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Beyond the American Manufacturing Competitiveness Act: Congress Should Get More Serious about Tariff Reform

by Daniel Ikenson

Introduction

On April 13, 2016, House Ways and Means Committee leadership and 15 other members of Congress introduced the American Manufacturing Competitiveness Act of 2016 (AMCA), a bill to reform and reinvigorate the stalled Miscellaneous Tariff Bill (MTB) process. MTBs are legislative vehicles through which Congress provides temporary suspensions of import duties on certain qualified products typically used as inputs in U.S. manufacturing operations. The last MTB afforded importers about $750 million in annual tax relief.

In a Ways and Means Committee statement released with the AMCA's introduction, Chairman Kevin Brady (R-TX) said, "This bipartisan bill will empower American manufacturers to compete around the world, create new jobs at home, and grow our economy."[1] Ranking Member Sander Levin (D-MI) added, "The MTB is a critical tool that supports American manufacturers and workers, and I'm pleased that we're finally moving forward with this legislation."[2] President Barack Obama similarly described the Manufacturing Enhancement Act of 2010—the last MTB to pass Congress—as a tool to strengthen manufacturing, create jobs, and help U.S. companies compete.[3]

Despite these widely acknowledged benefits, the MTB in 2012 was derailed by Republican Party infighting over whether duty suspensions constitute earmarks, and it has remained off track ever since. The new legislation purports to resolve the problem by assigning to the U.S. International Trade Commission (USITC) the role of an intermediary. Rather than continue to allow duty suspension requests from constituents directly to their representatives and senators, the legislation requires those requests to be made to the USITC, which will determine whether the statutory criteria are met. Presumably, inserting an objective, disinterested third party into the process will provide enough of a buffer between the constituent requests and Congress to make the distinction between duty suspensions and earmarks more obvious.

If one has low expectations about how Congress can make the United States a more attractive option for manufacturers to establish and maintain operations, then the AMCA represents a laudable—although mostly cosmetic—effort to end a GOP semantics battle and restore the status quo. But Congress should be thinking bigger—much bigger—than the AMCA. Congress should aim to eradicate important deterrents to investment in U.S. manufacturing and impediments to its global success by eliminating, permanently, all duties on intermediate goods. Congress should also revise the antidumping law to forbid the imposition of "remedial" duties when the costs of such action to downstream industries are estimated to exceed the benefits to the petitioning industry.

The Miscellaneous Tariff Band-Aid

At great expense to producers, consumers, and taxpayers, the U.S. government maintains "protective" tariffs on thousands of imported products, including many items not even produced domestically.[4] To mitigate those costs, Congress has passed eight MTBs since 1982. These bills temporarily suspend duties on certain, "noncontroversial" products—usually intermediate goods, such as chemicals, electronic components, and mechanical parts—that are not manufactured domestically but are needed by U.S. producers to generate their own output. Although limited in impact by its temporary nature, by the "no domestic production" requirement, and by the caveat that the suspended duty must not reduce tariff revenues by more than $500,000, the MTB does provide some cost savings to U.S. producers. The last MTB provided an estimated $748 million of import tax relief.[5]

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Two Congresses came and went without producing an MTB mainly because of disagreement among Republicans over whether the underlying duty suspensions that get bundled into the broader bill would violate their 2010 pledge to oppose earmarks. In 2012, then-Sen. Jim DeMint (R-SC)—an otherwise ardent free trader—led a successful effort to derail the MTB process in the 112th Congress, declaring duty suspensions to be earmarks because they provide only a "limited tariff benefit"—defined under House Republican Party rules as benefiting 10 or fewer entities. The 113th Congress failed to take up the issue of duty suspensions, and early efforts to revive the MTB process in the 114th Congress by way of the Trade Facilitation and Trade Enforcement Act of 2015 fell short when the language was stripped in the House–Senate conference committee process.

The AMCA of 2016 is an effort to reconcile the MTB process with the Republican ban on earmarks so that duty suspensions can resume. The crux of the bill descends from DeMint's proposal in 2012 to insert the USITC into the process so that individual duty suspension requests don't go directly from constituents to representatives and senators. Instead, such requests would be vetted by a disinterested, objective third party. Although the bill seems to do nothing about weeding out duty suspensions with "limited tariff benefits," the insertion of the USITC into the process would presumably put enough distance between constituents and Congress to ease concern over whether duty suspensions are earmarks at all.

The effort to resuscitate a long-standing vehicle for lightening the burden of import duties is laudable. But the MTB's derailment, which probably cost importers $3 billion (and the economy even more) over four years, was an unnecessary setback.[6]

Myopic Misgivings about Miscellaneous Tariff Bills

Although the AMCA provides resolution to the GOP impasse, it is important to see why this debate was unnecessary in the first place. First, duty suspensions will nearly always have more than 10 beneficiaries—meaning they defy the earmark definition—because the number of importing entities is likely to increase after a duty is suspended and because the entities in the supply chains of these importers will benefit too. The number of beneficiaries is not static.

Second, and crucially, it is the duties—not the measures to suspend them—that are the real earmarks. Duties enshrined in the U.S. Harmonized Tariff Schedule constitute transfers from consumers and consuming industries to specific, chosen producers. Those duties were obtained through a process that included earmarking, logrolling, and other forms of backroom dealing. Efforts to suspend those duties today are intended to return the tax landscape to a state of neutrality. That objective clearly differs from measures that would channel resources from the national treasury to projects that benefit a limited few in a particular congressional district.

