

Roll Call



Trump's Threat to Leave the WTO Alarms Many, Even in Congress

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President Donald Trump, here at the Capitol in June, says World Trade Organization members are not playing fair with America. (Tom Williams/CQ Roll Call)

The United States once viewed the World Trade Organization as the wave of the future, an improvement over the aging General Agreement on Tariffs and Trade system and a hub of rules-based stability for countries — rich and poor, democratic and nondemocratic — engaged in the international buying and selling of goods and services.

Now President Donald Trump is eyeing the exit door from the WTO, a Geneva-based body the U.S. helped to create in 1995 to negotiate trade standards among its 164-member nations and to referee disputes among them using a playbook of agreed upon rules.

Trump, who has long distrusted the institution, has said WTO members are not playing fair with America, even though the United States has won many of the cases it has lodged against other countries. WTO supporters, while they agree that the organization is increasingly ineffective and in need of updated policies and procedures, argue it still serves as a stabilizing force. They worry that if the U.S. pulls out, the WTO could unravel.

Trump's threat to walk away from the world body, however, may be the tipping point for Republicans on the Hill who have resisted challenging his imposition of tariffs on key allies and trading partners — despite growing calls from constituents that tariffs and countermeasures are harming their businesses.

House Ways and Means Chairman Kevin Brady, whose panel shares primary responsibility for trade issues with the Senate Finance Committee, has called the WTO a flawed institution. But the Texas Republican said Congress would act to preserve U.S. membership if Trump moves to leave the organization, a process that requires a nation to give six months' notice before withdrawal.

“Yes, the answer is yes,” Brady responded when asked if a withdrawal would require congressional approval. However, he said asking the question is “premature at this time.”

Over the years, U.S. presidents have expressed dissatisfaction with the WTO and its lengthy deliberation of trade cases and decisions against Washington. But until Trump, no president had threatened to pull the United States out of the organization.

As a candidate, Trump disparaged the trade body as yet another international group that treated the United States unfairly.

And despite his administration's disdain for the WTO, it sometimes still uses the organization to make a point. On July 16, U.S. Trade Representative Robert Lighthizer showed American displeasure with five countries by filing separate cases at the WTO against Canada, China, the European Union, Mexico and Turkey, challenging retaliatory duties they imposed on U.S. exports in response to American tariffs on steel and aluminum.

But as president, Trump's dissatisfaction with the WTO seems to have solidified in several reports issued since 2017 by the U.S. Trade Representative's office. In early July, Trump acknowledged that he had thought seriously about withdrawing from the organization, but had put the idea on hold, at least for now.

"We're not planning anything now, but if they don't treat us properly we will be doing something," Trump responded on July 2 to reporters' questions on plans to leave the WTO. "They have been treating us very badly for many, many years and that's why we were at a big disadvantage with the WTO."

Trump's response worries trade experts and international relations experts because he has shown little reluctance to take the United States out of international agreements he dislikes.

Shortly after taking office in January 2017, Trump withdrew the U.S. from the 12-nation Trans-Pacific Partnership trade agreement, which was completed by the Obama administration but failed to get enough GOP support in Congress for a vote. Japan, Canada, Mexico and the other eight TPP nations revamped the agreement and are in the process of ratifying the trade pact.

In August 2017, Trump announced the U.S. withdrawal from the Paris climate accord, and in May 2018, he pulled the U.S. out of the Joint Comprehensive Plan of Action negotiated in 2015 to tightly control Iran's nuclear development while easing economic sanctions.

'A very big mistake'

Given Trump's history, WTO supporters take the president's threat to leave the organization seriously. But unlike other international agreements and the tariffs decisions, leaving the WTO would force Congress to step in.

Gary Clyde Hufbauer, a scholar with the Peterson Institute for International Economics, said Trump would need lawmakers' approval to leave the WTO since Congress approved legislation in 1994 that authorized U.S. membership in the organization.

Under that legislation, lawmakers can decide every five years whether the United States should continue its membership. In 2000 and 2005, Congress reviewed and voted on resolutions of withdrawal filed by lawmakers. The resolution in 2000 was rejected on a 56-363 vote in the House, while the 2005 resolution fell on an 86-338 vote. No votes occurred in 2010 and 2015.

Hufbauer said he thinks reluctance in the Republican-led House and Senate to rebuff Trump on trade with legislation would fall away because leaving the international body would be a high-stakes economic gamble for the United States.

No longer bound by WTO rules, the United States could significantly raise tariffs on a broad range of goods, but Washington would run the risk of higher tariffs by WTO nations no longer bound by the organization's rules in their dealings with the United States.

“It will put us at a competitive disadvantage. I think right now we face the very real danger of the U.S. making a very big mistake,” Hufbauer said.

There is bipartisan discomfort over the Trump administration's 25 percent tariff on steel and 10 percent tariff on aluminum, as farmers and business people complain the U.S. tariffs and retaliatory duties from Canada, China, Mexico and the EU are hurting them financially. The tariffs were imposed under national security provisions of Section 232 of the Trade Expansion Act of 1962.

“Steel is about \$20 billion, autos about \$200 billion, WTO everything,” Hufbauer said.

Until recently, Republicans in both chambers sympathized with their tariff-averse constituents, sent letters to the White House highlighting their concerns about fallout on their local economies and publicly chafed at Trump's trade actions. GOP leaders said they do not want to do anything that could interfere with the president's use of tariffs as an opening gambit to force trading partners to tackle what the administration calls unfair policies and to rectify long-standing issues of China subsidizing steel overproduction, which has kept global prices low and undermined U.S. steel producers.

