

POLITICO

Trade debate hits currency conundrum

By Victoria Guida

May 11, 2015

If Harry Reid gets his way, the rising concerns in Congress over currency manipulation could play a role in sinking key trade legislation that President Barack Obama needs to complete his legacy-making trans-Pacific trade deal.

The Senate minority leader has threatened to filibuster controversial trade promotion authority legislation unless it's wrapped into a package with other trade bills pending before the chamber — one of which contains language to address currency manipulation. He also wants highway and surveillance legislation to come up first before trade.

“This has become sort of a rallying cry, a proxy for ‘this is why I’m holding out against TPA. This is why I would never support TPP [the Trans-Pacific Partnership],” Dan Ikenson, director of trade policy studies at the libertarian Cato Institute, said of the push to move currency measures with the trade legislation.

The fight is expected to move to the fore this week with the Senate preparing for debate on the so-called fast-track trade bill, which would allow the president to expedite the passage of trade deals by submitting them to Congress for up-or-down votes, without amendments.

But the upcoming battle is only the latest chapter in a saga that has been playing out for years: Congress proposes currency legislation; one or neither chamber passes it; and the administration uses it as messaging to pressure trading partners without being bound to any particular legislative results.

The question this time is, has the issue reached an inflection point that will drive lawmakers to pass something concrete and enforceable?

“It’s not going to be easy,” said Sen. Rob Portman (R-Ohio), who’s leading a push with Sen. Debbie Stabenow (D-Mich.) to amend the fast-track bill with a mandate that the administration include enforceable currency language in the Asia-Pacific trade deal. “No one has a good whip count. I know it’s not going to be easy, but I’m going to fight for it because it’s the right thing to do.”

Republican leaders in Congress support Obama's trade push and, like his administration, are against moving currency measures partly for fear they could be interpreted broadly to apply even to U.S. monetary policy. They say the fast-track legislation already addresses currency, although it only includes a suggestion, rather than a requirement, that the administration pursue binding obligations through the Asia-Pacific trade deal. The additional proposals are problematic enough that Senate Majority Leader Mitch McConnell has been trying to kill them behind closed doors, a Democratic aide said.

But while some congressional aides say the rancor over currency isn't any worse than in years past, others point to growing bipartisan support for action. In 2013, 60 senators, including Portman, signed a letter calling for enforceable currency rules in the trans-Pacific trade deal. With 49 of those lawmakers still in office, supporters of the measures are in a strong position to push them forward.

"There's a 60-40 shot that it'll get through, which is better than it's ever had," a Democratic adviser said of the currency measures. "On the House side, I don't know yet. On the Senate side, they're very pragmatic. They'll go where the votes are."

Indeed, currency rules did pass the House in 2010 and the Senate in 2011, but in each case the other chamber didn't take the legislation up.

Another question is whether putting currency in the mix will bring in needed support for the fast-track bill. For members like Sens. Chuck Schumer (D-N.Y.) and Lindsey Graham (R-S.C.), who are inclined to support trade deals but have hung their hats on the currency issue, including the language could be enough to sway their votes. But others, such as Sens. Sherrod Brown (D-Ohio) and Elizabeth Warren (D-Mass.), won't be swayed from opposing the legislation because of their numerous other complaints about the trade deal.

The current legislation presents problems beyond just procedural gamesmanship, not the least of which is the lack of consensus on the issue. While the White House, Congress, businesses, unions and civil society groups all say currency manipulation is bad, they differ on which nations are doing it, how to stop it or even what "it" is.

Few would disagree that China's devaluation of the renminbi or Japan's of the yen gives those countries a trade advantage by making their exports cheaper and U.S. manufactured goods less competitive. But there is more than one way to lower a currency's value, and not all of the methods are considered currency manipulation. For example, the Federal Reserve's practice of "quantitative easing" is not explicitly for the purpose of devaluing currency, but it has the same effect.

Under the practice, the Fed uses new money to buy up securities and other assets from banks, which increases the money supply, lowers interest rates and encourages more loans, stimulating the economy.

Similarly, the Bank of Japan buys Japanese government bonds, driving down the value of the yen. The Obama administration has argued that trying to crack down on Tokyo and other countries by putting tough currency rules into the trade agreement could backfire on the United States by limiting the power of the Fed.

“We have a serious concern that in any trade negotiation other countries would insist that an enforceable currency provision be designed so it could be used to challenge legitimate U.S. monetary policy, an outcome we would find unacceptable,” Treasury Secretary Jack Lew told Portman and Stabenow in a letter last month. “Seeking enforceable currency provisions would likely derail the conclusion of the TPP given the deep reservations held by our trading partners.”

