

## **TRUMP UPDATES 2018: Trump's Treatment of International Treaties, Immigrants and Refugees** [[Link](#)]

### **I. Overview:**

In December 2016, Wong Fleming gave a [presentation](#) on Trump's potential effect on businesses subsequent to his appointment as president of the United States. In December 2017, Wong Fleming published a follow-up [article](#) on about President Trump's Effect on Treaties and International Agreements, covering topics from the North American Free Trade Agreement to international agreements like the Trans-Pacific Partnership and the Iran Nuclear Deal. This article is an update of the initial presentation and last year's article on Trump, and includes some additional new topics of interest.

### **II. Treatises:**

#### **A. North American Free Trade Agreement (NAFTA)**

The North America Free Trade Agreement ("NAFTA") as it was formally known, was a treaty between the United States, Canada, and Mexico, signed into effect on January 1, 1994.<sup>1</sup> Controversial at the time, NAFTA gradually eliminated most tariffs and other restrictions on free trade among the countries.<sup>2</sup> With the exception of a limited number of agricultural products traded with Canada, most remaining restrictions on free trade among the countries were fully eliminated by 2008.<sup>3</sup>

On January 23, 2017, Trump signed an executive order to renegotiate NAFTA<sup>4</sup>, with the intention of obtaining a more favorable deal for American workers<sup>5</sup>, as promised during his presidential campaign in 2016. Renegotiations of NAFTA commenced on August 16, 2017<sup>6</sup>, and continued for approximately an entire year.<sup>7</sup> The U.S. and Mexico resolved an auto manufacturing issue back in August while the U.S. and Canada worked on issues surrounding the

---

<sup>1</sup> *North American Free Trade Agreement (NAFTA)*, OFFICE OF THE U.S. TRADE REP., <https://ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta> (last visited Dec. 15, 2017).

<sup>2</sup> Peter Bondarenko, *North American Free Trade Agreement*, ENCYCLOPAEDIA BRITANNICA, <https://www.britannica.com/event/North-American-Free-Trade-Agreement> (last updated Oct. 1, 2018).

<sup>3</sup> *North American Free Trade Agreement (NAFTA)*, OFFICE OF THE U.S. TRADE REP., <https://ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta> (last visited Dec. 15, 2017).

<sup>4</sup> Kimberly Amadeo, *Would Trump Dump NAFTA?*, THE BALANCE (Nov. 24, 2017), <https://www.thebalance.com/donald-trump-nafta-4111368>.

<sup>5</sup> Elena Holodny, *Trump reportedly expected to sign an executive order on NAFTA*, BUS. INSIDER (Jan. 23, 2017, 8:02 AM), <http://www.businessinsider.com/trump-to-sign-executive-order-to-renegotiate-nafta-2017-1>.

<sup>6</sup> Kimberly Amadeo, *Would Trump Dump NAFTA?*, THE BALANCE (Nov. 24, 2017), <https://www.thebalance.com/donald-trump-nafta-4111368>.

<sup>7</sup> Jen Kirby, *USMCA, Trump's new NAFTA deal, explained in 500 words*, VOX (Oct. 3, 2018, 7:10 AM), <https://www.vox.com/2018/10/3/17930092/usmca-nafta-trump-trade-deal-explained>.

dairy industry.<sup>8</sup> When the U.S. and Mexico first reached an agreement to revamp NAFTA, Canada was initially left out of the deal.<sup>9</sup> However, the three countries struck a new trade deal on September 30, replacing NAFTA with the United-States-Mexico-Canada Agreement, or USMCA.<sup>10</sup> Canada agreed to sign on to the trade deal just hours before a midnight deadline, having come to an agreement about U.S. access to Canadian dairy markets.<sup>11</sup> The USMCA sets new rules for auto manufacturing that are meant to incentivize the automobile production in countries that pay higher wages.<sup>12</sup> The new agreement also allows American dairy farmers easier access to Canadian dairy markets to sell their products – what the U.S. wanted – while retaining a tribunal to resolve trade disputes that arise between the countries – what Canada wanted.<sup>13</sup>

The following table presents a brief comparison of NAFTA and USMCA:

	NAFTA	USMCA
Car Production	To qualify for zero tariffs, automakers had to produce 62.5% of a vehicle’s content in North America.	Vehicle content threshold increased to 75% to qualify for zero tariffs.  An increasing percentage of parts, maxing out at 40% by 2023, for any tariff-free vehicle must come from a “high wage” factory – one that pays a minimum of \$16/h. <sup>14</sup>

<sup>8</sup> Jeremy Diamond, Kevin Liptak, Paula Newton & Donna Borak, *US and Canada reach deal on NAFTA after talks go down to the wire*, CNN (Oct. 1, 2018, 7:24 AM), <https://www.cnn.com/2018/09/30/politics/trump-nafta-canada/index.html>.

<sup>9</sup> John W. Schoen, *Here are some key differences between Trump’s new trade deal and NAFTA*, CNBC (Oct. 1, 2018, 11:59 AM), <https://www.cnbc.com/2018/10/01/new-trump-trade-deal-leaves-nafta-largely-intact.html>.

<sup>10</sup> Jen Kirby, *USMCA, Trump’s new NAFTA deal, explained in 500 words*, VOX (Oct. 3, 2018, 7:10 AM), <https://www.vox.com/2018/10/3/17930092/usmca-nafta-trump-trade-deal-explained>.

<sup>11</sup> Jeremy Diamond, Kevin Liptak, Paula Newton & Donna Borak, *US and Canada reach deal on NAFTA after talks go down to the wire*, CNN (Oct. 1, 2018, 7:24 AM), <https://www.cnn.com/2018/09/30/politics/trump-nafta-canada/index.html>.

