

**WHY A GLOBAL COMPACT ON SAFE, ORDERLY AND REGULAR MIGRATION
SUPPORTS CANADA'S SOVEREIGN INTERESTS**

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Preamble

We submit this brief in response to the motion adopted by the Standing Committee on October 30, 2018 to study the Global Compact on Safe, Orderly, and Regular Migration (GCM) and how it will affect Canada.

The GCM is a cooperative framework aimed at optimizing the benefits and better managing the risks and challenges of international migration. It is a reflection of state-led consultations and negotiations, in which Canada was a leading voice. It is the first agreement of its kind, and Canada can take pride in its role in shaping the Compact.

The GCM is not a binding treaty. It does not undermine state sovereignty in any way, nor does it affect Canada's ability set its own immigration policies and legislation. It does not grant any new rights to any category of migrant, or oblige states to take in more migrants, and entails no binding financial obligation on Member States.

The GCM articulates shared political commitments to make migration safer and more predictable. The final draft, to be approved at a special intergovernmental conference in Marrakech on 10-11 December, 2018 is the result of sustained and significant interstate negotiations. Importantly, the final draft, in both letter and spirit, reflects and protects the interests of immigrant-receiving states such as Canada in promoting a world of predictable, orderly, and safe international mobility.

Why the world needs a Global Compact on Safe, Orderly and Regular Migration

There is a significant mismatch between the scale and complexity of international migration and the limited governance frameworks for cooperation. There are an estimated 258 million international migrants in the world, representing 3.4 percent of the world's population. This does not include refugees. Migration is a major driver of economic activity and ties among nations, but can also be a source of tension between states. Politicization and weak governance can foster vulnerability for those on the move. The premise of the GCM is that the significant benefits of migration can be better realized, and its risks and challenges better managed, through international cooperation (GCM, paras 8, 11). In fact, migration is one of the last truly global issues over which the international community has yet to develop a governance framework. Adoption of the GCM in Marrakech on 10-11 December will provide significant clarity and momentum for international cooperation on migration.

The need for a GCM was identified by the 2016 New York Declaration, unanimously adopted by UN Member States. It expressed the political will of world leaders to save lives, protect rights, and share responsibility on a global scale. The process to develop the GCM has been a state-led process over the past two years, resulting in an agreed set of 23 objectives, each accompanied by a list of actions considered to be best practices (para 16). It is framed in a way that is consistent with target 10.7 of the 2030 Agenda for Sustainable Development, in which Member States committed to cooperate internationally to facilitate safe, orderly, and regular migration.

In parallel, the UN system is increasing its institutional capacity to facilitate cooperation on migration issues. The International Organization for Migration was brought into the UN system to enhance its capacity to manage migration for the mutual benefit of states and migrants, and a new

multi-agency UN Migration Network is being formed to bring the technical expertise of other UN agencies to bear.

The GCM is explicitly non-legally binding (para 7) and reaffirms the sovereign right of States to govern migration within their jurisdiction, consistent with international law (para 15). It establishes no new legal obligations for states. At the same time, it recognizes that migration is a defining feature of our globalized world, and one that is inherently transnational in nature, requiring international cooperation. States benefit most when they cooperate to achieve collective gains and create public goods. The GCM provides a roadmap for achieving these gains, setting out shared understandings about what actions and approaches would be beneficial, and political commitments among states to pursue these aims together. It recognizes a shared responsibility among UN Member States to address each-others' needs and concerns over migration (para 11), and to cooperate to respond to the needs of migrants in situations of vulnerability (para 13).

Why Supporting the Global Compact on Migration is in Canada's Interest

Immigration is intrinsic to Canada's social, economic, and political fabric. Immigration has been responsible for up to 90 percent of labour force growth in recent years.¹ Well-managed and predictable migration will become ever more important as the Canadian population ages and the domestic labour force shrinks. Canada's interests are strongly served by an international cooperation framework that helps to ensure migration is safe, orderly, and regular.

