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U.S. Withdrawal from the World Health Organization: Process and Implications

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U.S. Withdrawal from the World Health Organization: Process and Implications

The World Health Organization (WHO) is a U.N.-specialized agency that directs and coordinates health efforts within the United Nations (U.N.) system. In April 2020, President Trump announced that the United States would halt funding to WHO, and in May 2020 he declared that the United States would “terminate” its relationship with the organization. The Administration maintained that WHO mismanaged its response to the Coronavirus Disease 2019 (COVID-19) pandemic and expressed strong concern regarding WHO’s “alarming lack of independence” from China. In July 2020, Secretary of State Mike Pompeo notified the U.N. Secretary-General of the U.S. decision to withdraw from the organization, which under the terms of a joint resolution adopted by Congress in 1948 (P.L. 80-643; 62 Stat. 441), would take effect on July 6, 2021.

The United States and WHO

The United States played a key role in WHO’s establishment and is a member of both the organization’s plenary body, the World Health Assembly (WHA), and the WHO Executive Board. U.S. officials are also seconded to WHO and serve the organization in a range of advisory capacities. The United States provides both assessed and voluntary contributions to the WHO; it is assessed 22% of WHO’s core budget (an estimated \$120.5 million for FY2020, of which \$58.3 million has been paid) and has provided an average of \$262 million a year in voluntary funding from FY2012 through FY2019. In September 2020, the State Department announced that no additional FY2020 funds would be provided for the WHO assessment; the department reports that assessed funding originally planned for WHO will be carried over into FY2021 as part of appropriated FY2020 Overseas Contingency Operations (OCO) funding that is available for obligation through FY2021. The department also stated that the United States would provide a one-time payment of up to \$108 million in targeted voluntary contributions to the organization. Congress has not specifically appropriated funding to WHO in annual appropriations acts. Instead, it has appropriated a lump sum to specific accounts, and the executive branch has allocated funding to WHO based on assessment levels and U.S. global health and foreign policy priorities. This has provided Administrations with some flexibility in determining U.S. funding to WHO.

U.S. Withdrawal Process

The WHO Constitution does not contain a withdrawal provision. In authorizing U.S. participation in the WHO, however, in 1948 Congress enacted a joint resolution that asserted a U.S. right to withdraw from the WHO Constitution upon one year’s notice. The full WHO membership accepted this condition on U.S. participation. While domestic law authorizes U.S. withdrawal, it is less clear about whether the President has the authority to make the decision to withdraw without congressional approval. The joint resolution also requires the United States to continue paying WHO assessed contributions after making the decision to withdraw through the end of the fiscal year, calling into question the President’s decision to suspend funding in April. Because the notification of withdrawal and withdrawal itself would occur in two separate years, there is also uncertainty about whether the United States is required to pay assessments through 2020, the year it gave notice of withdrawal, or 2021, the year in which the withdrawal becomes effective. The United States is free to retract its notification of withdrawal at any time prior to July 6, 2021, to remain a WHO Member.

Implications and Issues for Congress

Congressional views on the Trump Administration’s decision to halt funding to and withdraw from WHO have been mixed. In July 2020, the House of Representatives passed a four-bill appropriations package (H.R. 7608) that would require the State Department to pay an assessed contribution of at least \$119 million to WHO in FY2021 and prohibit the use of funds made available by the bill to withdraw the United States from the

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organization. Some Members have suggested different approaches, including maintaining U.S. participation in and funding for the organization, withholding U.S. funding for WHO until the Secretary of State certifies and reports to Congress that WHO is taking steps to evaluate the role of China in the spread of COVID-19, and withholding U.S. funding indefinitely. The 116th Congress may consider the following key issues:

- **Global Health Impact.** Some policymakers may wish to consider the potential impact of a U.S. withdrawal on the ability of WHO to continue its global health activities and for the United States to advance its global health priorities, particularly regarding programs established and implemented through U.S.-WHO collaboration.
- **U.S. Funding to WHO.** Many Members disagree on whether (and how) to fund and participate in the organization. In the context of the U.S. withdrawal, Members may consider how, if at all, funding appropriated or allocated to WHO might be used to pay the assessed dues required under the joint resolution.
- **Alternative Platforms for Asserting U.S. Global Health Priorities.** Given the Trump Administration's decision to withdraw the United States from WHO, Members of Congress may consider alternative means for the United States to engage in global health diplomacy. For example, the Trump Administration is weighing the creation of a new Preparedness Initiative for Pandemics and Emergency Response (PIPER) fund that would be intended to leverage bilateral, multilateral, and private-sector funds to combat pandemics. In addition, in May 2020 Senators Risch, Murphy, and Cardin introduced S. 3829, the Global Health Security and Diplomacy Act of 2020, which, among other provisions, requires the President to maintain and advance a comprehensive Global Health Security Strategy, calls on the Secretary of State to enter into negotiations to establish a Trust Fund for Global Health Security within the World Bank, and authorizes U.S. participation in and funding for the Coalition for Epidemic Preparedness Innovations (CEPI), a global partnership between public, private, and civil society organizations that works to accelerate the development of vaccines against emerging infectious diseases.
- **WHO Withdrawal and Possible Reacceptance.** Because effective U.S. withdrawal is not to occur until July 6, 2021, the current or potential new Administration could retract the U.S. notification of withdrawal before that date and the United States would remain a WHO Member. If withdrawal becomes effective and the United States later desires to rejoin the WHO Constitution, Congress might exercise its constitutional prerogatives concerning treaties, either through new authorizing legislation or the advice-and-consent procedures of the Senate.

For additional information, see the following CRS reports:

- CRS Report R46354, *COVID-19 and China: A Chronology of Events (December 2019-January 2020)*, by Susan V. Lawrence;
- CRS Legal Sidebar LSB10489, *Withdrawal from the World Health Organization: Legal Basis and Implications*, by Brandon J. Murrill and Nina M. Hart; and
- CRS Legal Sidebar LSB10466, *Agency Discretion to Manage Appropriated Funds: The WHO Funding Announcement*, by Sean M. Stiff.

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Background and Context

Many Members of Congress have demonstrated an ongoing interest in President Trump's April 14, 2020, decision to halt funding to the World Health Organization (WHO) and his subsequent May 29 decision to "terminate" the U.S. relationship with WHO.¹ On July 6, 2020, Secretary of State Mike Pompeo notified the U.N. Secretary-General of the U.S. decision to withdraw from the organization, effective July 6, 2021. Trump Administration officials asserted that during the course of the Coronavirus Disease 2019 (COVID-19) pandemic, WHO demonstrated an "alarming lack of independence" from China, "failed to independently investigate credible reports that conflicted directly with the Chinese government's official accounts," and repeatedly made claims about the coronavirus that were either "grossly inaccurate" or misleading.²

The United States has historically supported WHO's mandate and activities. It played a key role in the organization's establishment and has been a member of WHO's rule-making body since its inception, the World Health Assembly (WHA), and WHO Executive Board.³ U.S. officials have been seconded to WHO headquarters and field offices, held membership in WHO laboratory networks, and collaborated on flagship global health programs. The United States is also the largest government contributor to the organization, assessed 22% of WHO's core budget (an estimated \$120.5 million in FY2020, of which \$58.3 million has been paid). It also provides voluntary funding for specific projects and priorities (about \$262 million annually from FY2012 to FY2019).