<sup>12</sup> Jim Tankersley, *Trump Just Ripped Up Nafta. Here’s What’s in the New Deal.*, N.Y. TIMES (Oct. 1, 2018), <https://www.nytimes.com/2018/10/01/business/trump-nafta-usmca-differences.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer>.

<sup>13</sup> *Id.*

<sup>14</sup> “That’s about triple the average wage in a Mexican factory right now, and administration officials hope the provision will force automakers to shift suppliers from Mexico to Canada or the United States.” *Id.* “Conversely, the final provision, as written, could prove relatively ineffective at shifting production – because it is not indexed to inflation. An average wage of \$16 an hour will be less constraining in 2023 dollars than it is today.” *Id.*

Dairy Market	Restrictions by Canada on dairy products imported from the United States, giving Canadian products an advantage on international markets against American markets.	<p>Opens the Canadian dairy market to more exported American dairy products; eliminates a Canadian program that gives an advantage to Canadian sellers of certain milk products; creates a list of cheese names that the U.S. and Mexico can market without restriction in their respective countries.</p> <p>Grocery stores in British-Columbia are also no longer allowed to sell British Columbia-only wines on certain shelves and must stock American wines alongside them.</p>
Dispute Resolution	Chapter 19: a dispute resolution mechanism that allowed for a panel of representatives from each country to handle challenges of certain actions, like the imposition of tariffs.	<p>Canada successfully kept Chapter 19 in USMCA.</p> <p>Countries agreed to eliminate the Investor-State Dispute Settlement between the U.S. and Canada, which allowed investors to sue for relief from actions of foreign countries.</p>

The USMCA has been sent to Congress for a 60-day period of review, during which Congress can suggest changes.<sup>15</sup> Trump cannot sign the deal until this 60-day period is over.<sup>16</sup> Further, given the Democratic win of the House during the recent midterm elections, the USMCA is not quite the done deal as portrayed by Trump.<sup>17</sup> For instance, House Democrats are particularly concerned over the car production provisions briefly aforementioned in the table above.<sup>18</sup> Specifically, their concern is over the provision that requires an increasing percentage of parts to be produced in a high-wage factory providing a minimum wage of at least \$16 an hour.<sup>19</sup> Given that the minimum wage requirement is not indexed to inflation, House Democrats

<sup>15</sup> Jeremy Diamond, Kevin Liptak, Paula Newton & Donna Borak, *US and Canada reach deal on NAFTA after talks go down to the wire*, CNN (Oct. 1, 2018, 7:24 AM), <https://www.cnn.com/2018/09/30/politics/trump-nafta-canada/index.html>.

<sup>16</sup> *Id.*

<sup>17</sup> Glenn Thrush, *Trump's Nafta Plan Could Be Upended by Democrats' House Takeover*, N.Y. TIMES (Nov. 12, 2018), <https://www.nytimes.com/2018/11/12/us/politics/nafta-trump-democratic-house.html?action=click&module=Top%20Stories&pgtype=Homepage>.

<sup>18</sup> *See id.*

<sup>19</sup> *Id.*

are seeking more details on how the deal will be enforced and questioning whether the \$16-an-hour benchmark is sufficiently high to prevent the shifting of jobs from the U.S. to Mexico.<sup>20</sup> The House will also first consider the USMCA under the constitutional provision which mandates that revenue bills originate in the lower chamber.<sup>21</sup> According to senior administration officials, a vote could take up to nine months, or longer.<sup>22</sup>

## B. World Trade Organization (WTO)

The World Trade Organization (“WTO”) is an international organization that regulates over 98% of global trade among 164 member countries,<sup>23</sup> serves as a forum for negotiating trade agreements, settles trade disputes between its member countries, and supports developing countries.<sup>24</sup> The WTO replaced the General Agreement on Tariffs and Trade (“GATT”) on January 1, 1995, which had regulated interstate commerce since 1948.<sup>25</sup> The United States has been a member of the WTO since its establishment in 1995.<sup>26</sup> Trump has repeatedly suggested withdrawing the U.S. from the WTO.<sup>27</sup> However, such a move would throw international trade systems and economies into chaos.<sup>28</sup> The associate director of the Cato Institute’s Herbert A. Stiefel Center for Trade Policy Studies lists these three “big losses” that would result:

1. It would mean that the US could be faced with higher trade barriers in all of its major export markets, as these countries would no longer be bound by their promises to lower tariffs on US goods or not to discriminate against US goods ...
2. It would also mean that countries who are not parties to separate [free-trade agreements] with the US would no longer be subject to enforceable obligations to protect US intellectual property
3. It would mean that the US would not have a good enforcement mechanism to address foreign trade barriers.<sup>29</sup>

---

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Bryan Schonfeld, *Why the U.S. needs the World Trade Organization*, THE WASHINGTON POST (Sept. 20, 2016), [https://www.washingtonpost.com/news/monkey-cage/wp/2016/09/20/would-the-u-s-be-better-off-without-the-wto-not-when-the-wto-guides-98-percent-of-global-trade/?utm\\_term=.d72407d9a4f9](https://www.washingtonpost.com/news/monkey-cage/wp/2016/09/20/would-the-u-s-be-better-off-without-the-wto-not-when-the-wto-guides-98-percent-of-global-trade/?utm_term=.d72407d9a4f9).

<sup>24</sup> *The WTO*, WORLD TRADE ORG., [https://www.wto.org/english/thewto\\_e/thewto\\_e.htm](https://www.wto.org/english/thewto_e/thewto_e.htm) (last visited Dec. 15, 2017).

<sup>25</sup> Schonfeld, *supra* note 19.

<sup>26</sup> *Id.*; *United States of America and the WTO*, WORLD TRADE ORG., [https://www.wto.org/english/thewto\\_e/countries\\_e/usa\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/usa_e.htm) (last visited Dec. 15, 2017).

