



Updated September 1, 2020

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

Congress has demonstrated ongoing interest in the global migration crisis, particularly with recent flows of migrants and refugees to the United States from Central America and Mexico. In 2019 an estimated 272 million international migrants formed roughly 3.5% of the world's population. Although not formally defined under international law, many experts generally agree that an *international migrant* is someone who changes his or her country of usual residence, temporarily or permanently, and for a variety of reasons. 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 for Safe, Orderly and Regular Migration (GCM) and a Global Compact on Refugees (GCR). In December 2017, the Trump Administration withdrew the United States from the GCM negotiations. (In November 2018, it also withdrew U.S. participation 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, and on December 10-11, 2018, governments signed the compact at the U.N. Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration in Marrakech, Morocco, with 152 votes in favor, 5 against (Czech Republic, Hungary, Israel, Poland, United States), and 12 abstentions. The U.N. General Assembly adopted the GCM on December 19, 2018.

Global 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 a nonbinding, intergovernmentally negotiated agreement that aimed to cover international migration comprehensively. It 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 flee conflict and poverty, as well as natural disasters (and the potential impact of climate change or other environmental factors), 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, they 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 from refugee-producing countries require due process for asylum claims. Even if they do not qualify as refugees, they may need humanitarian assistance, international protection, and opportunities to regularize their status. Other experts point out that at least some of the arrivals are 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, 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 while 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 have varied.

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 did not state 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 its concerns around sovereignty and lack of consistency with U.S. immigration policies and principles. In a statement on December 7, 2018, it further elaborated on its decision, saying the GCM process represented “an effort by the United Nations to advance global governance at the expense of the sovereign right of States.” Some analysts argue that the GCM addresses the issue of sovereignty 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 U.S. participation said 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 at the U.S. decision but hoped the United States would remain engaged on the issue. The impact of the U.S. withdrawal on the GCM remains unclear. Congress has not indicated what action, if any, it might take on this or on broader global migration policy.

Beginning in March 2020, with the global spread of the Coronavirus Disease 2019 (COVID-19), humanitarian experts began to emphasize that conditions for vulnerable, placed populations (often including migrants) made them

susceptible to the virus and presented significant challenges to response and containment.

Rhoda Margesson, Acting Section Research Manager

IF11003

Research Associate Catherine Able-Thomas contributed to the research and writing of this report.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.