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Donald Trump is a Unilateral Trade Warmonger

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Even *The New York Times* has been forced to recognize the totally surprising, unexpected, and completely predictable fact that President Trump's anti-regulation drive has been a big boost to the economy. One of the main reasons is an increase in certainty for businesses. Even if existing regulations are not really being rolled back, at least businessmen are confident that very few new regulations are going to be imposed, allowing them to plan ahead and devote more resources to growing their businesses. "It's an overall sense that you're not going to face any new regulatory fights," said Granger MacDonald, a home builder in Kerrville, Texas."

So naturally the president has to undo some of this by imposing a string of new tariffs, first on steel and aluminum, and now new tariffs ostensibly in retaliation for Chinese theft of intellectual property. The result? An 1,100-point dive in the Dow Jones Industrial Average, cementing a 10 percent decline since the beginning of the year, driven largely by fear of a trade war.

The problem is not just the tariffs themselves, though the prospect of a new trade war is terrifying, all the more so because Trump insists trade wars are easy to win. (As someone noted sardonically, if there's one lesson we should draw from history, it's that we should always believe leaders who assure us a war will be quick and easy.) Trump's push for tariffs threatens not just to unleash retaliatory tariffs, but to unravel the entire post-World War II structure of free trade agreements.

While the administration has said it needs domestic supply for tanks and warships, much of the taxed steel and aluminum has no military purpose. The US Department of Defense itself advocated only specifically targeted steel tariffs, and delaying aluminum duties altogether. Cato Institute trade policy analyst Simon Lester found the original 1947 GATT drafting transcript in which the United States warned against trade policies 'which really have a commercial purpose...under the guise of security.'

Note that Trump is citing provisions that bypass the World Trade Organization. If the problem is supposed to be that China is engaging in "unfair" trade, the WTO has mechanisms that allow the United States to raise these objections and seek redress, under a framework specifically designed

to prevent such disputes from escalating into a full-blown trade war. President Trump is deliberately ignoring those mechanisms. In trade war terms, this is as if George W. Bush had invaded Iraq without first getting a UN resolution and a coalition of allies. Trump is a unilateral trade warmonger.

Worse, this is the equivalent of going to war without even getting authorization from Congress. Trump has cited vague grants of trade powers given to Congress in rarely used provisions of old laws. Not only does this allow him to ignore Congress, it allows him to impose new tariffs arbitrarily and capriciously.

When he announced the steel and aluminum tariffs, for example, it looked like they were going to hit Canada—our largest source of imported steel—much more than China. Then at the last minute, the president announced special exemptions for Canada and hinted he might make exemptions for other allies. Similarly, Trump’s new vow of retaliation against China, under powers granted to the president under Section 301 of the Trade Act of 1974, leaves everyone guessing exactly what products and importers it will affect, as members of Congress try to lobby the Commerce Department to include or not include restrictions that affect their districts and favored firms.

The result is a massive increase in regulatory uncertainty, not to mention a boon for lobbyists and a whole new opening for corruption. Most of all, this highlights the way in which Congress has abdicated its constitutional authority on so many issues.

The Constitution gives Congress the power to regulate commerce, but significant pieces of that power have been outsourced to the executive branch over the last four decades.

One example of this outsourcing is Section 232 of the Trade Expansion Act of 1962. That provision gives the president the authority to impose import tariffs without the input of Congress. President Donald Trump is now using Section 232 to impose tariffs on steel and aluminum....

For the president to impose tariffs under Section 232, he is required to allow a period for public comments and inter-agency consultations. Congress, however, has no formal role in the process.

Starting a trade war is what Trump promised to do during his presidential campaign, but few took it as seriously as they should, in part because few realized he would have the power to start a trade war *all on his own*. But he does have that power, and he’s using it.

Congress has clearly handed far too much of its power to the president over the years, a problem that goes well beyond trade. The Founding Fathers never intended this kind of abdication, but I don’t think they realized how powerful the compulsion would be for Congress to pass the buck. In this case, my sense is that previous Congresses wanted to appease the protectionists by saying they had granted the president power to clamp down on “unfair” trade, while believing that he would rarely invoke that power. Now they have a president who is happy to invoke it.

Only one man is really doing something about this. Sen. Mike Lee of Utah has introduced the Global Trade Accountability Act, in an attempt to prompt Congress to “reassert its constitutional power ‘to regulate commerce with foreign nations.’” This is part of Lee’s involvement with “the Article I Project, a bicameral network of lawmakers working together to reclaim Congress’ constitutional powers that today are being improperly exercised by the Executive Branch.” There was a lot of enthusiasm for this idea when Republicans controlled Congress and a Democrat controlled the White House. We’ll see how much of that enthusiasm remains under President Trump.

Until Congress can reclaim its rightful powers, international trade will be under the arbitrary and capricious regulatory control of an arbitrary and capricious leader. The markets are already taking note, and President Trump is going to undo a fair portion of the good he has done with slowing the pace of other regulations.