<sup>27</sup> Bob Bryan, *Trump reportedly wants to pull the US out of the WTO, a move that would wreck the international trade system*, BUS. INSIDER (Jun. 29, 2018, 11:50 AM), <https://www.businessinsider.com/trump-leave-world-trade-organization-wto-2018-6>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

Trump would also need the approval of Congress to pull the U.S. out of the WTO, and it is unlikely that he would be able to obtain such an approval.<sup>30</sup>

Trump has also blocked the appointment of new members of the Appellate Body (AB) of the WTO, which now only has three out of the seven seats filled.<sup>31</sup> The AB is “effectively the supreme court of world trade”, and Trump’s actions leave the bare minimum of judges to rule on international disputes.<sup>32</sup> In August in this year, Trump also decided to take unilateral action and double tariffs on steel and aluminum imports from Turkey<sup>33</sup>, which violates WTO rules.<sup>34</sup> In response, Turkey initiated a dispute complaint with the WTO over Trump’s additional tariffs.<sup>35</sup> Both sides have 60 days to find a solution to the dispute, and then the issue will go to the WTO Dispute Settlement Body.<sup>36</sup>

### III. International Agreements

#### A. Trans-Pacific Partnership (TPP)

The Trans-Pacific Partnership (“TPP”) was signed by 12 countries on October 4, 2015 – Australian, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam.<sup>37</sup> Under the agreement, the countries agreed to “promote economic growth; support the creation and retention of jobs; enhance innovation, productivity and competitiveness; raise living standards; reduce poverty in our countries; and promote transparency, good governance, and enhanced labor and environmental protections.”<sup>38</sup> Though the TPP was signed by then-President Obama when he was still in office, it was not ratified by

---

<sup>30</sup> *Id.*

<sup>31</sup> *Isolate Trump at WTO, says former top trade judge Bacchus*, REUTERS (Oct. 3, 2018, 1:08 PM), <https://www.reuters.com/article/us-usa-trade-wto/isolate-trump-at-wto-says-former-top-trade-judge-bacchus-idUSKCN1MD2AL>.

<sup>32</sup> *Id.*

<sup>33</sup> Jim Tankersley, Ana Swanson & Matt Phillips, *Trump Hits Turkey When It’s Down, Doubling Tariffs*, N.Y. TIMES (Aug. 10, 2018), <https://www.nytimes.com/2018/08/10/us/politics/trump-turkey-tariffs-currency.html>.

<sup>34</sup> *Donald Trump doubles Turkey tariffs ‘against World Trade Organization rules’*, ABC (Aug. 10, 2018, 9:57 PM), <https://www.abc.net.au/news/2018-08-11/trump-tariff-hikes-against-wto-rules-turkey-says/10109374>.

<sup>35</sup> *Turkey initiates WTO dispute complaint over additional U.S. tariffs*, REUTERS (Aug. 20, 2018, 11:17 AM), <https://www.reuters.com/article/us-turkey-currency-usa-wto/turkey-initiates-wto-dispute-complaint-over-additional-us-tariffs-idUSKCN1L51MP>.

<sup>36</sup> *Id.*

<sup>37</sup> *Summary of the Trans-Pacific Partnership Agreement*, OFFICE OF THE U.S. TRADE REP., <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/october/summary-trans-pacific-partnership> (last visited Nov. 29, 2018).

<sup>38</sup> *Id.*

Congress.<sup>39</sup> On January 23, 2017, Trump withdrew the U.S. from the TPP, just three days into his presidential term.<sup>40</sup>

Contrary to certain predictions that the U.S.'s withdrawal would come as a blow, the remaining 11 countries have moved forward and have not been waiting around for Trump and his administration to change its mind.<sup>41</sup> Since the U.S.'s withdrawal, several regional and bilateral trade negotiations have been completed.<sup>42</sup> Other countries have been negotiating increased market access while leaving the U.S. behind.<sup>43</sup> For instance, under the Japan-Europe agreement, Japanese tariffs on European beef will decrease from 38.5% to 9% over the course of 15 years.<sup>44</sup> This means that U.S. beef exporters will be stuck with the 38.5% tariff and will make it harder for them to compete.<sup>45</sup>

On March 8, 2018, the 11 member states signed The Comprehensive and Progressive Agreement for Trans-Pacific Partnership ("CPTPP") without the U.S., though it leaves open the door and possibility for re-entry by the U.S.<sup>46</sup> CPTPP, the successor to the TPP, includes reductions in tariff and non-tariff barriers among its members, and will take effect on December 30, 2018.<sup>47</sup>

## B. Paris Agreement

The Paris Agreement was adopted on December 12, 2015 at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.<sup>48</sup> The agreement entered into force on November 4, 2016, "thirty days after the date on which at least 55 Parties to the Convention accounting in total or at least an estimated 55% of the total global greenhouse gas emissions have deposited their instruments of ratification,

---

<sup>39</sup> *Id.*

<sup>40</sup> Alex Ward, *The Trans-Pacific Partnership has been resurrected – and it's happening without the US*, VOX (Nov. 11, 2017, 3:38PM), <https://www.vox.com/2017/11/11/16637826/trump-trans-pacific-partnership>.

<sup>41</sup> *Id.* See also Wendy Cutler, *Asia has moved on after U.S. withdrawal from TPP*, AXIOS (Jan. 23, 2018), <https://www.axios.com/asia-has-moved-on-after-us-withdrawal-from-tpp-1516146663-28d9f759-1f30-438c-be69-55f9d45a264d.html>.

