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## CFR Backgrounders

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### Will Trump Carry Out His Foreign Policy Pledges?

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Authors: [Claire Felter](#), Assistant Copy Editor/Writer, [Zachary Laub](#), Senior Copy Editor/Writer, and [James McBride](#), Senior Online Writer/Editor, Economics

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#### Introduction

President Donald J. Trump has promised sweeping changes to U.S. foreign policy. Trump vowed to reverse many of President Barack Obama's signature achievements, including the Asia-Pacific Trans-Pacific Partnership (TPP) trade deal, the landmark climate change accord signed by 197 nations in Paris, and an agreement with Iran to restrict its nuclear program. He promised to continue and intensify border enforcement policies undertaken under Presidents George W. Bush and Obama and finish building a wall on the U.S. border with Mexico. His energy policy would represent a break with Obama's push for a less carbon-intensive economy, while his willingness to place a U.S. embassy in Jerusalem could send shockwaves through an already volatile region.

In many of these areas, the president holds significant executive authority and can unilaterally enact change. In some instances, however, Trump will be constrained by treaty obligations, the prerogatives of the U.S. Congress, the requirements of the federal rulemaking process, or rulings by the U.S. Supreme Court:

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#### Upending Trade Policy

Trump made trade policy a centerpiece of his campaign, promising to upend decades of bipartisan consensus on the desirability of low tariffs and deeper cross-border integration. While many of Trump's proposals have not yet been legally tested, experts say that U.S. law [gives the president broad powers](#) to unilaterally raise tariffs and modify existing trade agreements.

Trump has various options for reorienting future U.S. trade priorities, including favoring bilateral agreements over regional multicountry deals. He signed an [executive order withdrawing](#) the United States from the Trans-Pacific Partnership (TPP), negotiated by the Obama administration with eleven other Pacific Rim countries, immediately after taking office. Meanwhile, the White House press

secretary, Sean Spicer, **said that** “multinational agreements [are] not in our best interest,” calling into question a potential U.S.-European Union trade deal and World Trade Organization (WTO) negotiations on trade in services and environmental goods.

Trump has been a fierce critic of the **North American Free Trade Agreement**, or NAFTA, between Canada, Mexico, and the United States. He promised to notify NAFTA members of his intention to either renegotiate or withdraw from the deal, and his nominee for commerce secretary, Wilbur Ross, **said at his Senate confirmation hearing** that NAFTA would be “logically the first thing for us to deal with.” Under NAFTA’s provisions, the president can unilaterally withdraw the United States from the accord, as well as raise tariffs on Canada and Mexico to pre-deal levels. Trump can also **reopen negotiations**, but major amendments to NAFTA—for instance, abolishing the controversial investor-state dispute settlement (ISDS) mechanism—would likely require congressional approval.

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The incoming administration has also pledged to crack down on what it considers unfair trade practices by foreign competitors, especially China. One option is for the U.S. trade representative to more aggressively bring complaints against China at the WTO. But those challenges take time, while the Department of Commerce and the U.S. International Trade Commission have wide latitude to apply retaliatory duties and tariffs on imports that they find have received state subsidies (they **already do so** on many Chinese goods). Trump’s Treasury Department may also decide to label China a “currency manipulator,” a move that **experts say** would be largely symbolic.

Finally, Trump has repeatedly threatened to apply punitive tariffs on companies that outsource jobs. Experts say that a **suite of existing laws** could permit him to do so for reasons of “national emergency” or national security, categories open to broad interpretation.

### **Strengthening Immigration and Border Enforcement**

As presidential candidate, Trump **stated** that on day one of his presidency he would begin work on an “impenetrable physical wall on the southern border,” and that Mexico would pay for it. The Department of Homeland Security (DHS), which, under the direction of the president, enforces federal immigration laws and controls U.S. borders, builds barriers and roads to deter illegal immigration. President George W. Bush enacted legislation in his second term requiring DHS to build at least **seven hundred miles of reinforced fencing** along the roughly two-thousand-mile border with Mexico. His administration built a majority of this stretch. While the Obama administration continued to add fencing during its first term, it did not fulfill the statutory requirement.

