



Congress Hates Trump's Trade Wars, but It Won't Do Anything About Them

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Though it barely made a dent in the news cycle, last month Congress actually stood up to Donald Trump. Well, sort of. In response to Trump's **percolating trade war with China**, disgruntled free trade–supporting Republicans advanced a nonbinding resolution in favor of constraining the president's power to tax imports on national security grounds. The measure passed the Senate 88-11 (all the no votes were Republicans). That vote, said Tori Whiting, a trade policy expert at the conservative Heritage Foundation, proved that a veto-proof majority of senators “agreed that the president should not have this unilateral authority. It is not what the Constitution intended.”

But that resolution, of course, had no impact on Trump's **escalating tariffs**. And Congress hasn't taken the next, more drastic step of passing a law (presumably over Trump's veto) to limit the president's tariff powers, or claim more oversight over them. Nor has Congress taken serious action on **other issues of bipartisan malaise** over which the legislature could reasonably assert control, **like the president's overly broad powers to authorize the use of military force** across the world under the auspices of the war on terror. This raises the natural question for casual observers, eternally frustrated with the body's seeming spinelessness, as to why Congress is so reticent to check the presidency—especially under a president as capricious as our current commander-in-chief.

In fairness to Congress, influential bipartisan groups of legislators **in both chambers** are still flogging a number of bills that would constrain **Trump's powers**. A coalition of **longtime Republican Trump critics** in the Senate, like Jeff Flake and Bob Corker, as well as more Trump-friendly politicians like Pat Toomey, are pushing hard for a vote on a bill that would require congressional approval for certain types of presidentially-imposed tariffs. Even Senate Finance Committee Chairman Orrin Hatch, a nominal Trump ally, **is using his position** to slowly craft similar shackling legislation. Given all the legislative ideas and energy floating around on trade, Whiting is hopeful that Congress will be able to pass some sort of law reasserting its powers over trade policy, ideally within the next few months.

Whiting's hopes notwithstanding, most analysts agree that these measures will not gain any traction. In large part, that's because Republicans know that Trump's **tariffs have not had a material impact on their base**, aside from farmers. They know that the president remains fairly popular within the GOP, even in states that have been hit harder than others by his trade policies. And they know, stressed congressional analyst Mark Harkins, that Trump is unique among recent presidents in his willingness to "destroy" his political opponents, even those within his own party. "Most Republicans who have tried challenging him have not fared well politically," said Simon Lester, a trade policy expert at the libertarian-leaning Cato Institute.

This fear makes it hard for Republicans to muster party unity on even symbolic votes to slap Trump on the wrist. It is also hard for them to form veto-proof coalitions with Democrats, who Congress watcher John Johannes noted "are in a hunker-down mood, waiting for the November elections." A fair number of Democrats also quietly support Trump's protectionism to a degree, pointed out Peterson Institute for International Economics fellow Jacob Kirkegaard; Democrat Sherrod Brown **recently blocked** an attempt to advance the Senate's GOP-backed trade powers bill. These constraints have led GOP leaders to avoid advancing bills in favor of trying to talk Trump down on trade unofficially, although that has not been successful.

Even without the unique pressures of the Trump era, the experts I've spoken to agreed that Congress is generally reticent to go toe-to-toe with the executive branch over political powers. Some of that stems from Congress's general dysfunction and inaction, said Harkins. A lot more of it stems from a longstanding sense of deference to the president on national security.

"It is not a coincidence that Trump has chosen a set of national security rules" to issue his tariffs, said Kirkegaard. "The Constitution is clear on which branch of government deals with trade policy, but national security is on the presidential side." Especially in a post-9/11 world, he added, legislators are loath to question those prerogatives.

If Trump does something truly drastic or insane, like unilaterally pulling out of NAFTA, that would likely spur legislative action, noted Kirkegaard. If he followed through on his **talk about a tariff on cars**, which would impact many voters, Congress might feel compelled to respond, though Kirkegaard and others I spoke to doubted that even that would be enough. Trump actually has crossed a few Rubicons to date—like refusing to define a strategy to fight ISIS, taking a radically soft approach with his Russia rhetoric, and **allowing Chinese telecom company ZTE** to operate in the US. Those moves have prompted substantive legislative action beyond symbolic resolutions, like those **supporting NATO** or **the free press** against his attacks. But these steps have fallen far short of serious challenges to presidential powers.

As Harkins noted, Congress seems most comfortable using major bills to tie Trump's hands. **In May 2017**, Congress used an annual spending bill to force Trump to be more transparent in his Middle Eastern strategies or risk losing funds for military campaigns. A little later that year, it used **a massive sanctions bill** to block Trump from rolling back any congressionally mandated Russia sanctions. This month, **Congress used a defense bill** to reassert a ban on purchases of tech from Chinese telecom companies.

“In multi-thousand page bills, individual things here and there kind of get lost in the noise,” said Harkins. This softens the political blow of opposition; often only wonks pick up on these subtle rebukes. Appropriations language also allows Congress to narrowly assert itself without taking any major stand on presidential powers. On trade, said Harkins, legislators could just say that the executive cannot spend money on enforcing certain types of tariffs they care about.

“But because the appropriations process is so broke, that hammer can only really be used” a couple times a year, added Harkins. This makes it difficult to use these measures to check Trump in a timely fashion.

Congress can and probably will check Trump on his trade wars. But like most of its other checks, it will almost certainly be oblique and limited, hidden in the bowels of a wider bill. Major assertions of Congress’s role as a co-equal part of the government, **no matter how much some legislators may truly wish to make them**, are functionally out of the question, even in the face of Trump’s baldest transgressions. “Maybe a crisis or foreign policy or economic disaster would shake senators and representatives” enough to change that, said Johannes. “But I doubt it.”