<sup>42</sup> Wendy Cutler, *Asia has moved on after U.S. withdrawal from TPP*, AXIOS (Jan. 23, 2018), <https://www.axios.com/asia-has-moved-on-after-us-withdrawal-from-tpp-1516146663-28d9f759-1f30-438c-be69-55f9d45a264d.html>.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Mireya Solis & Jennifer Mason, *As the TPP lives on, the U.S. abdicates trade leadership*, BROOKINGS (Mar. 9, 2018), <https://www.brookings.edu/blog/order-from-chaos/2018/03/09/as-the-tpp-lives-on-the-u-s-abdicates-trade-leadership/>.

<sup>47</sup> Ankit Panda, *The CPTPP Trade Agreement Will Enter Into Force on December 30*, THE DIPLOMAT (Nov. 1, 2018), <https://thediplomat.com/2018/11/the-cptpp-trade-agreement-will-enter-into-force-on-december-30/>.

<sup>48</sup> *Status of Treaties: Chapter XXVII*, U.N. TREATIES COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVII-7-d&chapter=27&lang=en&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&lang=en&clang=en) (last visited Dec. 15, 2017).



acceptance, approval or accession with the Depository.”<sup>49</sup> To date, 184 of 197 Parties to the Convention have ratified the agreement.<sup>50</sup> The primary purpose of the Paris Agreement is to battle climate change, to expedite actions needed for a sustainable low carbon future.<sup>51</sup> The Agreement aims:

[T]o strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. Additionally, the agreement aims to strengthen the ability of countries to deal with the impacts of climate change.<sup>52</sup>

The U.S. had previously pledged to cut greenhouse gas emissions in the country by as much as 28% from 2005 levels by the year 2025, under former President Obama.<sup>53</sup> However, in August 2017, Trump announced that the U.S. would be withdrawing from the Paris Climate with the possibility of rejoining “if the terms improved for the United States.”<sup>54</sup> According to Trump, the Agreement is “[one] that disadvantages the United States to the exclusive benefit of other countries.”<sup>55</sup> Trump has repeatedly described climate change as a hoax, even tweeting that “[t]he concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive” (though he later claimed that he was joking).<sup>56</sup> Further, radical right-wing organizations, funded by the fossil fuel industry, largely influenced Trump’s campaign.<sup>57</sup> These organizations also “pumped millions” into his inauguration,<sup>58</sup> and his

---

<sup>49</sup> *The Paris Agreement*, U.N. FRAMEWORK ON CLIMATE CHANGE, [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php) (last visited Nov. 30, 2018).

<sup>50</sup> *Id.*

<sup>51</sup> *What is the Paris Agreement?*, U.N. CLIMATE CHANGE, <https://unfccc.int/process-and-meetings/the-paris-agreement/what-is-the-paris-agreement>.

<sup>52</sup> *Id.*

<sup>53</sup> Valerie Volcovici, *U.S. submits formal notice of withdrawal from Paris climate pact*, REUTERS (Aug. 4, 2017, 5:25PM), <https://www.reuters.com/article/us-un-climate-usa-paris/u-s-submits-formal-notice-of-withdrawal-from-paris-climate-pact-idUSKBN1AK2FM>.

<sup>54</sup> *Id.*

<sup>55</sup> Timmons Roberts, *One year since Trump’s withdrawal from the Paris climate agreement*, BROOKINGS (June 1, 2018), <https://www.brookings.edu/blog/planetpolicy/2018/06/01/one-year-since-trumps-withdrawal-from-the-paris-climate-agreement/>.

<sup>56</sup> *Id.*; Louis Jacobson, *Yes, Donald Trump did call climate change a Chinese hoax*, POLITIFACT (June 3, 2016, 12:00 PM), <https://www.politifact.com/truth-o-meter/statements/2016/jun/03/hillary-clinton/yes-donald-trump-did-call-climate-change-chinese-h/>.

<sup>57</sup> Timmons Roberts, *One year since Trump’s withdrawal from the Paris climate agreement*, BROOKINGS (June 1, 2018), <https://www.brookings.edu/blog/planetpolicy/2018/06/01/one-year-since-trumps-withdrawal-from-the-paris-climate-agreement/>.

<sup>58</sup> Marianne Lavelle, *Fossil Fuel Industries Pumped Millions Into Trump’s Inauguration, Filing Shows*, INSIDE CLIMATE NEWS (Apr. 19, 2017), <https://insideclimatenews.org/news/19042017/fossil-fuels-oil-coal-gas-exxon-chevron-bp-donald-trump-inauguration-donations>.

appointees at Environmental, Energy and Natural Resource Management agencies lacked expertise or experience but were appointed because of their close ties to the fossil fuel industry.<sup>59</sup>

Since Trump's withdrawal announcement, there have been two major negotiating sessions in Germany at the Framework Convention on Climate Change headquarters.<sup>60</sup> The U.S. State Department has showed up at each of these sessions, despite the U.S.'s withdrawal, because under the Agreement, no country was supposed to be able to withdraw until November 4, 2019 (three years to the day in which the agreement became effective).<sup>61</sup> In addition, the withdrawal process itself will take three years, so despite Trump's ability to unilaterally announce withdrawal of the country from the Agreement, the earliest date on which the U.S. can even withdraw is November 4, 2020, one day after the 2020 presidential election.<sup>62</sup> This means that Trump's withdrawal from the Agreement is hollow, and that if a new president is elected in 2020, he or she can re-sign and accept the Agreement.<sup>63</sup>

While opinion polls show that Americans are becoming increasingly concerned about climate change and are finally beginning to realize that climate change is a current and not future issue, the issue unfortunately has become largely partisan.<sup>64</sup> The Trump administration has also attempted regulatory rollbacks of policies established by former president Obama intended to reduce climate change, like the Clean Power Plan, though this has been met with challenges and litigation by states and environmental groups.<sup>65</sup> As a result of Trump's withdrawal, business

