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# S&P Global

## WTO rules against US tariffs on \$234B of Chinese goods

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The World Trade Organization on Sept. 15 concluded that the U.S. has not provided an adequate justification for tariffs imposed on \$234 billion worth of Chinese products, freshly drawing the ire of a White House that has taken aim at the global trading body for years.

China lodged a complaint with the WTO against the U.S. over tariffs on two sets of products with approximate annual trade values of \$200 billion and \$34 billion, respectively, in 2018. Those tariffs were imposed unilaterally by the Trump administration as a retaliatory measure for what it long argued were China's practices of intellectual property theft and forced technology transfer of U.S. companies doing business in the nation.

The U.S. argued that the move was justified as a necessary step to protect the country's "public morals" against alleged "state-sanctioned theft" and misappropriation of U.S. technology, intellectual property and commercial secrets.

However, a panel appointed by the world trade authority found that the U.S. failed in "demonstrating a genuine relationship of ends and means between the imposition of additional duties on these products and the public morals objective," according to the WTO's report on the ruling.

Still, the "win" for China is mostly symbolic because the U.S. can appeal the decision within 60 days in a de facto veto of the ruling since there is no functioning WTO appellate body. The U.S. declined to approve new judges until structural changes are made at the body, which the White House has said treats Washington unfairly, thus leaving the dispute settlement function short of a quorum. Any appeal would be stalled at that point.

The ruling proves the Trump administration's claims that the WTO is "completely inadequate" to stop China's forced technology transfer, U.S. Trade Representative Robert Lighthizer said soon after the ruling was issued. "Although the panel did not dispute the extensive evidence submitted by the United States of intellectual property theft by China, its decision shows that the WTO provides no remedy for such misconduct," Lighthizer said. "The United States must be allowed to defend itself against unfair trade practices."

But the Trump administration's tariffs on China were and are a clear violation of U.S. obligations under WTO agreements, said Dan Ikenson, director of the Stiefel Center for Trade Policy Studies at the Cato Institute, a pro-free-markets think tank. The obligation in question is a WTO

commitment that members cannot impose tariffs unless and until the Dispute Settlement Body finds the other member in violation of its own commitments. That would then give clearance for retaliatory measures.

"The panel outcome does, however, demonstrate that the WTO takes its responsibilities seriously and isn't afraid to rule against the U.S., even when the WTO's future depends on the support of the U.S.," Ikenson said in an interview. "Considering that both countries are locked in what is increasingly looking like a negative-sum battle for technological preeminence that will encourage broader and deeper decoupling, we are likely to see increasing violations of those rules by both countries toward one another going forward."

With heightened tensions in recent months, including U.S. sanctions on Beijing for its alleged mistreatment of residents of Hong Kong and the Xinjiang region, concern has grown that international supply chains may be further interrupted.

The U.S. has imposed additional tariffs on \$550 billion of imports from China since 2018, adding costs for importers and U.S. consumers. International business groups and trade advocates hope to see the tariffs rolled back as the two countries implement the "phase one" deal signed in January and work on a potential second agreement, though President Donald Trump has said phase two is off the table.

"They [tariffs] didn't change China's behavior, they were paid by U.S. businesses and consumers, and they hurt our agriculture and other interests," Barry said in an interview. "Our hope is that the phase one trade deal is successful and will lead to a phase two where the tariffs are lowered and removed in exchange for additional China concessions."