In September 2020, the State Department announced its intent to reprogram \$62.2 million in FY2020 unpaid assessed WHO funding to help pay the U.S. contribution to the U.N. regular budget. It also stated that the United States would provide a one-time payment of up to \$108 million in WHO voluntary contributions for activities addressing humanitarian health assistance in Libya and Syria, polio eradication in priority countries, and global immunization and influenza programs.⁴ In addition, the department announced that U.S. Department of Health and Human Services (HHS) staff who were detailed to WHO will return to the United States or be sent to their next assignment in advance of the July 2021 withdrawal date.⁵ It remains to be seen how U.S. participation in technical work with WHO, particularly the HHS/Centers for Disease Control and Prevention's (CDC's) WHO Collaborating Center, might be affected by the U.S. withdrawal.

Some press reports indicate that the State Department is considering a new global health security initiative called the President's Response to Outbreaks (PRO) to "focus bilateral, multilateral, and

¹ "Remarks by President Trump in Press Briefing," The White House, April 14, 2020; and "Remarks by President Trump on Actions Against China," The White House, May 29, 2020. The Trump Administration became progressively critical of pandemic responses by China and WHO as pandemic spread intensified. In January 2020, the President and other Administration officials expressed goodwill toward China and its handling of the outbreak. In April and May, Secretary Pompeo began openly criticizing China, calling on the country to be "transparent." Meanwhile, President Trump announced on April 15 that the United States would withhold funding for WHO "while its mismanagement of the coronavirus pandemic is investigated," and Administration officials urged other countries to join the United States in investigating the origins of the virus, as well as China and WHO's early response.

² Letter from President Donald J. Trump to WHO Director-General Ghebreyesus, May 18, 2020.

³ There are 34 Member States serving three-year terms in the executive board. For a list of members, see https://apps.who.int/gb/gov/en/composition-of-the-board_en.html.

⁴ "Briefing on the U.S. Government's Next Steps With Regard to Withdrawal From the World Health Organization," Department of State, September 2, 2020. For more information on U.S. funding to WHO, see the "U.S. Assessed and Voluntary Contributions" section.

⁵ Ibid.

private-sector funds to fight pandemics.”⁶ Some observers presume one part of the initiative, the Preparedness Initiative for Pandemics and Emergency Response (PIPER), reportedly described in PRO planning documents as a “multi-donor incentive fund to develop and deploy detection, tracking and response solutions around the world,” is intended to supplant WHO, although senior State Department officials have reportedly refuted such claims.⁷

Congressional perspectives on the Trump Administration’s decision to halt funding to and withdraw from WHO have been mixed. Some Members share the President’s concerns regarding WHO and support the decision to withdraw, while others oppose the action and have urged the Administration to fully fund WHO and its ongoing COVID-19-related efforts. In the 116th Congress, a range of legislation has been introduced that would, among other things, express support for conditioning U.S. funding to WHO, authorize appropriations for WHO, or prohibit the use of U.S. funds to withdraw from WHO.

WHO Overview and Structure

Established in 1948, WHO is a United Nations (U.N.)-specialized agency that directs and coordinates health efforts within the U.N. system. WHO’s duties entail engaging international partners on global health issues, shaping the international health research agenda, establishing norms and standards, articulating evidence-based health policy, providing technical support to countries, and monitoring and assessing health trends. Four key bodies carry out governance decisions at WHO:

- **The Director-General** leads the Secretariat and is appointed by the WHA, after being nominated by the executive board. In 2017, Dr. Tedros Adhanom Ghebreyesus of Ethiopia became the first Director-General from an African country.
- **The Secretariat** comprises the technical and administrative personnel of the organization and is staffed by some 8,000 people worldwide. Among the personnel are regional directors who implement WHO policy.
- **The World Health Assembly** is the decisionmaking body of WHO and is composed of delegations from all 194 Member States. It generally meets in Geneva in May of each year to develop and vote on WHO policy. The WHA appoints the Director-General, supervises financial policies, and reviews and approves the budget. It also considers executive board reports and directs the executive board on key global health issues.
- **The Executive Board** is composed of technical health experts from 34 WHO Member States who advise the WHA, facilitate its work, and inform its decisions and policies. Board Members are elected for three-year terms. The board meets every January to draft agenda items and resolutions to be voted on at the forthcoming WHA. The United States currently serves on the board, with its term set to expire in 2021.⁸

⁶ Michael Igoe, “Exclusive: State Department makes bid for US global pandemic response powers,” *Devex*, May 22, 2020.

⁷ Michael Igoe, op.cit. and Michael Igoe, “What’s behind the backlash against a White House pandemic proposal?,” *Devex*, August 31, 2020.

⁸ The Senate confirmed Admiral Brett Giroir, Assistant Secretary for Health at the U.S. Department of Health and Human Services, to serve on the board on May 7, 2020.

WHO Constitution and Membership

Membership in the WHO is extended to all U.N. Member States that accept the WHO Constitution, the multilateral treaty that established the organization.⁹ Membership is also available to non-Member States upon WHA approval of such a state's application for membership. Associate membership is available to countries and certain territories whose international relations are usually undertaken by another WHO Member or country, upon application by that Member or country.¹⁰ There are currently 194 total WHO Members, with Liechtenstein the only U.N. Member State that is not also a WHO Member.

The WHO Constitution itself does not provide for withdrawal by a Member from the treaty, nor does it contain provision for removing a Member from the organization and its obligations under the treaty. Article 7 of the Constitution does provide for the suspension of voting rights for a Member that fails to pay its assessed dues.¹¹

WHO Funding and Budget

WHO is funded through assessed and voluntary contributions from governments and other donors. Assessed contributions are dues a government is required to pay under Article 56 of the WHO Constitution, and are calculated according to a country's wealth and population. Voluntary contributions fluctuate annually and are often earmarked by donors for specific projects.¹² For 2020-2021, WHO's total proposed biennium program budget is \$4.84 billion. The total 2018-2019 program budget was \$5.62 billion, of which \$956.9 million (17%) were assessed contributions and \$4.48 billion were voluntary contributions.¹³ Top assessed contributors in 2020-2021 are the United States (22%), China (12%), and Japan (8.5%).¹⁴ Governments providing the largest voluntary contributions in 2019 were the United States (15.2%), United Kingdom (7.9%), and Germany (5.3%).¹⁵

⁹ A copy of the WHO Constitution is available at https://www.who.int/governance/eb/who_constitution_en.pdf.

¹⁰ Puerto Rico, for example, is a WHO Associate Member.

¹¹ Under WHO financial regulations and resolutions, all Members are required to pay their assessments as of January 1 of the year due. As of January 1 of the following year, the unpaid balance of such assessed contributions shall be considered to be one year in arrears. The WHA may decide to suspend voting rights if the amount of arrears equals or exceeds the amount of contributions due for the preceding two years. In such cases, the WHA may decide to suspend the member's voting privileges. (See, WHA6.31, *Arrears of Contributions to the World Health Organization*, May 20, 1953.)

