

HOT AIR

Congress Needs To Do Its Job On Tariffs

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The new discussion on whether President Donald Trump's tariff plan will hurt or help the American economy is also bringing about a small discussion about the plan's constitutionality. House Speaker Paul Ryan is against any new tariffs, under the idea of them causing "collateral damage," while Kentucky Senator Rand Paul called them a tax on the consumer (something Trump did as well earlier this month). Arizona Senator Jeff Flake is promising to introduce legislation which would nullify the tariffs because he doesn't believe any trade war will end in a victory, only a loss. Utah Senator Mike Lee is also in favor of blocking the tariffs.

It's nice to see the discussion going on, but the entire debate is another example of Congress delegating power and not doing its job. Ryan's complaints about tariffs aside, he still believes in surgical action (whatever that means) against China. Mitch McConnell made similar statements on trying to limit the scope of the tariffs. But the problem with their statements is they're ignoring the fact Congress is the one who has the power to set up tariffs, not the presidency.

Article 1, Section 8 of the U.S. Constitution gives Congress the power to, "lay and collect Taxes, Duties, Imposts and Excises..." while also saying Congress has the power to "regulate Commerce with foreign Nations." It means the Executive can't unilaterally make these decisions on which products will face more of a tax in some misguided attempt to protect the American economy. The problem is Congress decided it was perfectly fine to stoop below the presidency in the 1960's by abdicating even more power to the executive. Here's what Eric Boehm wrote at *Reason* about the issue.

Trump's tariffs are being implemented under Section 232 of the Trade Expansion Act of 1962, which gives the White House more or less carte blanche to impose tariffs on national security grounds. The national security rationale for tariffs on steel and aluminum is pretty weak—the administration says that American weapons of war depend on steel and aluminum supplies, so domestic producers must be protected from international supplies that could be cut-off in the event of a conflict—but it exists and that's enough.

"There's not much they can do to address this particular case," says Dan Ikenson, director of trade policy studies at the Cato Institute. "We're in uncharted waters in a lot of ways."

Handing over those powers to the executive branch might have been a prudent decision in some regards. Congress has, traditionally, been more open to protectionist policies like tariffs (just

think about how defensive members of Congress get about anything in their home districts), while the presidency has been more likely to support free trade, in part because the executive branch handles international affairs and because the president gets credit (and blame) for the economy as a whole.

“They never anticipated having a protectionist president,” says Ikenson.

Ikenson is slightly right on this because the U.S. presidency has had some form of protectionist trade policy over the last 16 years. George W. Bush did steel tariffs in 2002, but ended them a year later. Trans-Matic Manufacturing President PJ Thompson told NPR on Saturday the tariffs hurt their bottom line:

That was really one of the first times that many of us experienced something, like, you know, tariffs put on a product like steel that explicitly. And back then many companies like Trans-Matic did in fact experience fairly dramatic increases in the cost of material. That went, you know, both ways – some good, some bad. It also enabled us to present price increases to our customers for a very explicit reason, and we were in an environment where price increases were unheard of. But the negative part is the fact that many of the consumers, a company like Trans-Matic, there’s kind of an asymmetrical relationship between us, the companies that we buy steel from and the companies we sell our parts to. You know, we’re a small, mid-market-sized company. Oftentimes, we don’t have the negotiating power on either end to protect ourselves.

Barack Obama did a tariff on Chinese tires in 2009. Peterson Institute for International Economics researchers Gary Clyde Hufbauer and Sean Lowry wrote in 2012 the tax hurt the economy, instead of helping it.

The cost per job manufacturing saved (a maximum of 1,200 jobs by our calculations) was at least \$900,000 in that year. Only a very small fraction of this bloated gure reached the pockets of tire workers. Instead, most of the money landed in the co ers of tire companies, mainly abroad but also at home.

The additional money that US consumers spent on tires reduced their spending on other retail goods, indirectly lowering employment in the retail industry. On balance, it seems likely that tire protectionism cost the US economy around 2,531 jobs, when losses in the retail sector are o set against gains in tire manufacturing. Adding further to the loss column, China retaliated by imposing antidumping duties on US exports of chicken parts, costing that industry around \$1 billion in sales.

These tariffs were done without a congressional vote because the Legislature decided it was okay to give the Executive unconstitutional power (something which has happened throughout the history of this country). There are ways to correct this failure by Congress, although it will take a spine and guts they’ve never seemed to demonstrate. Congress will have to forcibly take the power back from the presidency through a law, then override the expected veto by Trump (or whoever is in the White House whenever Congress decides to act).

The way to get it done will be tricky because there are plenty in Congress who believe in supreme executive power. After all, New York Senator Chuck Schumer loves Trump’s tariff

plan *if* it goes after China. But if any bill is framed in the correct way, with the right language, it should get support from both parties, especially if it mentions making sure the executive doesn't run amok. It would probably require Republicans to sponsor the bill, but it could still be done. If Congress wants it to happen.