---

<sup>59</sup> Jessica Wentz, *Trump Appointees at Environmental, Energy and Natural Resource Management Agencies: Not Much Expertise, Plenty of Fossil Fuel Connections*, COLUMBIA L. SCH. CLIMATE L. BLOG (Apr. 10, 2017), [http://blogs.law.columbia.edu/climatechange/2017/04/10/trump-appointees-at-environmental-energy-and-natural-resource-management-agencies-not-much-expertise-plenty-of-fossil-fuel-connections/?mc\\_cid=7ee5454245&mc\\_eid=fb49c7263a](http://blogs.law.columbia.edu/climatechange/2017/04/10/trump-appointees-at-environmental-energy-and-natural-resource-management-agencies-not-much-expertise-plenty-of-fossil-fuel-connections/?mc_cid=7ee5454245&mc_eid=fb49c7263a). More than 400 officials were "quietly appointed [by Trump] at agencies across the federal government. These officials were given beachhead positions that do not require Senate confirmation and have received far less attention in news outlets than those who do require confirmation." *Id.*

<sup>60</sup> Timmons Roberts, *One year since Trump's withdrawal from the Paris climate agreement*, BROOKINGS (June 1, 2018), <https://www.brookings.edu/blog/planetpolicy/2018/06/01/one-year-since-trumps-withdrawal-from-the-paris-climate-agreement/>.

<sup>61</sup> Robinson Meyer, *Trump and the Paris Agreement: What Just Happened?*, THE ATLANTIC (Aug. 4, 2017), <https://www.theatlantic.com/science/archive/2017/08/trump-and-the-paris-agreement-what-just-happened/536040/>.

<sup>62</sup> Valerie Volcovici, *U.S. submits formal notice of withdrawal from Paris climate pact*, REUTERS (Aug. 4, 2017, 5:25PM), <https://www.reuters.com/article/us-un-climate-usa-paris/u-s-submits-formal-notice-of-withdrawal-from-paris-climate-pact-idUSKBN1AK2FM>.; Lisa Friedman, *New Talks on Paris Climate Pact Are Set, and That's Awkward for U.S.*, N.Y. TIMES (Oct. 18, 2017), <https://www.nytimes.com/2017/10/18/climate/trump-paris-agreement.html>.

<sup>63</sup> See Timmons Roberts, *One year since Trump's withdrawal from the Paris climate agreement*, BROOKINGS (June 1, 2018), <https://www.brookings.edu/blog/planetpolicy/2018/06/01/one-year-since-trumps-withdrawal-from-the-paris-climate-agreement/>.

<sup>64</sup> *Id.* See also Anthony Leiserowitz et al., *Climate Change in the American Mind: March 2018*, YALE PROGRAM ON CLIMATE CHANGE COMM'N (Apr. 17, 2018), <http://climatecommunication.yale.edu/publications/climate-change-american-mind-march-2018/>.

<sup>65</sup> Chris Mooney, *Trump withdrew from the Paris climate deal a year ago. Here's what has changed*, WASH. POST (June 1, 2018), [https://www.washingtonpost.com/news/energy-environment/wp/2018/06/01/trump-withdrew-from-the-paris-climate-plan-a-year-ago-heres-what-has-changed/?utm\\_term=.1f3ff29e8ca8](https://www.washingtonpost.com/news/energy-environment/wp/2018/06/01/trump-withdrew-from-the-paris-climate-plan-a-year-ago-heres-what-has-changed/?utm_term=.1f3ff29e8ca8).



leaders, who were supposed to be acting on climate change, are now unsure of how to act.<sup>66</sup> However, all nations have officially maintained that they will continue to stick with Paris, in spite what the U.S. has announced.<sup>67</sup> While this might appear to be good, if the U.S. fails to follow through, other countries might find it more challenging to maintain their own commitments.<sup>68</sup> In addition, while the U.S. has not made any dramatic turns in its emissions trajectory, even if it achieved the goals of the Obama administration, the reduction in emissions would still ultimately be too little – as the second largest global emitter of greenhouse gases, the U.S. will need to do much more to reduce its emissions.<sup>69</sup>

### C. Iran Nuclear Deal

The Iran Nuclear Deal was signed by six “world powers” in 2015 – the United States, the United Kingdom, Russia, France, China, and Germany – under the Joint Comprehensive Plan of Action (“JCPOA”).<sup>70</sup> The purpose of the initial deal was to block the four potential paths that lead to building a nuclear weapon.<sup>71</sup> Simply put, the Deal cuts off Iran’s access to: “highly enriched uranium at Natanz Facility, highly enriched uranium at Fordow Facility, weapons-grade plutonium, [and] covert attempts to produce fissile material.”<sup>72</sup> With the deal, all 4 pathways to building a nuclear bomb are blocked; without it, Iran merely needs approximately 2-3 months to produce one bomb’s worth of material.<sup>73</sup>

In 2017, Trump announced that he would not recertify the deal, but his decision to disavow the agreement stopped short of completely unraveling the agreement.<sup>74</sup> However, on May 8, 2018, Trump officially declared that he was withdrawing from the deal, “unraveling the signature foreign policy achievement of his predecessor Barack Obama, isolating the United States from its Western allies and sowing uncertainty before a risky nuclear negotiation with North Korea.”<sup>75</sup> As a result, the U.S. will not only re-impose the harsh sanctions it had imposed on Iran prior to the deal, but is also considering new penalties that will be drawn up by the Treasury Department.<sup>76</sup> President Emmanuel Macron of France, Chancellor Angela Merkel of Germany, and Prime Minister Theresa May of Britain have also pointed out that the United Nations Security Council resolution that endorsed the Iran Nuclear Deal remained the “binding

---

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Iran nuclear deal: Key details*, BBC (Oct. 13, 2017), <http://www.bbc.com/news/world-middle-east-33521655>.