¹² Some health experts contend that WHO's reliance on voluntary contributions has hampered WHO's strategic planning, influenced agenda setting, and has required WHO to remain in a fund-raising cycle in order to fund ever frequent global health emergency responses. Others assert that voluntary contributions enable donors to fund their priorities, tie their donations to performance, and monitor the use of their funds. WHO has acknowledged its "vulnerability" in its "dependence on a very narrow donor base," and "a certain lack of transparency associated with current approaches to resource mobilization and management." (WHO, Proposed Programme Budget 2014-2015, April 19, 2013, pp. 12-13.)

¹³ WHO Programme Budget Portal, "Voluntary contributions specified," 2018-2019. Voluntary funding levels for the 2020-2021 biennium budget have not been finalized.

¹⁴ See, WHA72.1, Programme budget 2020-2021, May 24, 2019, and WHA72.12, Scale of assessments for 2020-2021, May 28, 2019.

¹⁵ Of this amount, \$178.05 million (roughly 3% of the total budget) is designated for Pandemic Influenza Preparedness (PIP) programs.

U.S. Membership and Funding

The United States was one of the original signatories to the WHO Constitution concluded on July 22, 1946. In 1948, Congress enacted a joint resolution authorizing the President to complete acceptance of WHO membership (P.L. 80-643; 62 Stat. 441). President Truman signed the joint resolution into law on June 14, 1948, and, in accordance with the joint resolution, signed the U.S. instrument of acceptance of WHO membership on the same day. On June 21, President Truman's instrument of acceptance was deposited with the Secretary-General of the United Nations, completing U.S. ratification of the WHO Constitution. On July 2, the WHA subsequently "recognized the validity" of the U.S. ratification.¹⁶

U.S. Assessed and Voluntary Contributions

The United States is historically the largest government financial contributor to WHO. U.S. assessed contributions are funded through the Contributions to International Organizations (CIO) account in annual Department of State, Foreign Operations, and Related Programs (SFOPS) appropriations acts. Congress generally does not appropriate funding specifically for WHO; instead, it appropriates a lump sum to CIO based on estimated U.S. assessments to more than 40 international organizations funded through the account. The State Department then allocates funding to each organization based on U.S. assessment levels and policy priorities (**Figure 1.**)

Over the years, the process for authorizing and appropriating assessed funding to U.N. entities such as WHO has often been complicated by several factors. These include

- the difference between the U.S. and WHO fiscal years (October 1 to September 30 versus January 1 to December 31, respectively),
- delays in State Department reporting requirements (which can affect the timing of obligations), and
- deferred payments from the 1980s (which causes some U.S. payments to be delayed by a year; for example, U.S. FY2020 funding pays for most of the WHO FY2019 assessment).

Some policymakers and observers have raised questions about the status of unpaid U.S. WHO assessed funding. Prior to the Trump Administration decision to halt funding and begin the process of withdrawing from WHO, the State Department planned to provide an estimated \$120.6 million in assessed funding to the organization in FY2019 and \$120.5 million in FY2020.¹⁷ As of September 3, 2020, the department reports that it paid about 85% of the FY2019 assessment (\$100.68 million) while 15% (\$18.4 million) remains unpaid. For FY2020, the department paid about half of the FY2020 assessment (\$58.3 million) with the remainder unpaid (about \$62.2 million).¹⁸

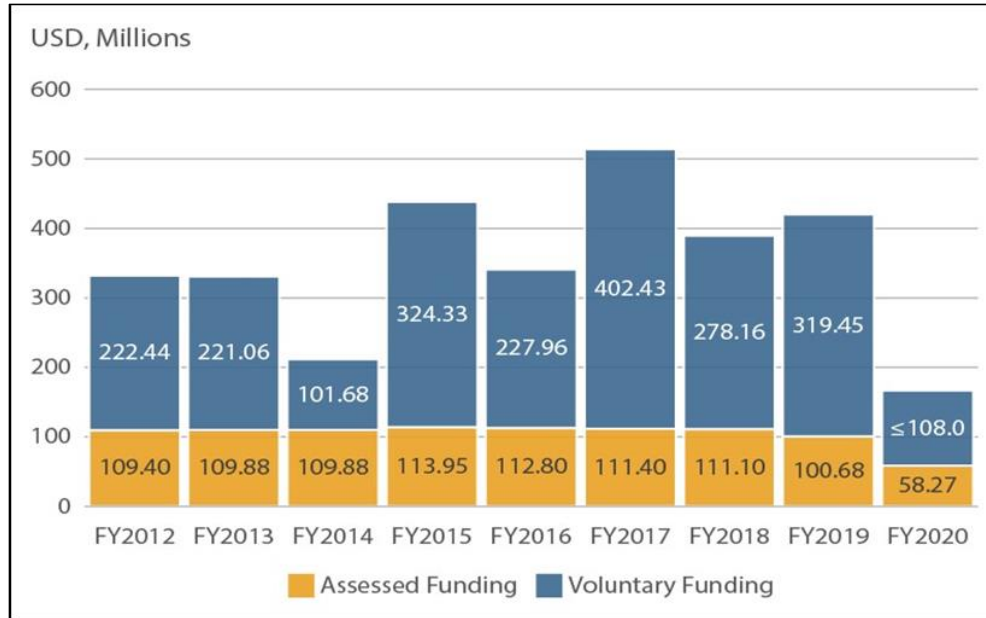
¹⁶ For a further discussion of this action, see the "International Considerations" section. Official Records of the World Health Organization, No. 13, "First World Health Assembly: Summary of Resolutions and Decisions, June 24 to July 24, 1948," pp. 77, 341.

¹⁷ State Department correspondence with CRS (September 2020). The FY2021 Congressional Budget Justification for Department of State, Foreign Operations, and Related Programs stated the U.S. assessment was \$122.6 million; this number was changed to \$120.6 million to take into account exchange rate fluctuations that generally occur over time for organizations with assessments denominated in foreign currencies (in the case of WHO, Swiss francs).

¹⁸ State Department correspondence with CRS (September 2020), and State Department notifications to Congress. At the time the President decided to halt funding to WHO, FY2019 and FY2020 funds remained unpaid due to a number

The status of unpaid assessed contributions to WHO remains unclear. As of September 2020, outstanding U.S. assessments are being carried over into FY2021 as part of FY2020 Overseas Contingency Operations (OCO) funding that is available for obligation through FY2021.¹⁹ The Administration has not yet indicated how such funds might be allocated in FY2021.²⁰ The department has continued to allocate assessed funding for the Pan American Health Organization (PAHO), which serves as the regional office for WHO in the Americas.²¹ The State Department reports that it paid 100% (\$66 million) of assessed PAHO contributions for FY2020.²²

Figure I. U.S. Voluntary and Assessed Contributions to WHO, FY2012-FY2020
(current U.S. dollars)



Source: FY2012-FY2019 voluntary contributions are drawn from annual State Department *U.S. Contributions to International Organizations* reports; the FY2020 voluntary contribution is from department press releases and statements. FY2012-FY2018 assessed contributions are from department congressional budget justifications; FY2019 and FY2020 assessed funding is drawn from department press releases and statements.

