

5 Takeaways From A Possible US Exit Of Paris Climate Accord

By **Juan Carlos Rodriguez**

Law360, New York (May 31, 2017, 10:51 PM EDT) -- The much-heralded 2015 Paris climate accord was an attempt by 195 countries to address the threats posed by climate change, but if reports that the Trump administration will withdraw from the pact are true, it's virtually certain that the agreement's goals will be left unfulfilled and the U.S. will be deprived of a voice in important future discussions of clean energy and technology.

President Donald Trump is expected to announce whether to leave the pact, which took effect in November, on Thursday afternoon. There are several theories about what approach he might take toward an exit, including triggering the deal's withdrawal mechanism — which would take four years — handing it to the Republican-controlled Senate for a vote that would require a two-thirds majority for passage, or demanding to renegotiate it.

If Trump makes any of those moves, it will be a big step back from what was seen by the Obama administration as a triumph and add to the growing list of ways in which the new administration is rolling back the climate policies of its predecessor.

Here are five takeaways from a possible decision to leave the Paris agreement.

It Puts the Climate Goal Out of Reach

Under the Paris accord, the signatories agreed to pursue a goal of holding the increase in the global average temperature to "well below" 2 degrees Celsius above preindustrial levels. If the U.S., which is the world's second-largest emitter of greenhouse gases after China, leaves the group, that goal would be hard to meet, Michael Gerrard, a law professor at Columbia Law School and director of the Sabin Center for Climate Change Law, said.

"The 2 degree goal was already barely in our grasp. This makes it even less likely that we'll meet the 2 degree goal. U.S. emissions are not going to decline at the pace that was needed and those are a significant chunk of the overall emissions reduction goal," he said.

In addition, he said the U.S.' absence will probably reduce the degree of ambition that countries will have to pursue even more stringent reductions in future negotiations.

Erica Lyman, a law professor at Lewis & Clark Law School's International Environmental Law Project, noted that Trump's budget blueprint calls for the elimination of the Global Climate Change Initiative — established by former President Barack Obama to coordinate the nation's international climate change efforts, including the Paris agreement — as well as payments to the United Nations' Green Climate Fund and its two predecessor investment funds, which invest in climate adaptation and mitigation measures.

"The U.S. has already made clear they're not going to meet their funding obligations," Lyman said. "And that has a huge impact on relationships around the world. There are a lot of needs wrapped up in that climate change funding."

U.S. Loses a Negotiating Seat

Jon Sohn, counsel at Dentons, said one implication of leaving the Paris agreement for the U.S. and U.S. clean technology business interests is that they won't be at the table to help write the climate rules and shape the markets that could give them a competitive advantage in the coming years.

"The Paris agreement calls for countries to provide their own plans for mitigating and adapting to climate change. Business can influence that, and they can have voluntary side agreements about what an individual company's going to do, but in terms of the rules for managing climate risks and the markets for participating in that, U.S. companies won't have a U.S. government voice at the table in that process," he said.

And Brian Murray, director of the Environmental Economics Program at Duke University's Nicholas Institute for Environmental Policy Solutions, said being a part of those discussions is so important that it's spurred many companies across a broad array of U.S. sectors to advocate for staying in the agreement.

"You want the U.S. at the negotiating table," Murray said. "These are companies that operate in most of those countries anyway, so they're going to be living with the Paris agreement with or without the United States in it. There's no benefit to them with the U.S. being out."

It Puts Transparency at Risk

One of the U.S.' key contributions to the Paris agreement was to push for a robust system of transparency and review, Joseph E. Aldy, a professor at Harvard Kennedy School who works with the Harvard Project on Climate Agreements, said.

"If the U.S. were to walk away from the agreement, or not be engaged in the agreement, I think there would be a critical question about whether we would have a credible system of transparency that will provide the basis for countries to ramp up ambition over time," Aldy said. "We need this kind of transparency to ensure the credibility of the agreement and the credibility of the pledges that countries are making."

And Sohn said if the U.S. was not around to insist on such transparency, China could stand to benefit from the power vacuum.

"If the purpose is to hold China accountable to significant steps to reduce climate change inducing emissions, it makes no sense to walk away from the agreement," Sohn said. "It's the only way we can leverage that sort of transparency from China going forward."

It Won't Stop Progress on Renewables

On the campaign trail, Trump slammed the Paris agreement for allegedly putting the U.S. on unequal footing with global competitors like China. And he has used his power to direct the U.S. Environmental Protection Agency, Department of the Interior and Department of Energy to review and revise or rescind rules, like the Clean Power Plan, that he characterized as hurting the U.S. economy.

But Murray said Trump's stated goal of revitalizing the U.S. coal industry will get no closer to reality by leaving the Paris agreement, since the coal industry is at the mercy of market forces like cheap natural gas and the increasing affordability of energy from renewable sources.

"Employment in the coal sector is not going to come back to any historic level," Murray said. "The uptick in renewables has been remarkable, and I think that's going to continue. It can compete on par in the grid. And I don't think a policy by this administration can stick that toothpaste back in the tube. I don't think expensive solar and expensive wind, and inefficient solar and inefficient wind are coming back."

U.S. Businesses Could Face Tariffs

Aldy said the other Paris deal signatories might employ tough tactics to hold the U.S. responsible if it leaves the agreement, such as imposing a border tax on the carbon content of exports from the U.S.

"France talked about that during the Bush administration when they were frustrated by the lack of climate policy. Will they decide to freeze out U.S. businesses when it comes to investing in clean energy projects around the world through the Green Climate Fund or other forms of international climate financing?" Aldy said.

Gerrard said other countries might support border tariffs because they're taking action on climate action change and don't see the same effort on the part of the U.S.

"Those countries could see an unfair advantage to our manufacturing industries if they were able to export to those countries without having to pay a differential to reflect their savings from not having to control greenhouse gases," Gerrard said.

--Editing by Pamela Wilkinson and Catherine Sum.