<sup>71</sup> *The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA, <https://obamawhitehouse.archives.gov/node/328996> (last visited Nov. 30, 2018).

<sup>72</sup> *Id.*

<sup>73</sup> *The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA, <https://obamawhitehouse.archives.gov/node/328996> (last visited Dec. 15, 2017).

<sup>74</sup> Mark Landler & David E. Sanger, *Trump Disavows Nuclear Deal, but Doesn’t Scrap It*, N.Y. TIMES (Oct. 13, 2017), <https://www.nytimes.com/2017/10/13/us/politics/trump-iran-nuclear-deal.html>.

<sup>75</sup> Mark Landler, *Trump Abandons Iran Nuclear Deal He Long Scorned*, N.Y. TIMES (May 8, 2018), <https://www.nytimes.com/2018/05/08/world/middleeast/trump-iran-nuclear-deal.html>.

<sup>76</sup> *Id.*

international legal framework for the resolution of the dispute”, which brings up the possibility that the U.S. will be found to have violated the Security Council.<sup>77</sup>

Five months after Trump’s withdrawal, Iran continues to comply with restrictions under the Iran Nuclear Deal, while the remaining five countries attempt to find solutions around Trump’s renewed sanctions on Iran.<sup>78</sup> States that import Iranian oil have been pressured by U.S. officials to reduce purchases or face severe sanctions that came back into effect on November 5.<sup>79</sup> On September 24, the other five countries met at the United Nations to address “practical proposals” to offset U.S. actions and to protect “legitimate business” dealings with Iran.<sup>80</sup> While at the United Nations, Trump stated, “We ask all nations to isolate Iran’s regime as long as its aggression continues”. However, it appears that the U.S. is the one being isolated, as top leaders criticized Trump one after another.<sup>81</sup>

#### **D. Transatlantic Trade and Investment Partnership (“TTIP”)**

The Transatlantic Trade and Investment Partnership (“TTIP”) is an agreement between the United States and the European Union, and will “help unlock opportunity for American families, workers, businesses, farmers and ranchers through increased access to European markets for Made-in-America goods and services.”<sup>82</sup> Among other things, TTIP intends to boost economic growth and add to the over 13 million American and EU jobs already supported by transatlantic trade.<sup>83</sup>

In January 2017, Trump formally abandoned the TTIP and “declared an end to the era of multinational trade agreements that defined global economics for decades”<sup>84</sup>, and subsequently imposed tariffs on steel and aluminum on European Union countries and other trading partners.<sup>85</sup> However, on March 29, 2018, U.S. Department of Commerce Secretary Wilbur Ross announced that the Trump administration was willing to resume TTIP negotiations, but Trump subsequently added to tensions by calling Europe a “foe”.<sup>86</sup> On July 25, 2018, Trump met with the president of the European Commission, Jean-Claude Juncker and agreed to a trade truce, where both sides would work on lowering tariffs and other trade barriers.<sup>87</sup> While Trump claims this as his own victory, what he is currently pursuing is pretty much the same as what former President Obama

---

<sup>77</sup> *Id.*

<sup>78</sup> Terry Atlas & Kelsey Davenport, *Trump Challenges Europeans Over Iran Deal*, ARMS CONTROL ASS’N (Oct. 2018), <https://www.armscontrol.org/act/2018-10/news/trump-challenges-europeans-over-iran-deal>.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Transatlantic Trade and Investment Partnership (T-TIP)*, OFFICE OF THE U.S. TRADE REP., <https://ustr.gov/ttip> (last visited Dec. 15, 2017).

<sup>83</sup> *Id.*

<sup>84</sup> Peter Baker, *Trump Abandons Trans-Pacific Partnership, Obama’s Signature Trade Deal*, N.Y. TIMES (Jan. 23, 2017), <https://www.nytimes.com/2017/01/23/us/politics/tpp-trump-trade-nafta.html>.

<sup>85</sup> Kimberly Amadeo, *Transatlantic Trade and Investment Partnership (TTIP)*, THE BALANCE (Nov. 15, 2018), <https://www.thebalance.com/transatlantic-trade-and-investment-partnership-ttip-3305582>.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

pursued through the TTIP.<sup>88</sup> Even though no significant trade deal was produced, the two sides seem to be working towards the possibility of one,<sup>89</sup> though Trump is “known to quickly change his mind and mood”.<sup>90</sup>

#### **IV. Immigration and Asylum**

Since Trump’s appointment in January 2017, his immigration policies have been a hot topic of discussion. As a whole, Trump’s immigration policies mirror economic nationalism and reverses decades of U.S. immigration policy.<sup>91</sup> Trump’s immigration policies revolve around six primary areas:

1. Rescind deportation referrals for immigrants who arrive[] in the U.S. as children
2. Restrict travel and work visas from eight countries
3. Increase screening of refugees while cutting staff
4. Funding for a border wall with Mexico
5. Reviewing the H-1B visa program
6. Propose curbs on legal immigration<sup>92</sup>

In 2017, the Trump administration took action on the following:

- Banned nationals of eight countries, most majority-Muslim, from entering the United States.
- Reduced refugee admissions to the lowest level since the resettlement program was created in 1980.
- Reversed the decline in arrests of unauthorized immigrants in the U.S. interior that had occurred during the last two years of the Obama administration.
- Cancelled the Deferred Action for Childhood Arrivals (“DACA”) program, which is currently providing work authorization and temporary relief from deportation to approximately 690,000 unauthorized immigrants brought to the United States as children.
- Ended the designation of Temporary Protected Status for nationals of Haiti, Nicaragua and Sudan, and signaled that Hondurans and possibly Salvadorans may also lose their work authorization and protection from removal in 2018.<sup>93</sup>

---

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Gina Chon, *Breakingviews – Trump and Juncker revive Obama-era trade goals*, REUTERS (July 25, 2018, 6:14 PM), <https://www.reuters.com/article/us-usa-trade-breakingviews/breakingviews-trump-and-juncker-revive-obama-era-trade-goals-idUSKBN1KF31S>.