Note: Funding levels may not align with data provided by WHO or other U.S. sources due to different reporting mechanisms, differing U.S. and U.N. fiscal years, changes in currency conversion rates, or other factors.

of factors. Specifically, 15% of FY2019 assessed funding was unpaid due to attendant delays associated with the process of reclassifying and reapportioning the funds consistent with the two year period of availability established by Section 7048(i) of the FY2019 SFOPS appropriations act. Fifty percent of FY2020 funding remains unpaid due to administrative requirements, including submission of the operating plan required by Section 7061(a) of the FY2020 SFOPS appropriations act.

¹⁹ Under the FY2020 SFOPS appropriations bill, \$96.24 million in CIO/OCO funding is to remain available until September 30, 2021.

²⁰ Prior to the decision to carry over outstanding WHO assessments to FY2021, the department notified Congress of its intent to reprogram the balance of its planned FY2020 assessed WHO contribution to partially pay the U.S. assessment to the U.N. regular budget. If the carried over FY2020 funds are not provided to the U.N. regular budget, the department would be required to notify Congress as to how the funds will be allocated. (CRS correspondence with the Department of State [September and October 2020] and State Department notifications to Congress.)

²¹ Assessed contributions to PAHO are funded through the CIO account. PAHO also receives voluntary contributions through global humanitarian and health-related accounts.

²² CRS correspondence with the State Department (August 2020), and State Department notifications to Congress.

The United States also provides voluntary contributions to WHO each year depending on U.S. priorities and global health needs. It provides such funding through several appropriations accounts, including the U.S. Agency for International Development's (USAID's) Global Health Programs and International Disaster Assistance accounts, the Department of Health and Human Services (HHS)/Centers for Disease Control and Prevention's (CDC's) Global Health account, and the State Department's Migration and Refugee Assistance account.²³ Congress has generally appropriated a lump sum for each of these accounts, while the executive branch has determined how the funds are allocated based on U.S. global health and foreign policy priorities.

U.S. voluntary funding from FY2012 to FY2019 averaged \$262 million per year, including \$278.16 million in FY2018 and \$319.45 million in FY2019 (**Figure 1**).²⁴ On September 3, 2020, the department announced it would provide a one-time disbursement of up to \$108 million in targeted, voluntary funds to specific WHO programs for FY2020. Of this amount, HHS is to provide up to \$40 million for immunization and influenza programs, and USAID is to provide \$68 million for humanitarian health assistance in Libya and Syria and efforts to eradicate polio in priority countries. According to U.S. officials, these voluntary funding exceptions "reflect the few cases in which WHO has the unique capabilities that an alternate partner could not replicate at this time."²⁵

Recent Congressional Actions

The 116th Congress has considered and adopted a range of legislation addressing issues related to WHO funding and membership.²⁶ Most recently, on July 24, 2020, the House of Representatives passed an SFOPS appropriations act for FY2021 (H.R. 7608), which states that not less than \$118.949 million in WHO assessed contributions shall be made available under the CIO heading; it also would direct that none of the funds made available by the act may be used to withdraw the United States from WHO.²⁷ The act would further specify that not less than \$200 million in voluntary funding shall be available for grants or contributions to WHO under the Global Health Programs heading. If these provisions are included in the funding legislation that is ultimately enacted for FY2021, it would represent the first time in recent years that Congress has provided specific funding levels for WHO in an SFOPS appropriations bill.²⁸

²³ While Congress provides budget authority for USAID's Global Health Programs and International Disaster Assistance accounts and the State Department's Migration and Refugee Assistance account through SFOPS, it provides budget authority for the Department of Health and Human Services/Centers for Disease Control and Prevention's Global Health account through annual Departments of Labor, Health and Human Services, and Education, and Related Agencies appropriations acts.

²⁴ Drawn from annual Department of State *U.S. Contributions to International Organizations* reports to Congress, FY2012 to FY2019.

²⁵ "Briefing on the U.S. Government's Next Steps With Regard to Withdrawal From the World Health Organization," Department of State, September 2, 2020.

²⁶ See, for example, H.Res. 917, Expressing the sense of the House of Representatives that the United States should withhold the contribution of Federal funds to the World Health Organization, introduced April 7, 2020; S. 3669, COVID-19 International Response and Recovery Act of 2020, introduced on May 7, 2020; and S. 4546, "To provide for the prompt payment of United States assessed contributions to international organizations, and for other purposes," introduced September 9, 2020.

²⁷ See Division A – State, Foreign Operations and Related Operations Appropriations Act, 2021 of H.R. 7608, State, Foreign Operations, Agriculture, Rural Development, Interior, Environment, Military Construction, and Veterans Affairs Appropriations Act, 2021.

²⁸ The bill would also direct an additional \$1.28 billion under the International Organizations and Programs heading for necessary expenses to prevent, prepare for, and respond to coronavirus and to support the U.N. Global Humanitarian

U.S. Withdrawal Process

In July 2020, Secretary of State Mike Pompeo formally notified the U.N. Secretary-General of the U.S. decision to withdraw from WHO. The Secretary-General accepted the notification, stating that it would take effect on July 6, 2021, “pursuant to the provisions of the Joint Resolution of the Congress.”²⁹ When considering the withdrawal process, including U.S. funding implications and the possible role of Congress, policymakers may take into account the following issues.

Domestic Considerations

While Presidents have acted unilaterally to withdraw the United States from treaties and other international agreements, there are different views about whether and in what cases Congress must act to authorize or approve presidential withdrawal from such agreements. In many cases, the Senate provides advice and consent to treaties establishing international organizations, or Congress enacts legislation authorizing U.S. membership and participation in international organizations, setting certain conditions for such participation, or both. In the case of WHO participation, Congress included a provision in 1948 setting out conditions for U.S. withdrawal from the organization, stating that “in the absence of any provision in the World Health Organization Constitution for withdrawal from the Organization, the United States reserves its right to withdraw from the Organization on a one-year notice.”³⁰

This provision provides for U.S. withdrawal from the organization, but it does not determine the domestic decisionmaking process for such withdrawal; the provision neither specifically authorizes the President to withdraw from the organization nor indicates whether a separate specific authorization from Congress is required.³¹ It is not clear, therefore, whether the President can make a decision to withdraw from the WHO Constitution without new congressional action approving such withdrawal, especially given that Congress enacted legislation permitting the United States to become party to the treaty. Some argue that any treaty or international agreement that required congressional action for the United States to become party would require the same congressional action for the United States to withdraw; this does not seem to be the prevailing practice, however.³² In the last century, Presidents have withdrawn from treaties and other

Response Plan for COVID–19. Although the bill does not state that such funding shall be provided to WHO, the House Committee on Appropriations report accompanying H.R. 7608 states that such funds would include voluntary funding to organizations such as WHO, the U.N. Children’s Fund, and U.N. Development Program. (See H.Rept. 116-444, July 13, 2020, pp. 139-140.) Launched in March 2020, the U.N. Global Humanitarian Response Plan for COVID–19 is a joint effort by the United Nations, international organizations, nongovernmental organizations (NGOs), and others to address and respond to the public health and humanitarian consequences of the pandemic through global appeals. The plan aims to provide testing materials, supplies to protect health care workers, medical equipment, and water and sanitation services, among other things.