Canada's international engagement is also enhanced by a predictable, rules-based international order. While the GCM does not establish any binding rules regarding international migration, it articulates shared norms and expectations that can increase predictability and make challenges easier to navigate. Far from detracting from Canadian sovereignty, an effective multilateral framework that sets clear norms and expectations serves to enhance Canada's sovereignty and ability to effectively manage its migration programs. Simply put, it allows Canada to know what we can expect from the rest of the world on this complex issue. Recent events clearly demonstrate the consequences of not having predictability in the norms and standards that guide the governance of international migration.

Importantly, the GCM sets guidelines for establishing harmonized data and analysis on all aspects of international migration, from the supply of high-skilled labour, to harmonizing metrics and legal definitions to protect victims of human trafficking, to actively monitoring emerging displacement crises. It is in Canada's interests to contribute to and lead in these important new frameworks.

Moreover, Canada has been a consistent defender of human rights and a champion of identifying the links between the human rights and the interests of states. Canadian laws and policies are already well-reflected in the final draft of the GCM.

No Impact on Canadian Immigration Levels or Immigration Categories

Simply put, the Global Compact on Migration will have no impact on Canada's immigration levels or immigration categories. It does not expand the scope of refugee protection.² It does not create any new categories of protection, confer rights on any person to migrate, or oblige countries to take in

¹ Conference Board of Canada, "Canada 2040: No Immigration Versus More Immigration" (May 15, 2018).

² Indeed, it does not deal with refugee protection at all. That is the subject of the companion agreement, the Global Compact for Refugees, which also does not expand the scope of refugee protection or the definition of a refugee under international law.

more migrants. It explicitly recognizes the right of states to distinguish between regular and irregular migration status in their national policies and legislation. Assertions to the contrary are simply false.

The GCM recognizes the shared responsibility of all states to respond to the needs of migrants in situations of vulnerability, prevent migrant deaths and injuries, combat smuggling and trafficking, provide safe access to basic services, and respect international human rights and fundamental freedoms that apply to all migrants regardless of their status. Canada should have no hesitation in embracing these commitments, which are squarely aligned with our values and our interests.

Costs to Canada in Supporting the Global Compact on Migration

Signing the GCM does not entail any immediate costs to Canada, and will have no effect on Canada's sovereignty. The Compact is a non-binding document, and specifically recognizes the primacy of state sovereignty. Paragraph 15 reads:

National sovereignty: The Global Compact reaffirms the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law. Within their sovereign jurisdiction, States may distinguish between regular and irregular migration status, including as they determine their legislative and policy measures for the implementation of the Global Compact, taking into account different national realities, policies, priorities and requirements for entry, residence and work, in accordance with international law.

However, this is not to say that implementation of the GCM will maintain the status quo. If this were the case then Member States would not have negotiated it. The Compact encourages states to develop ambitious national responses, including through voluntary national implementation plans. It is up to Canada how ambitious its implementation will be, and what form it will take. States will discuss GCM implementation informally each year at the Global Forum on Migration and Development, and review implementation more formally every four years through the International Migration Review Forum. These fora offer Canada the opportunity to continue in its role as an entrepreneur of best practices in migration governance.

The GCM Final Draft is the result of a cumulative process of stocktaking, consultations, and hard negotiations involving Member States and Civil Society Organizations. Whereas the drafting of the Global Compact on Refugees was led by UNHCR, the GCM negotiations were led by Switzerland and Mexico, and guided by a new Special Representative of the Secretary General, the Hon. Louise Arbour. The result is a hard-won consensus that the vast majority of the world's states - from the global North and South - have embraced.

The focus on "shared responsibility" (para 24) is the product of some of the most intense negotiations, and changed rather significantly from the "Zero Draft". Canada's interests were well-represented at the International Organization for Migration, with high-ranking Canadian civil servants seconded to the negotiations, and by our national representatives at the negotiating table. Canada can take pride in its contribution to the shaping of this important agreement, and look forward to a role in mobilizing it to further enhance our international reputation and leadership in multilateral fora.