NATIONAL REVIEW

Josh Hawley's China-Trade Bill Misses the Mark

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EARLIER this week, Senator Josh Hawley (R., Mo.) introduced legislation to dramatically upend U.S.–China economic relations. His press release announcing the bill said it would revoke "the sweetheart deal D.C. elites handed to China 23 years ago — end normal trade relations, put in place strong tariffs, and protect American workers."

Firmly and intelligently responding to China's abuses and threats is and ought to be a top priority of U.S. policy-makers. Unfortunately, Hawley's bill is deeply misguided and not up to that urgent task.

The short bill would do three things: It revokes China's permanent normal trade relations (PNTR) and prohibits extending PNTR treatment to any product from China; it dramatically raises tariffs on all products imported from China; and it delegates carte blanche authority to President Biden to unilaterally impose any other trade restriction on Chinese products and services as he sees fit.

First, Hawley seems confused about what PNTR actually does and doesn't do. Far from a "sweetheart deal," the law simply treats products from China the same way we treat products from all other 162 members of the World Trade Organization (WTO), including Communist Cuba and several other countries with unfriendly governments or high levels of government economic intervention.

Granting PNTR to China in 2000 wasn't some naïve rubber stamp that allowed it to waltz into the WTO shortly thereafter. Instead, China's WTO accession was by that time a *fait accompli*, and the United States was the last major nation to grant China permanent non-discriminatory trade status. Had Congress not done this via PNTR, China would still have entered the WTO, but firms in *every other WTO member country* would have enjoyed the new and expanded access to the Chinese market that WTO membership required, while American producers would not — access that took the U.S. government 15 years to negotiate and that ultimately resulted in, among other economic reforms, Beijing lowering average tariffs from about 30 percent in the early 1990s to less than 5 percent in 2006 and 2.5 percent in 2020.

Consider, for example, Hawley's home state of Missouri. It is estimated that between 2008 and 2017, Missouri's goods exports to China grew by 20 percent, while its exports to the rest of the world grew by about half that amount. Meanwhile, Missouri services exports to China exploded during that same period — increasing 410 percent versus 56 percent to the rest of the world. Missouri firms, workers, and farmers have PNTR to thank for much of this growth. Without it, they'd have watched competitors in Europe, South America, Asia, and elsewhere reap the spoils of their own government's hard work.

PNTR isn't a serious impediment to imposing new U.S. restrictions on trade with China. The Trump administration, for example, slapped tariffs on nearly 70 percent of all imports from China at a rate of nearly 20 percent (up from about 3 percent before the trade war began). Presidents Trump and Biden, meanwhile, have both imposed a wide array of China-related sanctions and export controls on high-tech goods. The Committee for Foreign Investment in the United States (CFIUS) has blocked several Chinese investments here on national-security grounds. And the United States today imposes more than 230 "trade remedy" duties — some greater than 100 percent — on a wide range of Chinese imports.

Second, Hawley seems oblivious to the significant harms that his proposals would needlessly and indiscriminately inflict on the U.S. economy and his own constituents — despite the fact that we have five years of evidence of this very damage. In particular, countless studies have confirmed that American consumers, firms as well as families — not Chinese producers — paid the Trump administration's tariffs. Just last week, the International Trade Commission, an independent government agency, released a detailed study showing, again, that Americans paid for the China tariffs through increased prices.

Increasing prices on American consumers at a time of high inflation is especially unwise. Likewise, Moody's Analytics estimated that the Trump administration's trade war with China led to about 300,000 job losses in 2018 and 2019. Investment, too, slowed significantly from the uncertainty created by the Trump tariffs on Chinese imports. The New York Federal Reserve estimates that the trade war lowered market capitalization of U.S. firms by about $1.7 trillion.

If the United States dramatically increased tariffs on all imports from China as Hawley wants, Beijing is sure to retaliate in kind — just as it did in response to the Trump administration's tariffs. The United States had to hand out billions of dollars in agriculture subsidies to mitigate the damage done to American farmers and ranchers who lost market access in China from the last bout of broad protectionism. From mid-2018 to the end of 2019, Missouri farmers suffered nearly $700 million in export losses in response to Trump tariffs, which represented more than 5 percent of total U.S. losses on an annualized basis. Simply put, Hawley's plan would conscript American producers, including a number of Missouri farmers and businesses, into another trade war.

Further expanding these restrictions is in no way "strategic," as a large amount of U.S.–China trade today is benign. The Trump tariffs cover products such as breast pumps; HVAC thermostats; vacuum cleaners; and freeze-dried bananas, apples, and peaches. Higher tariffs on all imports would raise prices of harmless products while doing little to change Chinese behavior or thwart Beijing's technological or geopolitical ambitions.

U.S. policy-makers are right to be circumspect about trade and investment with China in products at the nexus of technology and national security, but those products are a tiny fraction of two-way trade between the United States and China. Indeed, Sabine Weyand, the European Commission's Director-General for Trade, recently estimated that 94 percent of EU trade with China is "unproblematic" and that only about 6 percent is the result of a one-sided dependency for EU member nations. A comparable analysis done on U.S. trade and investment with China would almost certainly show similar results.

Finally, Hawley's legislation would grant President Biden unlimited authority to raise taxes on imports from China or impose other trade restrictions whenever he feels like it. Leaving aside the questionable wisdom of a Republican writing a Democrat a blank check to raise taxes on Americans, this unchecked delegation of authority would further discourage investment, much like Trump's tariff-by-tweets did a couple of years ago.

It also is antithetical to Article I, Section 8 of the Constitution, which grants Congress, not the president, the power to regulate commerce with foreign nations. Though he claims to be "one of the nation's leading constitutional lawyers" and a "fierce defender of the Constitution," Hawley shows a blatant disregard for the Constitution's separation of powers.

To be clear, China *does* pose enormous challenges to the existing world order. It is increasingly bellicose on the global stage and increasingly repressive at home. Beijing's 21st-century mercantilism relies on a litany of troublesome practices, including intellectual-property abuse, massive and opaque subsidies to state-owned enterprises and other favored businesses, state-directed cyber-hacking into commercial networks, forced technology transfer from American firms to Chinese joint-venture partners as a condition of doing business in China, and increasing reliance on forced labor in the Xinjiang region.

These policies desperately deserve a smart response from Washington, but so far, that hasn't materialized. Instead, thoughtful policy proposals have taken a back seat to scoring cheap political points

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