In his first week in office, Trump **issued an executive order** directing available federal funds to the wall’s construction and ordering the preparation of congressional budget requests for future years. He has pledged to make Mexico reimburse the U.S. government for the costs of completing a wall across the entire border, which he **estimates at \$8 to \$12 billion**. (Construction experts have said it could cost **more than double** that.) Trump says **several measures** could persuade the Mexican government to repay this money, such as imposing tariffs on Mexican imports, canceling Mexican nationals’ visas, or prohibiting unauthorized immigrants from wiring funds to Mexico. Some legal experts dispute whether Trump has the **authority to restrict remittance payments**.

Trump also pledged that he would cancel “all federal funding to sanctuary cities,” referring to the

**hundreds of jurisdictions** that limit their cooperation with federal immigration agencies. Critics say that sanctuary cities undermine law enforcement and encourage illegal immigration. Supporters say that unauthorized immigrants are more likely to cooperate with local police if they do not fear immediate deportation.

Trump **issued an additional executive order** instructing federal officials to designate sanctuary jurisdictions ineligible to receive federal grants. Legal scholars are skeptical that the president has the constitutional authority to withhold **all federal funds**, citing several Supreme Court rulings that limited what conditions the federal government can impose on funding to cities and states. They could include a requirement that recipient jurisdictions cooperate with federal authorities. Members of Congress have **introduced several measures** in recent years that are intended to prohibit sanctuary jurisdictions from receiving certain federal funding.

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Trump **vowed** to begin the removal of two million “criminal illegal aliens,” as well as to cancel the issuance of visas to the nationals of countries that “won’t take them back.” DHS **estimated** in its 2011–2013 report that some 1.9 million noncitizen immigrants have been convicted of crimes, but that total includes noncitizens authorized to be in the United States. Trump’s promise to deport “criminal illegal aliens” may resemble actions Obama took during his first term, when the number of annual deportations of criminal unauthorized immigrants **increased**, peaking in 2012. Trump’s **executive order on interior enforcement** prioritized the removal of unauthorized immigrants who have committed criminal acts. It called for hiring ten thousand new immigration officers.

Trump also stated that he would “immediately terminate President Obama’s two illegal executive amnesties,” likely referring to the Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs.

DACA provides up to four years of deportation relief, as well as work visas, to qualified immigrants brought to the United States illegally before their sixteenth birthday. With approximately 750,000 recipients since it was established in 2012, DACA may not be an early priority for the Trump administration, as it only benefits immigrants without criminal records. Secretary of Homeland Security John F. Kelly **said during his confirmation hearing** that law-abiding unauthorized immigrants would “probably not be at the top of the list.”

DAPA, designed to provide similar benefits to undocumented parents of U.S. citizens and permanent residents, was blocked from going into effect by a Texas federal court in 2014. That ruling was **upheld by the Supreme Court** in 2016.

Another of Trump’s pledges was to “suspend immigration from terror-prone regions where vetting cannot safely occur.” Under the Immigration and Nationality Act of 1952 (INA), the president has the authority to ban the entry “of any aliens or of any class of aliens” into the country for as long as he deems necessary if he finds their entry would be “detrimental to the interests of the United States.” This empowers Trump to implement bans on immigration without congressional approval, though a 1965 act amended the INA to prohibit discrimination against visa applicants based on “race, sex, nationality, place of birth, or place of residence.” Presidents Obama, George W. Bush, Bill Clinton, and Ronald Reagan all **issued multiple proclamations** during their tenures banning entry of specific groups, either from a particular country or more broadly for involvement in criminal or terrorist

activities, including corruption and human rights abuses.

