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Nicklaus: 'Buy American' plan for pipelines is bad policy

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Requiring a U.S. pipeline to buy American steel may not sound like a bad idea, but it is.

It raises the cost of the project. It violates various trade agreements and it represents government intrusion into private-sector contracts.

President Donald Trump doesn't share any of those qualms. On Tuesday, when he moved to speed approval of the Keystone XL and Dakota Access pipelines, he also ordered the Commerce Department to require that all such projects use American-made materials.

"We will build our own pipeline; we will build our own pipes," the president said.

Actually, Mr. Trump, it isn't that simple. "It would explicitly violate certain U.S. commitments at the World Trade Organization," says Daniel Ikenson, a trade policy expert at the Cato Institute. "We are supposed to treat foreign products and companies the same way we treat our own products and companies."

The U.S. has frequently, and often successfully, brought complaints against other countries on this very issue. If a "Buy Canadian" or "Buy Japanese" restriction is unacceptable, then so is a "Buy American" one.

Trump's memorandum will put pressure on TransCanada, which proposed the Keystone XL, and Energy Transfer Partners, builder of Dakota Access. Five years ago, TransCanada pledged to buy 50 percent of its steel pipe from a U.S. producer, while saying the rest would come from Canada, Italy and India.

U.S. steel pipe producers already benefit from dozens of tariffs protecting their products against alleged dumping by China, Japan and other nations. In many cases, that already makes domestic pipe the cheapest choice.

If TransCanada has to boost its U.S. purchases to 100 percent, however, the price will go up. "If there's no competition, there's nothing restraining suppliers from charging higher prices," Ikenson says. "You need to be able to have a reality check."

Higher costs would hurt both TransCanada's shareholders and the companies that want to ship their oil through the pipeline.

That’s why Trump’s memorandum represents a dangerous extension of the Buy American movement. Existing Buy American laws govern federal contracts and federally funded transportation projects, and Sen. Sherrod Brown, a Democrat from Ohio, has vowed to strengthen them.

Those laws, by the way, don’t benefit as many people as you might think. When Jeffrey Schott, a senior fellow at the Peterson Institute for International Economics, studied the Buy American provisions of the 2009 stimulus program, he found that the number of jobs affected was “a rounding error.”

In 2017, moreover, we have nothing like the jobs crisis of 2009. “We are close to full employment,” Schott notes, “and despite the political rhetoric you hear, the unemployment rate in manufacturing is 4 percent.”

Besides, it’s one thing for the government to spend more of its own money in an attempt to protect jobs. It’s quite another — and possibly not within the president’s power — to order a private company to make the same trade-off.

In fact, Trump’s memo may be weaker than his rhetoric makes it sound. It orders the secretary of commerce to develop the Buy American plan “to the extent permitted by law.” International trade agreements have the force of law, and his policy appears to violate both WTO rules and the North American Free Trade Agreement.

This may be just another instance of the president using his bully pulpit to bend companies to his will. The pipeline firms, clearly grateful to Trump for restarting their stalled projects, are probably willing to buy more American steel with or without an enforceable presidential order.