But sentiment on the Hill could be shifting. On July 11, the Senate gave symbolic backing to legislation by Foreign Relations Chairman Bob Corker calling for congressional approval of Section 232 tariffs proposed under national security provisions. Senators voted 88-11 to adopt the Tennessee Republican's proposal as a motion to instruct conferees on the national defense authorization bill.

Corker said the vote would provide momentum toward passage of his legislation.

Previous U.S. presidents grew frustrated with the WTO, but none had threatened to withdraw. American irritation with the organization seems to have grown since the WTO admitted China, an entry the U.S. supported after negotiating conditions for membership. Those conditions included requirements that Beijing follow free-market principles, reduce tariffs and remove trade barriers, give foreign businesses equal footing with Chinese firms and protect intellectual property rights.

While the United States has won WTO cases against China for violations, it complains that Beijing frequently promises to comply but does not. For example, Trump administration officials, trade experts and some lawmakers cite a 2013 U.S. win against China on practices that kept foreign companies out of its domestic electronic payment services industry. Chinese leaders, including President Xi Jinping, have committed several times to open the market. Witnesses, however, told the Senate Finance Committee earlier this year that Beijing has yet to act on applications from U.S. companies to enter the market.

So, the administration has turned to tariffs to get China's attention. In July, the Trump administration imposed \$34 billion on Chinese goods to increase pressure on Beijing to negotiate changes to its policies and practices. That would include the end of forced joint ventures with Chinese firms that require a transfer of technology to their Chinese partners. China responded with tit-for-tat tariffs on \$34 billion of U.S. exports.

The United States is reviewing another \$216 billion in additional tariffs on more Chinese products as well as potential tariffs on imported cars and auto parts. Anxiety among business groups is rising as they contemplate another round of Chinese retaliation.

In part because of the WTO's inability to rein in China, many members want an overhaul of how the organization operates.

Member nations are the main obstacle to making key changes: They disagree on what to fix and how to fix it. Experts say there is a divide between established economies such as the United States and emerging market economies such as China, India and Brazil on various issues.

In 2016, the Obama administration took the unprecedented step of blocking the reappointment of a South Korean judge to the organization's appellate body because of decisions he had made that the United States opposed. The panel oversees the dispute resolution process for trade disagreements among members.

The Trump administration has taken a harder line, blocking all appointments to the appellate panel, a permanent body of seven judges that reviews challenges to decisions by lower-level dispute panels. The appellate decisions are final, binding and hard to challenge.

By fall, the appellate panel could stop functioning if the number of members falls below three. In a March paper, Hufbauer and Jeffrey Schott, also of the Peterson Institute, wrote that the appellate panel could be down to one member by December 2019.

Countries generally settle disputes with each other during a voluntary mediation period. Unresolved disputes proceed to a three-person panel that does not include anyone from a country involved in the dispute.

If there is an appeal of the decision at that level, it goes to the appellate panel. By blocking appointments, the Trump administration has said it is trying to force other members to work to address the system's shortcomings.

As president, Trump underscored his wariness of the organization in a March 2017 report to Congress by the U.S. trade representative. The administration signaled it was willing to take unilateral steps to resolve trade issues if it decided the WTO's dispute resolution body exceeded its authority.

A month after the trade report, Commerce Secretary Wilbur Ross in a press briefing announced the administration would review the WTO, U.S. trade agreements and 42 bilateral investment treaties for "violations and abuses." Ross said WTO rules were inadequate because they do not address nontariff trade barriers and violations of intellectual property protection rights. He also faulted the organization's dispute resolution process because arbitration of cases can take years.

And, Ross added, the Trump administration questioned the neutrality of the dispute panels since he said the U.S. often files complaints challenging trade policies used by nations represented on the panels.

Ross's criticism is at odds with 2017 findings by the Cato Institute showing the U.S. prevailed in 91 percent of the 114 adjudicated cases it brought against other countries.

But the U.S. source of discontent seems to stem from the WTO's decisions in cases in which other countries challenged decisions by the Commerce Department and International Trade Commission. The U.S. lost 89 percent of 129 adjudicated cases involving penalties the two federal agencies imposed on foreign companies for government subsidies or aid that allowed products to be sold at artificially low prices.

Hufbauer agreed that the global trade body is not perfect. "There are legitimate criticisms," he said.

There are news reports that the EU and Japan are floating a plan to address WTO shortcomings. Trump and European Commission President Jean-Claude Juncker said during a joint White House press conference on July 25 that finding agreement on changes to the WTO would be part of their talks to defuse trade tensions between the two sides.

Ways and Means Chairman Brady said "everyone who believes in the WTO and in having a rules-based trade system in the world" should back a thorough and serious review of the dispute resolution process.

"There's no doubt that the WTO and the way that they resolve disputes is flawed. It is lengthy and they often miss their own timetables. Too often, I believe these are political decisions rather than fact-based trade decisions," he added.

But he pointed out that the WTO process has often aided the United States in its efforts to address Chinese trade violations.

"What I know is that the WTO, especially, in China's unfair trade practices has worked for America pretty consistently to rein in their practices and, more importantly, hold them to the commitments they made when they joined the WTO," Brady said.