Trump **signed** an executive order on January 27 that implemented the proposed immigration restrictions, suspending all refugee admissions for 120 days, capping the number of refugees allowed into the United States in fiscal year 2017 at fifty thousand, and banning travelers from seven Muslim-majority countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—for at least ninety days. The order blocked the entry of Syrian refugees indefinitely. However, the order says that authorities may still admit some refugees on a case-by-case basis. Notably, Trump instructed immigration agencies to prioritize the acceptance of refugees who are from a persecuted religious minority, once the regular admissions process resumes.

In the days immediately following the executive action, dozens of nationals of countries included in the ban, some of whom were previously authorized to enter the United States, were detained by immigration officials upon arrival at U.S. airports. Lawyers and advocacy groups in opposition to the ban argue that Trump's order **violates** the 1965 law, and federal judges in several states **issued orders** that halted the deportation of travelers who had been detained. DHS **stated** that the U.S. government “retains its right to revoke visas at any time if required for national security or public safety.”

### **Reversing Obama on Energy and Climate**

As a candidate, Trump vowed to reverse President Obama's efforts to move the U.S. economy away from carbon-intensive fuels. Since the election, Trump has **moderated some of his views**, but retains the power to undo, or at least severely hobble, many of the Obama administration's signature climate and energy policies.

Trump originally pledged to “cancel” the 2015 Paris Agreement, an accord among 197 countries to voluntarily reduce their climate change emissions, though he later said he has “an open mind” on the deal. According to the agreement, countries must wait four years before withdrawing from it. However, **legal analysts say** that Trump could speed that process to just one year by removing the United States from the **1992 treaty** governing global climate talks, which the president has the authority to do without congressional backing. He can also cancel the remaining \$2 billion of the U.S. pledge of \$3 billion to the UN's Green Climate Fund.

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Experts say that Trump could also effectively end U.S. participation in the deal by undermining the **Clean Power Plan (CPP)**, the centerpiece of Obama's promise at Paris to reduce U.S. carbon output.

The CPP is not legislation but rather a set of Environmental Protection Agency (EPA) regulations setting emissions reduction requirements for each state. Currently, the CPP is on hold due to a **court challenge** arguing that the EPA is overstepping its constitutional bounds. While the Trump administration could decline to continue defending the CPP in court, legal commentators disagree over how much latitude the president has to unilaterally abandon it. Some opponents **argue** that an executive order directing the EPA to stop enforcement of the plan would effectively kill it, while **others say** that the administration would have to proceed through the time-consuming federal rulemaking process to change the CPP. An act of Congress could also override EPA rules.

Trump has also promised to roll back numerous other Obama-era regulations on energy and the

environment. He **immediately issued** executive orders to revive the Keystone XL and Dakota Access pipelines and streamline the environmental review process for other such projects. In addition, he could use his executive authority to **reverse** a ban on oil drilling in the Arctic and **lift a moratorium** on selling coal-mining rights for federally owned land. He **could weaken** the stricter vehicle fuel-efficiency standards introduced by Obama's EPA and also reduce federal subsidies for clean-technology development.

### **Reopening the Iran Deal**

"My **number-one priority** is to dismantle the disastrous deal with Iran," Trump told the American Israel Public Affairs Committee during the primary campaign, referring to Iran's agreement with six major powers to restrict its nuclear program in exchange for sanctions relief. Elsewhere on the campaign trail he said he would renegotiate it to secure better terms. Members of the incoming administration have sent mixed messages on what course they would recommend.

The agreement, formally known as the Joint Comprehensive Plan of Action (JCPOA), reached the one-year anniversary of its implementation just days before Trump's inauguration. There have been hiccups along the way. Iran has committed fouls, twice exceeding permissible production levels of heavy water. Meanwhile, Iran attributes its still-stagnant economy to the United States moving too slowly on its sanctions-relief obligations. International banks have yet to integrate Iran back into the global economy and businesses have been slow to invest in the country, fearing that they will run afoul of U.S. Treasury regulations or that lifted sanctions might be reimposed. Still, even as Iran remains a U.S. adversary in much of the Middle East, many nonproliferation experts consider the JCPOA **a success thus far**. Iran's nuclear program is **more transparent** than before.