²⁹ U.N. document, C.N.302.2020.TREATIES-IX.1 (Depositary Notification), Constitution of the World Health Organization, United States of America: Notification of Withdrawal, July 14, 2020.

³⁰ Section 4 of P.L. 80-643 (22 U.S.C. §290c).

³¹ Technically, the provision also does not specifically address the withdrawal from the WHO Constitution; instead, it could be interpreted to create the authority for the United States to withdraw only from participation in WHO, leaving the United States to formally remain party to the WHO Constitution.

³² Lawrence O. Gostin, Harold Hongju Koh, et al. Letter to Congress on WHO Withdrawal from Public Health, Law and International Relations Leaders, June 30, 2020, <https://oneill.law.georgetown.edu/letter-to-congress-on-who-withdrawal-from-public-health-law-and-international-relations-leaders/>.

international agreements in several cases without specific congressional approval.³³ Some nonetheless assert that in the case of a multilateral convention creating an international organization, such as the WHO Constitution, the President might not possess such unilateral decision making authority.³⁴

After giving notice of withdrawal, the provision also requires the United States to continue paying its assessed WHO dues “in full for the Organization’s current fiscal year.” (As mentioned previously, WHO’s fiscal year is the calendar year, January 1 to December 31.) This requirement would protect WHO from a sudden deficit of lost U.S. dues in the midst of a budget cycle. The President’s April 2020 decision to suspend U.S. payments in 2020 seems to be inconsistent with this legislative requirement.

It is also not clear whether the provision requires the United States to pay dues in full in the fiscal year in which the U.S. withdrawal notification is made or in the next fiscal year when the withdrawal becomes effective. In the current situation, while paying dues through the end of 2020 would allow WHO to plan for the loss of U.S. dues for its next fiscal year in 2021, the United States would remain a WHO Member halfway through that next year, until July 2021. If the United States refuses to pay dues for the portion of 2021 in which it remains a member, it would constitute a violation of U.S. dues obligations under the WHO Constitution.³⁵ The State Department is tasked with paying WHO assessments. Depending on the State Department’s interpretation of the provision, as well as whether Congress decides to specifically appropriate funding for WHO assessed dues, U.S. contributions might continue through the 2021 calendar year. Since Congress has delayed paying WHO assessments by up to a year since the early 1980s, the United States could continue paying assessments into the FY2022 budget cycle.³⁶

³³ For more information on the legal aspects of withdrawal from treaties and international agreements in U.S. practice, see CRS Report R44761, *Withdrawal from International Agreements: Legal Framework, the Paris Agreement, and the Iran Nuclear Agreement*, by Stephen P. Mulligan.

³⁴ See Harold Hongju Koh and Lawrence O. Gostin, “How to Keep the United States in the WHO,” *Foreign Affairs*, June 5, 2020, <https://www.foreignaffairs.com/articles/world/2020-06-05/how-keep-united-states-who>.

³⁵ It does not seem that Congress intended to direct such a violation of the legal obligations of the United States. This potential interpretation problem seems to stem from congressional discussions concerning the withdrawal provision in the joint resolution authorizing U.S. WHO membership. An original Senate amendment to the joint resolution would have authorized U.S. withdrawal on 90 days’ notice, rather than one year. See U.S. Congress, Senate Committee on Foreign Relations, executive session considering a joint resolution on membership in the World Health Organization, among other matters, 80th Cong., 1st sess., July 1, 1947, pp. 14-15. With only a 90-day withdrawal period, a funding guarantee for the “current fiscal year” was necessary because the United States might give notice of withdrawal and then effectively withdraw within the duration of one WHO fiscal year, after WHO had locked in a budget and program of work, based on finalized annual assessments. Ninety days was considered by some to be too short a period for withdrawal, and possibly contrary to customary international law, however, and the period was lengthened to one year. See U.S. Congress, House Committee on Foreign Affairs, Subcommittee No. 5—National and International Movements, *United States Membership in the World Health Organization*, 80th Cong., 1st sess., June 13 and 17, and July 3, 1947, pp. 116, 120. The final legislative language requiring the United States to meet its obligations in full, however, changed only the withdrawal waiting period, and did not change the “current fiscal year” financial obligation language, despite the fact that the U.S. withdrawal process would necessarily occur in two different fiscal years: the fiscal year in which the United States notifies WHO of its intended withdrawal, and the next fiscal year in which the United States effects its withdrawal. See Section 4 of P.L. 80-643 (22 U.S.C. §290c).

³⁶ Specifically, if U.S. withdrawal were to occur in 2021, the WHO Constitution would obligate the United States to pay assessments for that year in full. Because the State Department pays assessed contributions on a deferred basis, funds to pay the 2021 WHO calendar year assessment would come from the Department’s appropriation for U.S. FY2022.

International Considerations

As discussed, the WHO Constitution does not provide a process for a Member to withdraw from the treaty or the organization.³⁷ The nature of U.S. acceptance of the WHO Constitution and the WHA's approval of such acceptance, however, seems to have created a specific U.S. claim of right of withdrawal from WHO. Specifically, the United States deposited an instrument of acceptance that included the joint resolution from Congress containing the asserted right to withdraw after one year's notice. The joint resolution's legislative history indicates that Congress included a withdrawal provision in its authorization to accept WHO membership to guard against being required to adhere to amendments to the WHO Constitution with which it did not agree. Pursuant to the WHO Constitution, the WHA can adopt amendments to the treaty by a two-thirds agreement of the total membership rather than by unanimous consent or through additional protocols.³⁸ Because of the U.S. condition in its instrument of acceptance, the U.N. Secretary-General sought a decision from the WHA on the effectiveness of the U.S. acceptance. After debate that included criticism of the U.S. reservation on withdrawal and suggestion by some Members that all WHO Members be afforded the same right of withdrawal as the United States, the WHA unanimously accepted the United States as a WHO Member on July 2, 1948, making the U.S. instrument of acceptance effective as of the date of its deposit on June 21, 1948.³⁹ The WHO Constitution authorizes the WHA to interpret the provisions of the treaty, and therefore the 1948 WHA decision might have created a right of U.S. withdrawal.⁴⁰

The Secretary-General has acknowledged the U.S. withdrawal provision in the U.S. instrument of acceptance from 1948 as it applies to the current U.S. notification of withdrawal. Upon receipt of the U.S. withdrawal notification on July 6, 2020, the Office of the U.N. Secretary-General noted that the United States had accepted the WHO Constitution with the condition that it would be permitted to withdraw upon one year's notice. The Office stated further that it had asked WHO to verify that "all the conditions for such withdrawal" had been met.⁴¹ On July 14, the Secretary-

