

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.”<sup>15</sup> 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.”<sup>16</sup>

INTERNATIONAL OCEANS, ENVIRONMENT, HEALTH, AND AVIATION LAW

*United States Reaches Agreement to Limit Arctic Fishing*

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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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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).

<sup>15</sup> 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).

<sup>16</sup> Allen-Ebrahimian, *supra* note 13.

<sup>1</sup> 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].

<sup>2</sup> 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].

<sup>3</sup> November 30 Press Release, *supra* note 1.

ecosystem(s) of this area and, in particular, of determining whether fish stocks might exist in this area that could be harvested on a sustainable basis.”<sup>4</sup> The text of the agreement has not yet been made public.

Several non-U.S. parties to the agreement have emphasized the importance of this agreement in light of climate change. In discussing the value of the collaborative research initiative in particular, the Norwegian government stated that “such research will be important in monitoring the effects of climate change on the ecosystems of the Arctic high seas.”<sup>5</sup> Norway had previously noted the importance of limiting unregulated fishing in response to climate change’s alteration of marine ecosystems in the Arctic Ocean.<sup>6</sup> The European Union also cited climate change as being critical to the importance of the agreement, stating in its press release that:

The Arctic region is warming at almost twice the global average rate, causing a change in the size and distribution of fish stocks. As a result, the Arctic high seas potentially become more attractive for commercial fisheries in the medium to long term. However, until present, most of the Arctic high seas were not covered by any international conservation and management regime. The agreement, reached in Washington DC at the fifth and final round of negotiations, will be a first step towards the creation of regional fisheries management organisations for the Central Arctic Ocean, to ensure that any future fishing is carried out sustainably.<sup>7</sup>

The Canadian government described the agreement as a “strong proactive and precautionary approach to potential fishing activities in the central Arctic Ocean as climate change continues to have a major impact in the area.”<sup>8</sup> The Trump administration has not made the same explicit connection to climate change, although the State Department press release notes the “changing conditions of the Arctic Ocean.”<sup>9</sup>

In July of 2015, the five Arctic coastal countries—Canada, Denmark, Norway, Russia, and the United States—reached a similar substantive understanding regarding the prevention of unregulated fishing of the Arctic.<sup>10</sup> The State Department at the time noted that the concluded declaration was consistent with past U.S. action to limit commercial fishing in the Arctic and with the intent expressed by Congress in a 2008 joint resolution:

<sup>4</sup> *Id.*

<sup>5</sup> Norwegian Gov’t Press Release, Agreement on Unregulated Fishing in the Arctic Ocean (Dec. 1, 2017), at <https://www.regjeringen.no/en/aktuelt/agreement-on-unregulated-fishing-in-the-arctic-ocean/id2580484> [<https://perma.cc/9W5X-4S4B>].

<sup>6</sup> Norwegian Gov’t Press Release, Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean (July 16, 2015), available at <https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/folkerett/declaration-on-arctic-fisheries-16-july-2015.pdf> [<https://perma.cc/59WM-U32W>].

<sup>7</sup> Eur. Comm’n Press Release, EU and its Arctic Partners Agree to Prevent Unregulated Fishing in High Seas (Dec. 1, 2017), at [http://europa.eu/rapid/press-release\\_MEX-17-5065\\_en.htm](http://europa.eu/rapid/press-release_MEX-17-5065_en.htm) [<https://perma.cc/5MLS-36KL>] [hereinafter EU Press Release].

<sup>8</sup> Fisheries and Oceans Canada Statement, Minister LeBlanc Commends Historic International Agreement to Prevent Unregulated Fishing in the High Seas of the Central Arctic Ocean (Nov. 30, 2017), at [https://www.canada.ca/en/fisheries-oceans/news/2017/11/minister\\_leblanccommendshistoricinternationalagreementtopreventu.html](https://www.canada.ca/en/fisheries-oceans/news/2017/11/minister_leblanccommendshistoricinternationalagreementtopreventu.html) [<https://perma.cc/ZX6J-4GYL>] [hereinafter Canada Statement].

