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The Global Compact on Migration (GCM) and U.S. Policy

Numerous Members of the 115th Congress have demonstrated interest in the global migration crisis, particularly as a result of the recent flows of migrants and refugees to the United States from Central America and Mexico. In 2017, an estimated 232 million international migrants formed roughly 3% of the world's population. The International Organization for Migration (IOM) defines a migrant as *any individual who has temporarily or permanently crossed an international border and is no longer residing in his/her country of origin/habitual residence*. The decision to move is usually made out of a choice related to livelihood, improved economic circumstances, or family ties. However, as discussed below, certain factors may force individuals to leave involuntarily.

In response to increasing numbers of people on the move, the U.N. General Assembly High-Level Plenary Summit on Refugees and Migrants in September 2016 adopted the “New York Declaration,” which aims to save lives, protect rights, and share responsibility for refugees and migrants on a global scale. Building on this initiative, U.N. member states developed two global compacts—a Global Compact on Safe, Orderly and Regular Migration (GCM) and a Global Compact on Refugees (GCR). In December 2017, the Trump Administration announced that the United States would withdraw from the GCM negotiations. (It has so far remained engaged in the GCR.) Refugees are distinct from migrants because of their specific status and protections under international law.

In July 2018, U.N. member states finalized the text of the GCM, which includes 23 objectives. The U.N. Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration is to be held in Marrakech, Morocco, on December 10-11, 2018, following the eleventh Global Forum on Migration and Development Summit meeting.

International Migration Trends

In recent years, the attention of the media, public, and governments on migrants, refugees, and other vulnerable groups on the move has given rise to protection and human rights concerns, as well as questions pertaining to the form and extent of state responsibility. While refugees are granted certain rights and protection under international refugee law, migrants are not protected by a comparable set of rules or treaties. Consequently, if migrants enter a country illegally, they are often without legal protection. The GCM is nonbinding but has sought to negotiate principles to address some of the contentious issues surrounding migration, such as the root causes of the decision to leave, the dangers people face on their journey, and the treatment of migrants at borders. The prevailing view has been that the challenges of migration cannot be tackled by one country alone.

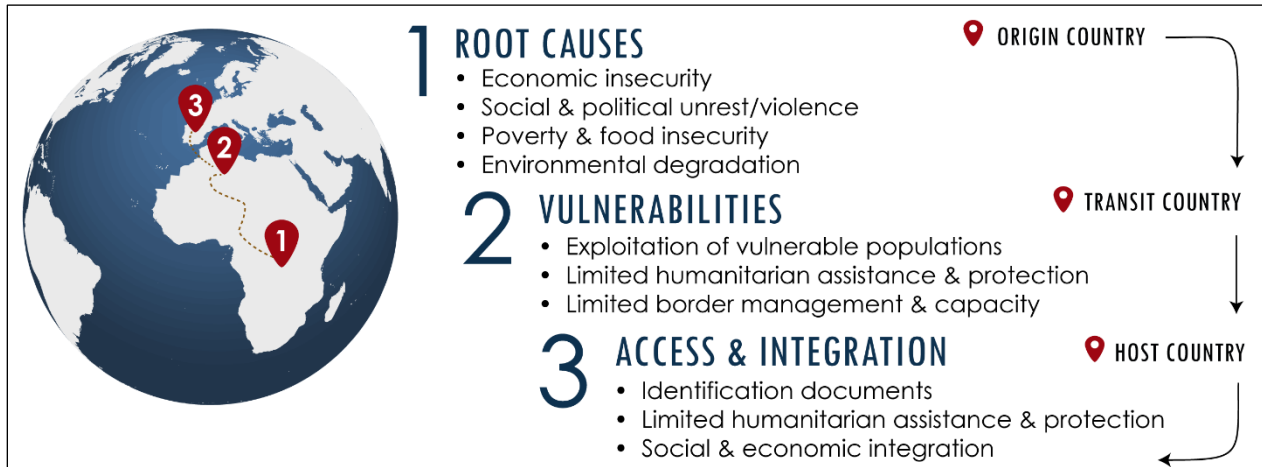
Significant refugee and migrant flows are taking place globally as people have fled conflict and poverty, as well as natural disasters, which may be sudden events or unfold over a long period. While movement of people is most common among countries in close proximity, worldwide the main migration routes flow (1) north through Central America and Mexico toward the U.S. border; (2) from East Africa and countries in the Middle East to the Eastern Mediterranean and toward Europe; (3) from other parts of Africa across the Mediterranean Sea to Europe; and (4) from Southeast Asia south toward Australia or north to other parts of Asia.