<sup>91</sup> Kimberly Amadeo, *Donald Trump on Immigration, Pros and Cons of His Policies*, THE BALANCE (Nov. 26, 2018), <https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107>.

<sup>92</sup> *Id.*

<sup>93</sup> Sarah Pierce & Andrew Selee, *Immigration under Trump: A Review of Policy Shifts in the Year Since the Election*, MIGRATION POLICY INST. (Dec. 2017), <https://www.migrationpolicy.org/research/immigration-under-trump-review-policy-shifts>.

## DACA

Not all of Trump's actions have held up in court. For instance, when the Trump administration cancelled DACA last year, it arbitrarily gave Congress a deadline of March 5, 2018 to provide a solution to replace DACA.<sup>94</sup> However, on January 9, 2018, the U.S. District Court in San Francisco overruled Trump and held that those eligible for DACA cannot be deported until the matter is resolved in court.<sup>95</sup> On January 26, 2018, Trump released an immigration plan that would replace DACA and provided a 12-year plan to citizenship for illegal immigrants who arrived in the U.S. as children.<sup>96</sup> On April 24, 2018, the Federal District Court of the District of Columbia held that that Department of Homeland Security had to explain its reasons for canceling DACA, and if it failed to do so in 90 days, it had to resume processing DACA applications.<sup>97</sup> On August 4, 2018, a federal judge upheld his previous order to revive DACA.<sup>98</sup> On November 8, 2018, DACA was upheld by the 9th U.S. Circuit Court of Appeals.<sup>99</sup>

## Refugees

On March 6, 2017, Trump issued an executive order, banning refugees for 120 days unless they already had been scheduled to travel.<sup>100</sup> This year, Trump's administration cut the staff that conducts clearance interviews overseas, escalated the screening process for refugees, and also doubled the number of refugees to be screened.<sup>101</sup> As a result, refugees who were scheduled to arrive fail to arrive, donated items sit in storage rooms collecting dust, and refugee transportation vans remain unused.<sup>102</sup> Assuming that refugees continue to trickle into the U.S., only an estimated 20,000 refugees will make it – the lowest number seen since the Refugee Act was passed in 1980.<sup>103</sup>

## Asylum Seekers

---

<sup>94</sup> Jorge Rivas, *What Exactly Is Happening With DACA Today?*, SPLINTER (Mar. 5, 2018, 3:12 PM), <https://splinternews.com/what-exactly-is-happening-with-daca-today-1823522160>.

<sup>95</sup> Kimberly Amadeo, *Donald Trump on Immigration, Pros and Cons of His Policies*, THE BALANCE (Nov. 26, 2018), <https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107>.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> Miriam Jordan, *Judge Upholds Order for Trump Administration to Restore DACA*, N.Y. TIMES (Aug. 3, 2018), <https://www.nytimes.com/2018/08/03/us/federal-judge-daca.html>.

<sup>99</sup> Ariane de Vogue, Dan Berman & Betsy Klein, *Appeals court says administration can't end DACA, Trump says it sets up Supreme Court fight*, CNN (Nov. 9, 2018), <https://www.cnn.com/2018/11/08/politics/daca-9th-circuit/index.html>.

<sup>100</sup> Kimberly Amadeo, *Donald Trump on Immigration, Pros and Cons of His Policies*, THE BALANCE (Nov. 26, 2018), <https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107>.

<sup>101</sup> Liz Robbins & Miriam Johnson, *Apartments Are Stocked, Toys Donated. Only the Refugees are Missing*, N.Y. TIMES (May 16, 2018), [https://www.nytimes.com/2018/05/16/us/refugee-admissions.html?fallback=0&reclid=160U4BmDEyLzwRqE1BIH8mlukBl&geoContinent=NA&geoRegion=CA&recAlloc=thompson\\_sampling&geoCountry=US&blockId=signature-journalism-vi](https://www.nytimes.com/2018/05/16/us/refugee-admissions.html?fallback=0&reclid=160U4BmDEyLzwRqE1BIH8mlukBl&geoContinent=NA&geoRegion=CA&recAlloc=thompson_sampling&geoCountry=US&blockId=signature-journalism-vi).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

Trump has also been working on eliminating the appeals process for asylum seekers and is seeking to deport anyone at the border without documentation.<sup>104</sup> The Trump administration also separated children from their parents at the border as a method of dissuading other undocumented immigrants.<sup>105</sup> Trump also attempted to restrict asylum applicants to designated ports of entry, but overruled by a federal district judge, because this would allow the administration to close the border entirely.<sup>106</sup> On October 31, 2018, Trump sent 5,800 soldiers to the Mexican border, where a caravan of Honduran refugees were seeking asylum from dangerous conditions in their home country.<sup>107</sup> Some argue that the “bottleneck” in Mexico is created by Trump, because instead of sending people capable of processing asylum applications, Trump is sending soldiers.<sup>108</sup> Of course, Trump has no intention of letting in more asylum seekers, and simultaneously sends a message to Central Americans that it will not be easy to cross into the U.S.<sup>109</sup>