³⁷ Generally, a treaty without provision for withdrawal is considered to constrain any party's desire to free itself of the treaty's obligations. Article 26 of the Vienna Convention on the Law of Treaties (hereafter VCLT), concluded May 23, 1969, 1155 UNTS 331, 339. Under the 1969 Vienna Convention on the Law of Treaties, short of unanimous agreement from all other parties (VCLT Article 54(b), 1155 UNTS at 345), a party to a treaty may withdraw only if "it is established that the parties intended to admit the possibility of denunciation or withdrawal," or a right of withdrawal "may be implied by the nature of the treaty." VCLT Article 56, 1155 UNTS at 345. It is difficult to discern whether the WHO Constitution meets either standard. In the past, WHO Members that have "withdrawn" have instead been treated as "inactive" Members, practice possibly evincing an intent to prevent withdrawal. And the nature of the WHO Constitution does not seem to be temporary, given the organization's longevity and persistent work in the area of global health. The Vienna Convention negotiations, however, provided a list of types of treaty that might imply a right to withdraw, including "treaties for technical co-operation in ... scientific matter[s]." See M.E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (Brill, 2009), p. 702. To the extent the WHO Constitution falls within this category of treaties, it could be interpreted to imply a party's right to withdraw.

³⁸ Article 73 of the WHO Constitution. See U.S. Congress, Senate Committee on Foreign Relations, executive session considering a joint resolution on membership in the World Health Organization, among other matters, 80th Cong., 1st sess., July 1, 1947, pp. 14-15.

³⁹ WHO, *Official Records of the World Health Organization*, No. 13, First World Health Assembly, July 10, 1948, pp. 77-80.

⁴⁰ Article 75 of the WHO Constitution states that disputes as to interpretation of the WHO Constitution are to be "settled by negotiation or by the Health Assembly," or "shall be referred to the International Court of Justice." It is possible that the WHA could take additional decisions concerning the U.S. claim of a right to withdraw based on its 1948 decision pursuant to its role under Article 75.

⁴¹ Stéphane Dujarric, Spokesman for the Secretary-General, "Note to Correspondents in answer to questions regarding the World Health Organization," July 7, 2020, <https://www.un.org/sg/en/content/sg/note-correspondents/2020-07-07/note-correspondents-answer-questions-regarding-the-world-health-organization>.

General issued an official letter stating that the U.S. withdrawal will take effect one year from its notification to withdraw from the WHO Constitution, on July 6, 2021.⁴²

Withdrawal Implications: Selected Issues for Congress

Members of Congress may consider how U.S. withdrawal from WHO may affect U.S. multilateral engagement and leadership with respect to global health issues. WHO currently manages international coordinating mechanisms intended to mitigate a number of global health risks. As a WHO member state, the United States has played a role in shaping these mechanisms and benefited from the collaboration they have facilitated. For example, U.S. officials participated in negotiations at WHA to develop and adopt the Pandemic Influenza Preparedness Framework (PIP).⁴³ The PIP was adopted to mitigate what some viewed as the significant risk of serious health and political repercussions that could arise if the international community fails to cooperate on preventing and controlling a possible influenza pandemic.⁴⁴ Should the United States withdraw from WHO, it is unclear to what extent, if any, U.S. government entities would be able to negotiate multilateral frameworks like the PIP and to share critical information, best practices, and technical expertise through WHO's platforms with scientists, epidemiologists, and policy experts around the world.

More broadly, some observers are concerned about how a U.S. withdrawal from WHO could affect decisionmaking at the organization, including ongoing reform efforts.⁴⁵ Analysts have also

⁴² This treatment of U.S. action to withdraw from the WHO Constitution and WHO participation stands in contrast to previous attempts to withdraw from WHO by other states that did not secure a reserved right to withdraw as the United States did. In previous cases of WHO "withdrawal," the organization instead treated the withdrawing state as an inactive WHO member that remained party to the WHO Constitution and subject to its obligations. When such "inactive" states returned to WHO participation, no action was required to rejoin the WHO Constitution under international treaty law. See Elizabeth Fee, Marcu Cueto, and Theodore M. Brown, "At the Roots of The World Health Organization's Challenges: Politics and Regionalization," 106 *Am. J. Pub. Health* 1912, 1912-1913 (2016) (discussing inactive status for the Soviet Union, Byelorussian S.S.R., and Ukrainian S.S.R. after withdrawal notifications); World Health Organization, *Official Records of the World Health Organization*, no. 30, Work of WHO, April 1951, p. 77 (discussing inactive status of Roumania, Albania, Czechoslovakia, Hungary, Poland, and China after withdrawal notifications). In some cases, the WHO and the returning state came to an agreement on accrued unpaid dues owed during the time of inactivity; Ukraine's decades-long absence from WHO participation after "withdrawal" and its subsequent return to the WHO is an example. See, for example, World Health Organization, *Status of collection of assessed contributions: Ukraine's request for waiver of arrears related to period of inactive membership*, A/49/29, May 16, 1996 (explaining Ukraine's negotiated payment of 5% of arrears for inactivity period from 1950 to 1996).

⁴³ World Health Organization, "Pandemic Influenza Preparedness (PIP) Framework," May 8, 2017, at <https://www.who.int/influenza/pip/en/>.

⁴⁴ The PIP was negotiated through WHA amid decisions by some developing country Member States to curtail sharing influenza virus specimens with WHO reference laboratories. Such Member States were frustrated that pharmaceutical companies were using the shared samples to develop and patent vaccines and antiviral medications that they could not afford. Member states agreed to share influenza viruses and pharmaceutical companies agreed to provide a share of vaccines and antiviral medication produced from the samples with WHO. Lawrence O. Gostin and David P. Fidler, "WHO's Pandemic Influenza Preparedness Framework: A Milestone in Global Governance for Health," Georgetown Public Law and Legal Theory Research Paper No. 11-102, 2011, at <https://scholarship.law.georgetown.edu/facpub/682>. See also U.S. Department of State (Obama Administration), Remarks of Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs Kerri-Ann Jones, "Remarks at the Castine Historical Society," July 23, 2013, at <https://2009-2017.state.gov/e/oes/rls/remarks/2013/217865.htm>.

⁴⁵ Elvira Pollina, Andreas Rinke, Francesco Guarascio, "Exclusive: Germany and France quit WHO reform talks amid tension with Washington – sources," *Reuters*, August 7, 2020, <https://www.reuters.com/article/us-health-coronavirus-who-reform-exclusi/exclusive-germany-and-france-quit-who-reform-talks-amid-tension-with-washington-sources>

asserted that a dearth of U.S. influence and leadership could enable other countries, including China, to gain greater influence in WHO fora.⁴⁶ Others suggest that the withdrawal may compel WHO to implement substantive reforms to improve accountability, efficiency, and effectiveness.

Given that the United States is traditionally among the top donors to WHO, observers are also questioning what impact, if any, a U.S. withdrawal might have on the scope and effectiveness of WHO activities. At the same time, experts are uncertain about how the United States might meet some of its global health goals outside of WHO.