Experts often characterize these flows as mixed migration, defined as different groups of people—such as economic migrants, refugees, asylum-seekers, stateless persons, trafficked persons, and unaccompanied children—who travel the same routes and use the same modes of transportation. Sometimes referred to as irregular/undocumented migrants, these migrants usually do not have the required documentation, such as passports and visas, and often use unauthorized border crossings or pay smugglers to assist them. The distinctions between groups in these flows have raised questions about their status and rights. A key policy consideration is whether the movement is viewed as voluntary or forced. The U.N. High Commissioner for Refugees (UNHCR) asserts that many arrivals may be from refugee-producing countries and require due process for asylum claims. Many also need humanitarian assistance and protection, even if they do not qualify as refugees. At the same time, at least some of the arrivals are considered to be economic migrants.

GCM: Selected Themes and Objectives

The GCM seeks to highlight and optimize the economic benefits of migration while tackling the challenges for communities and individuals in countries of origin, transit, and destination. To minimize irregular/illegal migration, for example, the GCM highlights the need for the creation of bilateral, regional, and multilateral labor mobility agreements to reflect the demographics, labor markets, and needs of vulnerable migrants, while recognizing that states have to evaluate regulations on illegal entry/visa overstayers and strengthen border management and capacity. U.N. member states except the United States typically completed their own consultations across government policy sectors and levels, along with migrants, diasporas, local communities, civil society, academia, private sector, trade unions, national human rights institutions, the media and various relevant stakeholders in migration. In the final GCM agreement, U.N. member states identified 23 objectives, which primarily focus on several key themes (see **text box**) that affect vulnerable migrants and those forced to leave their country of origin (see **Figure 1**).

Figure 1. Stages and Challenges of Irregular Migration



Source: Map and graphic created by Jennifer Roscoe, CRS.

GCM Themes and Stages

Root causes. Countries can minimize the reasons that compel people to leave their country of origin. This calls for greater public and private investment in programs aiming to fulfill multilateral agreements like the 2030 Agenda for Sustainable Development and the Paris Agreement, which target poverty eradication, food security, urban and rural development, and empowerment of women and girls.

Vulnerable migrants. Women, children, the elderly, people with disabilities, and victims of human trafficking or smuggling are most at risk of exploitation and abuse. A focus on the needs and rights of the most vulnerable migrants is a priority at all stages of migration (origin, transit, and destination).

Accessibility and integration. Strengthening and increasing the ability for migrants to acquire identification and appropriate documentation in destination countries is needed. At the same time, promoting investment in skills development and education to create employment eligibility in formal labor markets could reduce susceptibility to exploitation and increase access to labor markets and necessary services (e.g., health care).

GCM: Main Points of Contention

Selected points of contention among the GCM negotiation participants also reflect legal and policy issues debated within the United States.

Legal vs. Illegal migration. The relationship between illegal migration and the increasingly diminishing pathways for people to migrate legally was not fully explored in the GCM negotiations. Experts contend the GCM focuses more on the need to create additional avenues for people to migrate legally. The debate over illegal migration has been ongoing for decades in the United States, and during that time the numbers of illegal migrants has varied. The historical high points of those being apprehended while crossing the U.S. southern border occurred in the late 1980s and 2000, with 1.6 million individuals per year. Historic low points were in 1971 and 2017 with numbers around 300,000 individuals apprehended per year.

Child Detention. A contentious issue for the United States and other governments when drafting the New York Declaration in 2016 concerned illegal migrants who were

minors. Generally, developed countries wanted to maintain the right to detain minor migrants, while developing countries did not. Compromise language agreed in the GCM calls for countries to ensure that unaccompanied minor migrants be given viable alternatives to detention.

Enforcement Mechanism. Some states wanted a mechanism for enforcing the GCM, while others opposed this idea. (The United States has not stated a position on this issue.) As a compromise, states agreed to an International Migration Review Forum to take place every four years beginning in 2022. The purpose of the forum is to enable member states and relevant stakeholders to discuss implementation status and improvement strategies. Some experts say the lack of an enforcement mechanism reassures states that noncompliance will go unpunished.

U.S. Withdrawal from the GCM

On December 2, 2017, the United States ended participation in the GCM, stating that it was “inconsistent with U.S. immigration policy and the Trump Administration’s immigration principles.” Hungary withdrew from the GCM in July 2018, stating that it “facilitates migration.” Australia has threatened not to sign the GCM in December 2018 because it does not agree with language making migrant detention a measure of last resort. Some analysts argue that the document addresses sovereignty concerns by upholding the “sovereign right of states to determine their national migration policy and their prerogative to govern migration within their jurisdiction.” Those in favor of resuming U.S. participation say it could bring leadership and influence to the process, and, given the U.S. history on migration, could serve as a resource and model for others. The U.N. Secretary-General expressed regret, saying “there’s still plenty of time for U.S. engagement on this issue,” although the Administration has given no indication that it would reconsider. The impact of the U.S. withdrawal on the GCM remains unclear. Congress has not indicated what action, if any, it will take with regard to the U.S. withdrawal from the GCM or on broader global migration policy.

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