On November 9, 2018, Trump announced new restrictions to deny asylum to migrants who illegally enter the U.S., in a further attempt to prevent refugees from entering the country.<sup>110</sup> However, immigrant advocacy groups maintain that under U.S. law, refugees are allowed to apply for asylum regardless of how they entered.<sup>111</sup> On November 20, 2018, a District Judge of San Francisco issued a nationwide restraining order barring enforcement of Trump’s November 8 policy, preventing Trump’s administration from denying asylum to illegal migrants, stating that Trump had violated a “clear command” from Congress that allowed for such applications.<sup>112</sup> The judge also stated, “Whatever the scope of the President’s authority, he may not rewrite the immigration laws to impose a condition that Congress has expressly forbidden.”<sup>113</sup> Under current U.S. immigration laws, foreigners who arrive on American soil and are afraid to return to their home countries are allowed to request asylum to prevent deportation.<sup>114</sup> A U.S. asylum

---

<sup>104</sup> Kimberly Amadeo, *Donald Trump on Immigration, Pros and Cons of His Policies*, THE BALANCE (Nov. 26, 2018), <https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107>.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Trump Says He’s Ready to Send Up to 15,000 Troops to Stop Migrant Caravan at the Mexico Border*, FORTUNE (Oct. 31, 2018), <http://fortune.com/2018/10/31/trump-troops-migrant-caravan-mexico-border/>.

<sup>108</sup> Jorge Ramos, *The Migrant Caravan Isn’t Causing the Border Crisis. Trump Is*, TIME (Nov. 29, 2018), <http://time.com/5466781/migrant-caravan-trump-border-crisis/>.

<sup>109</sup> *Id.*

<sup>110</sup> Nick Miroff, *Trump administration tightens immigration asylum rules as caravans continue to push for U.S. border*, WASH. POST (Nov. 8, 2018), [https://www.washingtonpost.com/world/national-security/trump-administration-to-tighten-asylum-rules-as-caravans-approach/2018/11/08/69a06a08-e2a7-11e8-a1c9-6afe99dddd92\\_story.html?utm\\_term=.cbdc9dbcee3b](https://www.washingtonpost.com/world/national-security/trump-administration-to-tighten-asylum-rules-as-caravans-approach/2018/11/08/69a06a08-e2a7-11e8-a1c9-6afe99dddd92_story.html?utm_term=.cbdc9dbcee3b).

<sup>111</sup> *Id.*

<sup>112</sup> Maria Sacchetti & Issac Stanley-Becker, *In blow to Trump’s immigration agenda, federal judge blocks asylum ban for migrants who enter illegally from Mexico*, WASH. POST (Nov. 20, 2018), [https://www.washingtonpost.com/nation/2018/11/20/blow-trumps-immigration-agenda-federal-judge-blocks-asylum-ban-migrants-who-enter-illegally-mexico/?utm\\_term=.8958509fb6ba](https://www.washingtonpost.com/nation/2018/11/20/blow-trumps-immigration-agenda-federal-judge-blocks-asylum-ban-migrants-who-enter-illegally-mexico/?utm_term=.8958509fb6ba).

<sup>113</sup> *Id.*

<sup>114</sup> Nick Miroff, *Trump administration tightens immigration asylum rules as caravans continue to push for U.S. border*, WASH. POST (Nov. 8, 2018), [https://www.washingtonpost.com/world/national-security/trump-administration-to-tighten-asylum-rules-as-caravans-approach/2018/11/08/69a06a08-e2a7-11e8-a1c9-6afe99dddd92\\_story.html?utm\\_term=.cbdc9dbcee3b](https://www.washingtonpost.com/world/national-security/trump-administration-to-tighten-asylum-rules-as-caravans-approach/2018/11/08/69a06a08-e2a7-11e8-a1c9-6afe99dddd92_story.html?utm_term=.cbdc9dbcee3b).

officer then interviews the individual to determine if the person's fear of persecution is credible, and if so, the individual is then assigned a court date and released from custody.<sup>115</sup>

## **Legal Immigration**

Trump's administration has also sought to drastically reduce legal immigration.<sup>116</sup> Despite Republican control of both houses of Congress for the past two years, Trump and his administration have failed to do so.<sup>117</sup> However, the Trump administration is now attempting to bypass Congress through the regulatory process, in order to achieve its goal.<sup>118</sup> Under the administration's proposed regulations, working- and middle-class people who are "likely" to receive Medicaid coverage or other public benefits, based on government predictions, will find it harder to obtain green cards and visas.<sup>119</sup> The administration is basing its proposal on a statutory provision enacted in 1882, "under which most immigrants who are otherwise eligible for green cards and most nonimmigrants seeking admission to the United States on a temporary basis must show that they are not 'likely to become a public charge'"<sup>120</sup>

---

<sup>115</sup> *Id.*

<sup>116</sup> Sarah Pierce & Andrew Selee, *Immigration under Trump: A Review of Policy Shifts in the Year Since the Election*, MIGRATION POLICY INST. (Dec. 2017), <https://www.migrationpolicy.org/research/immigration-under-trump-review-policy-shifts>.

<sup>117</sup> Shawn Fremstad, *Trump's "Public Charge" Rule Would Radically Change Legal Immigration*, AM. PROGRESS (Nov. 27, 2018, 10:00 AM), <https://www.americanprogress.org/issues/poverty/reports/2018/11/27/461461/trumps-public-charge-rule-radically-change-legal-immigration/>.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*



---

December 6, 2018 | by Yian Pan, Associate at Wong Fleming



*Yian Pan is an Associate at the Princeton Office of Wong Fleming and concentrates her practice in Commercial Litigation, Intellectual Property and Trial, Insurance Defense and Coverage.*

*Ms. Pan received her JD from Rutgers University, where she graduated cum laude and was Senior Articles Editor of the Rutgers University Law Review.*

*Prior to joining Wong Fleming, Ms. Pan worked as a Legal Intern for a major news organization researching and analyzing bankruptcy courts and executory contracts in the oil and gas industries.*