Ultimately, the short- and long-term effects of a U.S. withdrawal from WHO are unclear and may depend on

- the length and duration of the U.S. withdrawal, including whether the United States continues to withhold funding that would otherwise be used to support WHO activities;
- the financial or organizational actions, if any, WHO undertakes in response to discontinued U.S. participation, leadership and funding;
- the level and extent of extra-budgetary funding provided to WHO by other governments or organizations, which could help to offset the loss of U.S. contributions;
- the ability of the United States to identify alternative implementing partners; and
- the willingness of other countries to share health information with the United States outside of WHO.

Members Congress may take the above and following issues into account when considering U.S. withdrawal from WHO.

U.S.-WHO Joint Global Health Programs

If the United States withdraws from WHO, Congress may consider how U.S. global health priorities, particularly those supported through collaboration with WHO, might be affected. The CDC has detailed staff to WHO to work on COVID-19, polio, and Ebola control.⁴⁷ Staff are also detailed to other parts of WHO, including the Global Outbreak Alert and Response Network, a network of health experts who collaborate to prevent and control infectious disease outbreak and respond to public health emergencies when requested. In addition, U.S. officials serve on the WHO Executive Board and in a variety of advisory committees, including the International Health Regulations Advisory Committee on the COVID-19 Pandemic.

idUSKCN25329P.

⁴⁶ For example, shortly after the United States declared it would withhold funding from WHO, China President Xi Jinping announced the country would provide \$2 billion to support COVID-19 responses in affected countries, especially developing countries. “Fighting COVID-19 Through Solidarity and Cooperation Building a Global Community of Health for All,” Statement by H.E. Xi Jinping, President of the People’s Republic of China At Virtual Event of Opening of the 73rd World Health Assembly, Ministry of Public Affairs of the People’s Republic of China, May 18, 2020.

⁴⁷ Karen DeYoung Lena H. Sun and Emily Rauhala, “Americans at World Health Organization transmitted real-time information about coronavirus to Trump administration,” *The Washington Post*, April 19, 2020, https://www.washingtonpost.com/world/national-security/americans-at-world-health-organization-transmitted-real-time-information-about-coronavirus-to-trump-administration/2020/04/19/951c77fa-818c-11ea-9040-68981f488eed_story.html.

The United States also gains access to global health information, including the collection of virus samples, as a participant in WHO networks. The CDC hosts a WHO Collaborating Center for the Surveillance, Epidemiology and Control of Influenza, for example, which collects and analyzes influenza virus samples from around the world. Many view access to these samples and related information as critical for vaccine development. It is unclear whether the CDC would be permitted to retain this relationship (as well as other collaborative research efforts) with WHO, given the stated intention by the Administration to withdraw from the organization. Questions remain about the extent to which countries would provide CDC unfettered access to their health systems should the CDC cease to operate as a WHO Collaborating Center.

On September 3, 2020, the State Department announced that “the United States will scale down its engagement with WHO, to include recalling HHS detailees from WHO headquarters, regional offices, and country offices, and reassigning these experts. U.S. participation in WHO technical meetings and events will be determined on a case-by-case basis.”⁴⁸ The scale of the recall and other withdrawal-related activities remains in question. Press reports indicate that the State Department has offered exemptions for several global health programs, particularly those related to polio and Ebola.⁴⁹ Alma Golden, USAID’s Assistant Administrator for Global Health, reportedly stated at a September 2, 2020, briefing that the United States would cooperate in cases “in which WHO has the unique capabilities that an alternate partner could not replicate at this time.”⁵⁰

U.S. Funding Issues and Options

Some Members of Congress may continue to demonstrate an ongoing interest in U.S. funding to WHO. While there appears to be consensus around assessing WHO response to COVID-19, many Members disagree on whether (and how) to fund and participate in the organization. Some support the President’s concerns regarding WHO and agree with his decision to halt funding and withdraw from the organization, while others have urged him to fully fund WHO. Members may also consider the following funding-related issues:

- **Role of the executive branch in allocating WHO funding.** Because Congress has not specified the levels of funding for WHO in past appropriations acts, the executive branch has some flexibility to decide how and if lump-sum appropriations are allocated to the organization. Some policymakers have questioned the Administration’s authority to withhold WHO funding; for example, the Government Accountability Office (GAO) is reportedly examining issues related to WHO withholding, and some Members have encouraged U.S. agencies to fully cooperate with the investigation.⁵¹ Members of Congress may consider continuing to provide the executive branch flexibility in allocating

⁴⁸ Department of State, “Update on U.S. Withdrawal from the World Health Organization,” Press Statement, September 3, 2020, <https://www.state.gov/update-on-u-s-withdrawal-from-the-world-health-organization/>.

⁴⁹ Colum Lynch, Robbie Gramer, Allison Meakem, “Trump Administration Orders U.S. Diplomats to Curtail Contact with WHO,” *Foreign Policy*, September 9, 2020, <https://foreignpolicy.com/2020/09/09/coronavirus-trump-withdraw-world-health-organization-who-state-department-diplomacy-consequences-experts-fear-disease-virus-spread/>.

⁵⁰ State Department, “Briefing on the U.S. Government’s Next Steps with Regard to Withdrawal from the World Health Organization,” Special Briefing, September 2, 2020, <https://www.state.gov/briefing-with-nerissa-cook-deputy-assistant-secretary-of-state-bureau-of-international-organization-affairs-garrett-grigsby-director-of-the-office-of-global-affairs-department-of-health-and-human/>.

⁵¹ “Chairs Yarmuth, Lowey, and Maloney Press OMB and Agencies to Comply with GAO Inquiries into WHO Funding,” House Committee on the Budget Press Release, June 30, 2020.

- funding or may weigh more prescriptive legislative options, such as directing how appropriations for WHO are allocated by agencies.⁵²
- **U.S. WHO funding and the withdrawal process.** In the context of the U.S. withdrawal, Members may wish to consider how, if at all, funding appropriated or allocated to WHO might be used to pay the assessed dues required under the joint resolution (P.L. 80-643).⁵³ Some may support appropriating funding specifically for WHO withdrawal as outlined in the joint resolution, while others may oppose it. There also appear to be questions about the process through which the United States might pay the assessed dues required to withdraw from WHO, and how, if at all, the Trump Administration’s decision to halt funding may impact the withdrawal process.⁵⁴ Broadly, Members may consider legislative options such as directing how, and for what purpose, any appropriations for WHO should be allocated.⁵⁵
 - **Other global health funding options.** The Trump Administration has stated that the funds originally planned for WHO will be “redirected” to other global health programs or international organizations.⁵⁶ Members of Congress might continue to oversee how the Administration allocates such funding. Some Members might also consider providing funding to other existing multilateral or bilateral global health activities, including U.N. entities, regional bodies, nongovernmental organizations (NGOs), or funds.