<sup>9</sup> Nov. 30 Press Release, *supra* note 1.

<sup>10</sup> Law Libr. of Congress, Canada; Denmark; Norway; Russia; United States: Fishing Declaration Covering Central Arctic (July 21, 2015), at <http://www.loc.gov/law/foreign-news/article/canada-denmark-norway-russia-united-states-fishing-declaration-covering-central-arctic> [<https://perma.cc/N5HU-J9U8>].

The declaration builds on U.S. action in 2009 to prohibit commercial fishing in its Exclusive Economic Zone north of the Bering Strait until better scientific information to support sound fisheries management is available. The United States initiated this five-state process consistent with congressional direction under Public Law 110–243, which calls for the United States to take steps with other Arctic nations to negotiate an agreement for managing fish stocks in the Arctic Ocean, as well as the Implementation Plan for the 2013 National Strategy for the Arctic Region, which commits the United States to prevent unregulated high seas fisheries in the Arctic.<sup>11</sup>

Negotiations for the expanded 2017 agreement were expressly grounded in the 2015 declaration but included not only the EU but also China, Iceland, Japan, and South Korea—nations which do not directly border the Arctic but do possess large fishing fleets.<sup>12</sup>

As of the March 2017 round of negotiations, the 2017 agreement was drafted to be legally binding as a matter of international law,<sup>13</sup> and the Canadian government expressly referred to the agreement as legally binding in its November 2017 press release.<sup>14</sup> It remains to be seen what constitutional process the United States will use in pursuing ratification. The agreement is to enter into force once it has been signed and ratified by all ten parties.<sup>15</sup>

#### INTERNATIONAL ECONOMIC LAW

*Trump Administration Continues Push to Reshape American Trade Relations by Imposing Tariffs on Steel and Aluminum Imports*

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On March 8, 2018, President Trump signed Proclamation 9704<sup>1</sup> and Proclamation 9705<sup>2</sup> imposing tariffs on imported aluminum and steel articles, respectively. According to Trump,

<sup>11</sup> U.S. Dep't of State Press Release, Arctic Nations Sign Declaration to Prevent Unregulated Fishing in the Central Arctic Ocean (July 16, 2015), at <https://web.archive.org/web/20150718230333/http://www.state.gov/r/pa/prs/ps/2015/07/244969.htm> [<https://perma.cc/5WE6-MB5M>]. See also Pub. L. No. 110-243, 122 Stat. 1569 (2008).

<sup>12</sup> U.S. Dep't of State Press Release, Meeting on High Seas Fisheries in the Central Arctic Ocean: Chairmen's Statement (Dec. 3, 2015), at <https://web.archive.org/web/20170113151028/https://www.state.gov/e/oes/rls/pr/250352.htm> [<https://perma.cc/PF95-FR93>] (“The meeting followed the signing of the Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean by Canada, the Kingdom of Denmark in respect of Greenland, the Kingdom of Norway, the Russian Federation and the United States of America on 16 July 2015.”). See also Sima Sahar Zerehi, *Binding Agreement on High Seas Fishing in Arctic Ocean Needed, Says Conservation Group*, CBC NEWS (July 9, 2016), at <http://www.cbc.ca/news/canada/north/canada-pushing-for-finding-agreement-on-arctic-fishing-1.3671168> (discussing how the 2016 negotiations hoped to build on the 2015 agreement).

<sup>13</sup> March 27 Press Release, *supra* note 2 (“Delegations worked on the basis of a Chairman's Text . . . that was in the format of a legally binding agreement.”).

<sup>14</sup> Canada Statement, *supra* note 8.

<sup>15</sup> EU Press Release, *supra* note 7.

<sup>1</sup> Proclamation No. 9704, 83 Fed. Reg. 11,619 (Mar. 8, 2018) [hereinafter Aluminum Tariff].

<sup>2</sup> Proclamation No. 9705, 83 Fed. Reg. 11,625 (Mar. 8, 2018) [hereinafter Steel Tariff].