Trump could unilaterally withdraw the United States from the agreement, in which case Iran would have to decide whether to continue to fulfill its obligations. He could also likely unilaterally reimpose UN sanctions if he were to allege significant Iranian violations at the Security Council.

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But the new president has other means of jeopardizing the agreement. To fulfill U.S. commitments, Trump must periodically waive **secondary sanctions** (that is, those targeting non-U.S. entities; the primary embargo still stands, blocking U.S. entities from transacting with Iran). He could decline to issue those waivers. Likewise, he could sign into law new sanctions passed by Congress, or impose others by executive order. Though the sanctions might claim to cover Iran's ballistic-missile program or regional adventurism rather than the nuclear file, Iran might view them as a violation of U.S. commitments under the JCPOA.

Trump could also seek to renegotiate the agreement to extend its restrictions on uranium enrichment beyond their **fifteen-year expiration** or cover ballistic missiles, for example. But Iran's president, Hassan Rouhani, who faces a difficult reelection campaign this year, said the agreement **cannot be renegotiated**. "**JCPOA is a finished deal**," his deputy foreign minister said. The other parties to the JCPOA are **content with the status quo**. If the agreement were to fall apart because of U.S. moves, they would be unlikely to reinstate sanctions of their own.

### **Moving the U.S. Embassy to Jerusalem**

One of the most potentially incendiary campaign promises that Trump could enact right away is to

[move the U.S. embassy in Israel](#) from Tel Aviv to Jerusalem. Though moving all the embassy's operations would be cumbersome, Trump could fulfill his pledge simply by having the U.S. ambassador establish his office or residence at the existing US. Consulate General in Jerusalem. The [ambassador designate](#), bankruptcy lawyer David Friedman, said he [looks forward to serving](#) from Jerusalem, but the White House has since indicated that a [decision is not imminent](#).

Israel considers Jerusalem its “eternal, undivided capital,” and its prime minister, Knesset (parliament), and Supreme Court sit in west Jerusalem. Palestinians claim east Jerusalem, which Israel annexed after capturing it from Jordan in 1967, as the future capital of their state. U.S. presidents since Harry Truman have held that the disposition of Jerusalem must be determined in negotiations between the parties. The [Oslo Accords](#), agreed to by Israel and the Palestine Liberation Organization (PLO) in 1993, deferred a resolution of the city's status to an eventual final agreement.

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Congress required the U.S. embassy's relocation in a [1995 law](#), but allowed for the president to waive this requirement every six months “to protect the national security interests of the United States.” (Attempts to legislate U.S. policy on Jerusalem have spurred constitutional debates over executive versus congressional authority in setting foreign policy.) Presidents Clinton, Bush, and Obama have done so ever since. If Trump decides to follow through with moving the embassy, he would only need to revoke the current waiver or decline to issue a new one. (Obama [last signed a waiver](#) on December 1.)

Proponents of the status quo say an embassy move could [diminish Palestinians' faith](#) in negotiations, undermine Washington's claim to being a fair broker, and signal that the holy city will remain beyond Muslim control. That could spur demonstrations or [violence](#) in Jerusalem or [across the Middle East](#); [rupture Israeli relations](#) with Egypt, Jordan, and [Arab Gulf states](#); and endanger U.S. diplomatic facilities. Palestinian leaders have said they would [withdraw recognition of Israel](#) and move to join UN institutions like its nuclear watchdog or the World Trade Organization. Trump would then, by law, have to [pull U.S. funding](#)—and thus influence—from them.

Advocates of relocation say the [fallout could be contained](#), since west Jerusalem, the Jewish-majority portion of the city that lies within Israel's pre-1967 borders, is presumed to remain in Israel under a two-state solution. Washington could indicate that its move is not meant to prejudice future negotiations with respect to Israeli borders, a future Palestinian capital, or the disposition of holy sites, but that would not likely placate Palestinians.

*(Claire Felter wrote on immigration and border enforcement. Zachary Laub wrote on Iran and the U.S. embassy in Israel. James McBride wrote on trade, energy, and climate.)*

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