Tokyo has previously intervened in the currency market more directly, however, and some proponents of putting currency rules in the trade deal say such provisions would guarantee Japan could not do so in the future.

Detroit auto companies, Michigan lawmakers and others like Portman — who faces a tough reelection challenge from former Ohio Gov. Ted Strickland — want any currency rules in the trade deal to target Japan, shielding General Motors, Chrysler and Ford from more Japanese auto imports. They advocate snapping auto import tariffs back in place as punishment for violating the proposed rules, an approach Rep. Sander Levin (D-Mich.) especially favors.

Still, the Stabenow-Portman amendment didn’t make it through committee. The senators plan to try to advance it again on the Senate floor despite opposition from Republican leadership and the White House.

China presents a more clear-cut case for advocates of currency rules. Beijing manipulates the value of its currency directly by buying up U.S. dollars and selling renminbi, helping to keep the dollar’s value strong and renminbi’s value weak.

Schumer and Sen. Jeff Sessions (R-Ala.) introduced an amendment to a customs and enforcement bill that would require the administration to include the question of currency manipulation in investigating whether to establish protective duties in response to unfair trade practices — a clear shot at China, which faces multiple such investigations from the U.S. every year.

Manufacturers and labor groups say negotiating a trade deal without having some defense against currency manipulation in place will undermine all of the gains achieved by U.S. negotiators; and some lobbyists say the China-focused proposal has the better chance of passing.

However, the House version of the customs and enforcement bill doesn’t contain the currency language or several other controversial provisions, running the risk that the language could get taken out in a conference.

One Senate aide said that, like Reid, Oregon Sen. Ron Wyden, the Finance Committee's ranking member and Democratic co-sponsor of the fast-track bill, wants customs to move with the other trade legislation, so McConnell will likely find it difficult to move one without the other.

As for the House, the Sessions-Schumer amendment "would absolutely pass if it came to the floor," the aide said. "But it'll be up to the speaker in terms of how he handles that, and the last few years we've tried to pass it, he hasn't brought it up."

The need for Democratic votes in the House could put some pressure on Speaker John Boehner to bring it up this time around, the aide said.

But of course, that's not what the Detroit three or Michigan lawmakers prefer, although they support the measure.

"One of the ironies of this is the people that are going to get hosed here in a way are the auto guys because the amendment that's going to stay in is the one they don't want, rather than the one that they do want, which is kind of unfortunate for them," a business source said.

Levin said the measure wouldn't go far enough to address the overall problem.

"I think its prospects are not very bright," Levin told reporters last week. "The administration has made very clear they're opposed to that legislation." He added that getting strong currency rules into the Asia-Pacific deal would be a historic opportunity.

House Ways and Means Committee Chairman Paul Ryan (R-Wis.) said he would be willing to examine the currency language when the customs bill goes to conference, but he would not agree to anything that could cause a trade war and thus potentially jeopardize the dollar's role as the world's reserve currency.

A Senate Republican aide said that while the two proposals are "complementary," Japan's currency practices are actually having a bigger effect on U.S. trade right now by making U.S. auto exports less competitive in important third markets like India, Brazil and even eventually China.

Also, the Trans-Pacific Partnership could include China someday. "If you're concerned about China, then you're going to support [the Stabenow-Portman] amendment because some people think there's a universe where China may get into a trade agreement," the GOP aide said.

Ikenson said one way to make an enforceable currency provision more palatable to those concerned about the potential for backlash on US. monetary policy would be to would "quadruple-lock" currency rules with safeguards that would allow the use of enforcement only in extreme circumstances.

He noted, as many trade experts do, that Schumer's amendment could violate World Trade Organization rules. The WTO allows protective duties only in response to unfair subsidies

specific to an industry or region, but currency manipulation could be interpreted as a subsidy for the entire country.

In his letter, Lew said the administration also opposes Schumer's proposal. "The legislation raises questions about consistency with our international obligations, and other countries might pursue retaliatory measures that could hurt our exporters," he wrote.

Lawmakers supporting the language say it was written with WTO jurisprudence in mind.

"We do very strongly believe we would be able to successfully defend any case that would be brought against this," a Democratic aide said.

Whether or not the White House or WTO would get behind a currency measure, Ikenson said the political pressure over currency manipulation is now so high that Congress will have to try to do something.

"It's a political problem," he said. "We should at least have a political solution."