The President’s Response to Outbreaks Initiative

Some press reports indicate that the State Department is considering a new global health security initiative called the President’s Response to Outbreaks (PRO). Some observers presume the Preparedness Initiative for Pandemics and Emergency Response (PIPER) component of this initiative, reportedly described in PRO planning documents as “a central fund to focus bilateral, multilateral, and private-sector funds to fight pandemics,” is intended to supplant WHO.⁵⁷ Some press reports say that senior State Department officials have pushed back against such concerns, stating that the PRO has not been conceived as “a way of working around WHO.” Rather, these officials compare it to other initiatives, such as the Global Fund to Fight AIDS, Tuberculosis, and Malaria, which officials maintain are not at odds with WHO’s programs.⁵⁸

⁵² For example, on July 24, 2020, the House passed H.R. 7608, the State, Foreign Operations, Agriculture, Rural Development, Interior, Environment, Military Construction, and Veterans Affairs Appropriations Act, 2021, which specifically appropriates funding for WHO. For more information, see the “U.S. Membership and Funding” section.

⁵³ As previously mentioned, the joint resolution states that the United States reserves its right to withdraw from WHO on one year’s notice, “provided, however, that the financial obligations of the United States to the Organization shall be met in full for the Organization’s current fiscal year.”

⁵⁴ For further discussion, see the “U.S. Withdrawal Process” section.

⁵⁵ Some proposed bills have directed that no appropriated funding shall be used to withdraw the United States from WHO. (See Section 4 of S. 4240, No WHO Withdrawal Act, introduced July 21, 2020, §4(b) of S. 4546, “To provide for the prompt payment of United States assessed contributions to international organizations, and for other purposes,” introduced September 9, 2020; and §9015 of H.R. 7608.)

⁵⁶ See, for example, “Remarks by President Trump on Actions Against China,” The White House, May 29, 2020, and “Update on U.S. Withdrawal from the World Health Organization,” State Department Press Statement, September 3, 2020.

⁵⁷ Michael Igoe, *op.cit.*

⁵⁸ Michael Igoe, “What’s behind the backlash against a White House pandemic proposal?”

PRO reportedly comprises two major components: a whole-of-government unit led by a State Department coordinator termed “America’s Response to Outbreaks (ARO),” and the aforementioned PIPER fund.⁵⁹ Under the PRO, the State Department ARO coordinator would reportedly be responsible for “overseeing U.S. diplomatic messaging on pandemics,” in addition to “strengthening partner government’s own health systems and the systems of vulnerable countries, and designing better international protocols for preventing the spread of an outbreak.” The coordinator also would reportedly lead U.S. engagement on the development and global distribution of vaccines, diagnostics, and therapeutics, while also liaising with NIH, FDA, and others to ensure coordination between U.S. domestic and international engagement.⁶⁰ A governing body of “major public and private donors” would purportedly administer the PIPER fund, with the ARO coordinator serving as the U.S. representative. The State Department would reportedly focus PIPER funds on establishing three regional centers to “prevent, detect, and respond to pandemics.”

The State Department has not submitted the PRO to Congress. Press reports indicate that the PRO could cost around \$2.5 billion, \$946 million of which could be transferred or attributed from existing COVID-19 supplemental appropriations, with the remaining \$1.59 billion coming from new appropriations. PRO planning documents, according to press reports, assert that congressional approval will be required to move forward with the initiative.⁶¹ Some press reports further say that the Trump Administration plans to engage with Congress regarding the PRO after interagency deliberations arrive at a more “cohesive idea” regarding what the initiative will comprise.⁶²

As the Trump Administration considers options to reorganize the means through which the federal government engages with the rest of the world to combat pandemics and marshals funding and resources to support such efforts, some Members of Congress have put forth their own related proposals. For example, in May 2020, Senators Risch, Murphy, and Cardin introduced the Global Health Security and Diplomacy Act of 2020 (S. 3829). If enacted, this bill would, among other provisions,

- require the President to maintain and advance a comprehensive Global Health Security Strategy that seeks to “strengthen United States diplomatic leadership and improve the effectiveness of United States foreign assistance for global health security”;
- authorize \$3 billion to advance the Global Health Security Strategy through rebuilding the U.S. pandemic defense system, investing in global vaccine efforts, and helping other countries strengthen their capacity to prevent infectious diseases from spreading;
- call on the United States to enter into negotiations to establish a Trust Fund for Global Health Security within the World Bank to “advance global health security by catalyzing public and private investments in global health security, infectious disease control, and pandemic preparedness and response in developing countries”;

⁵⁹ Michael Igoe, “Exclusive: State Department makes bid for US global pandemic response powers,” *Devex*, May 22, 2020.

⁶⁰ Michael Igoe, *op.cit.*

⁶¹ Michael Igoe, *op.cit.*

⁶² Michael Igoe, “What’s behind the backlash against a White House pandemic proposal?”

- establish a coordinator for global health security and diplomacy at the State Department, supported by a deputy at USAID, to lead diplomatic efforts and allocate U.S. foreign assistance resources for global health security to the relevant federal departments and agencies, among other duties; and
- authorize U.S. participation in and funding for the Coalition for Epidemic Preparedness Innovations (CEPI), which the bill’s sponsors say will enable the United States to join with several countries and private foundations to find a COVID-19 vaccine.⁶³

Rejoining After Withdrawal

As discussed earlier, absent a reversal by the United States, the U.S. notification of withdrawal on July 6, 2020, is to produce an effective withdrawal from the WHO Constitution on July 6, 2021, as acknowledged by WHA and the U.N. Secretary-General acting as the treaty’s depositary. Prior to that date, the United States is free to retract its withdrawal notification by communication to the U.N. Secretary-General in order to prevent withdrawal from taking effect. Because the United States remains a full WHO member and party to the WHO Constitution until July 6, 2021, such retraction would simply ensure a continuation of U.S. rights and obligations as a WHO member.

If an effective U.S. withdrawal occurs in July 2021, and the United States later desired to rejoin WHO, it would likely be required to again formally accede to the WHO Constitution, satisfying requirements of international and domestic law. Given that Congress has authorized U.S. membership in WHO in the 1948 joint resolution, and this legislation would remain in force absent additional congressional action, such authorization might suffice to permit the executive branch to accept the WHO Constitution for a second time. Congress might, however, consider new legislation to separately authorize a second U.S. acceptance of the WHO Constitution. In order to become party to the treaty again, the United States would also need to deposit a new instrument of acceptance with the U.N. Secretary-General.⁶⁴

With regard to accrued assessed dues, it is not clear what amounts the United States would be required to pay upon rejoining. WHA could require the United States to pay all amounts assessed but unpaid, if any, as of the date of the previous U.S. withdrawal from the WHO Constitution, before the United States could return to full WHO membership. The WHA would not likely ask the United States to pay dues for any period during which the United States is recognized as a nonparty to the WHO Constitution.

⁶³ Senate Committee on Foreign Relations, “Risch, Murphy, Cardin Introduce Comprehensive Global Health Bill to Prevent Future Pandemics,” press release, May 28, 2020.

⁶⁴ States often become parties to treaties through a two-step process of signature and ratification. A state representative signs a treaty at the conclusion of its negotiation, and then the signing state ratifies such signature through the applicable constitutional processes of each individual state. In the case of U.S. withdrawal from the WHO Constitution, the United States would likely still be considered a “signatory” to the treaty, as it signed the treaty at adoption in 1946, and would not need to sign the WHO Constitution a second time. State signatures are generally considered permanent under international law, unless a state formally notifies the other signing states that it does not intend to ever ratify such treaty.

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