migration, several American cities have petitioned to join the process and provide collective input.¹³ The mayors of eighteen U.S. cities, including Chicago, Los Angeles, New York, Philadelphia, and the District of Columbia, signed a position paper along with more than 130 mayors from cities across the world in hopes of formally contributing to both Global Compacts.¹⁴ The

⁸ *Id.*

⁹ U.S. Dep’t of State Press Release, U.S. Ends Participation in the Global Compact on Migration (Dec. 3, 2017), at <https://www.state.gov/secretary/remarks/2017/12/276190.htm> [<https://perma.cc/BY5N-BDAJ>].

¹⁰ Gladstone, *supra* note 1.

¹¹ For a detailed discussion of the Trump administration’s executive actions restricting entry into the United States and subsequent litigation, see Jean Galbraith, Contemporary Practice of the United States, 112 AJIL 109 (2018); Kristina Daugirdas & Julian Davis Mortenson, Contemporary Practice of the United States, 111 AJIL 764 (2017).

¹² Josh Dawsey, *Trump Derides Protections for Immigrants from ‘Shithole’ Countries*, WASH. POST (Jan. 12, 2018), at https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94_story.html?utm_term=.cf065882db5f. In November of 2017, the Trump administration had already revoked deportation protection for nearly 60,000 individuals from Haiti. *Id.*

¹³ Bethany Allen-Ebrahimian, *U.S. Cities Want to Join U.N. Migration Talks That Trump Boycotted*, FOR. POL’Y (Dec. 5, 2017), at <http://foreignpolicy.com/2017/12/05/u-s-cities-want-to-join-u-n-migration-talks-that-trump-boycotted>.

¹⁴ Metropolis World Association of Major Metropolises, Position Paper Submitted as a Contribution to the United Nations Global Compact for Safe, Orderly and Regular Migration, and to the Global Compact on

paper urged nations and international organizations to “[s]ee cities as partners in defining and implementing international instruments related to migration” and “[g]ive cities a seat at the table in the discussions that will lead into the negotiations of the Compacts.”¹⁵ The New York City Mayor’s Office of Immigrant Affairs explained the desire to participate: “We need to be part of U.N. decision-making if international agreements are to be responsive to on-the-ground realities.”¹⁶

INTERNATIONAL OCEANS, ENVIRONMENT, HEALTH, AND AVIATION LAW

United States Reaches Agreement to Limit Arctic Fishing

doi:10.1017/ajil.2018.32

On November 30, 2017, the United States concluded negotiations on an agreement to limit fishing in the Arctic, titled the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean.¹ Delegations from the European Union and nine countries—Canada, China, Denmark with regard to Greenland and the Faroe Islands, Iceland, Japan, Norway, Russia, South Korea, and the United States—participated in the negotiations, which began in December of 2015.² According to a statement made by the U.S. State Department:

The Agreement will prevent unregulated commercial fishing in the high seas portion of the central Arctic Ocean, an area that is roughly 2.8 million square kilometers in size, roughly the size of the Mediterranean Sea. Commercial fishing has never been known to occur in this area, nor is it likely to occur in the near future. However, given the changing conditions of the Arctic Ocean, the governments in question developed this Agreement in accordance with the precautionary approach to fisheries management.³

The agreement also provides for the establishment and operation of a “Joint Program of Scientific Research and Monitoring with the aim of improving the understanding of the

Refugees (dated Dec. 12, 2017) [hereinafter Position Paper]; see also Hon. Jorge Elorza & Jessica Brandt, *Why Cities Are the New Face of American Leadership on Global Migration*, BROOKINGS INST. (Dec. 18, 2017), at <https://www.brookings.edu/opinions/why-cities-are-the-new-face-of-american-leadership-on-global-migration> (describing the steps taken by cities to be involved in the Global Compact).

¹⁵ Position Paper, *supra* note 14, at 5. See also Mayors’ Letter to Filippo Grandi, High Commissioner for Refugees, United Nations (Jan. 27, 2018) (requesting in a letter signed by nineteen cities, nine of which are in the United States, that the High Commissioner involve them in various efforts related to refugees, including the Global Compact on Refugees).

¹⁶ Allen-Ebrahimian, *supra* note 13.

¹ U.S. Dep’t of State Press Release, Meeting on High Seas Fisheries in the Central Arctic Ocean, 28–30 November 2017: Chairman’s Statement (Nov. 30, 2017), at <https://www.state.gov/e/oes/ocns/opa/rls/276136.htm> [<https://perma.cc/M47E-4C5W>] [hereinafter November 30 Press Release].

² U.S. Dep’t of State Press Release, Meeting on High Seas Fisheries in the Central Arctic Ocean: Chairman’s Statement (Mar. 27, 2017), at <https://www.state.gov/e/oes/ocns/opa/rls/269126.htm> [<https://perma.cc/7QPA-T5H2>] [hereinafter March 27 Press Release].

³ November 30 Press Release, *supra* note 1.