Under the MTB process, the suspension of import duties on qualified products is an outcome available to anyone, and the suspended duties provide benefits to everyone in the downstream supply chain all the way to the final consumer. The fundamental failure to make this connection—to recognize that there are dynamic but not immediately observable benefits that will accrue to the economy—helps explain why Congress struggles to see the bigger picture.

Given that duty suspension of qualified products is available to all, the only conceivable sense in which one might consider the benefits limited is that not everyone has equal access to the process. Some import-consuming companies have the wherewithal to make the formal requests—previously to their representatives or senators, prospectively to the USITC—whereas other companies do not.

Accordingly, the AMCA aims too low. Why require formal duty suspension requests at all? Why not make them automatic? Why not have the USITC do an assessment of the entire Harmonized Tariff Schedule to identify all items that meet the statutory requirements for duty suspension? Why have such restrictive criteria at all? Congress can and should do much more about costly tariffs than what is proposed in the AMCA.

The chair of the House Ways and Means Trade Subcommittee, Dave Reichert (R-WA), points out that since the last MTB expired in 2012, U.S. companies have faced an annual $748 million tax hike on manufacturing. That may be true, but since 2012, U.S. Customs has collected roughly $43 billion annually in tariff "revenue"—approximately $26 billion of which was from duties on intermediate goods.[7] In other words, the AMCA fixes $748 million (less than 3 percent) of a $26 billion problem.

Congress should be thinking bigger about what it can do to eliminate costly, investment- and production-diverting import duties.

Attracting and Retaining Investment Is the Proper Policy Goal

Although trade barriers have been reduced considerably since the end of World War II, U.S. policy continues to reflect an intolerable amount of protectionism, including tariffs assessed on approximately one-third of all U.S. imports.[8] Eliminating—or at least reducing—those burdens should be a congressional priority because duties raise the cost of production, reduce investment and hiring, dissuade foreign companies from establishing operations in the United States, and encourage existing producers to relocate to countries where the burdens are less onerous.

Trade liberalization is about expanding markets across national boundaries and broadening the scope for specialization and economies of scale—the essential ingredients of wealth creation. Although the public often thinks of improved access to foreign markets as the conveyor of trade's benefits, the primary mechanism through which the benefits are channeled is imports. Of course trade liberalization means more customers for U.S. exports, but it also means more competition for U.S. consumers' dollars, greater variety, better quality, more innovation, a greater number of sources for raw materials and intermediate goods, and more scope for supply chain collaboration. When trade barriers come down, the factory floor can span borders and oceans, which enables production to be organized in new and more efficient formats.

In most tradable industries, global production sharing has become the norm. About half of the value of all U.S. imports in 2015 consisted of industrial supplies, other intermediate goods, and capital equipment—the purchases of U.S. producers, not end-use consumers.[9] According to estimates from the World Trade Organization, intermediate goods (excluding oil and fuels) account for about 60 percent of the value of global trade.[10]

To compete more effectively at home and abroad, U.S. companies (and the U.S. operations of foreign-headquartered companies) need access to imported inputs at world market prices. Production costs in the United States must be competitive. Yet under U.S. tariff policy, many imported inputs are subject to duties—even when there are no domestic suppliers to "protect." These taxes raise production costs, deter investment, and chase producers offshore, where they can access needed inputs at market prices. The consequences are reduced economic output and job loss or suppression.

In the 21st-century global economy, capital is mobile and businesses have options regarding where they locate production, distribution, and research and development activities. Thus, governments are competing to attract job-creating, value-added investment in their economies. Public policies—including tariffs and other trade policies that increase the cost of production—are on trial, and the verdict will be found in the investment flow data.

For now, there is more investment in U.S. manufacturing than in any other country's manufacturing sector. But what matters is whether the rate of investment growth is sufficient to keep up with the growth in demand for manufacturing output and the supply of qualified labor. Nibbling around the edges with small, temporary tariff reprieves through legislation such as the AMCA is an inadequate gesture that does little to put the United States in a better position to win more investment location decisions going forward.

Congress Should Think Bigger on Tariff Policy

In 2014, U.S. Customs collected nearly $45 billion in duties, taxes, and fees levied on imports, with approximately $27 billion collected on imported intermediate goods, which amounts to nothing more than a tax on U.S. value creators.[11] Duties on products such as magnesium, saccharine, polyvinyl chloride, and hot rolled steel may please their domestic producers, who are freed to raise prices and reap larger profits. But those same duties are costly to U.S. producers of auto parts, food products, paint, and appliances—producers that consume those products as inputs in their own manufacturing processes. Current U.S. tariffs elevate the interests of certain producers over the interests of others. Oddly, it tends to be the producers of lower value-added basic materials that are protected at great expense to the higher value-added, intellectual property-, capital-, and export-intensive industries, which tend to contribute more to GDP and employ more and higher-skilled workers.

Meanwhile, U.S. antidumping actions are not just disputes between domestic industries and their foreign competition. They reveal conflicts of economic interest between the duty-seeking U.S. industries and their U.S. customers. Those customers—usually other U.S. producers—are given no quarter under the law. If the petitioning industry can demonstrate that it has suffered "material injury" on account of less than fair value imports, duties are imposed regardless of the impact on downstream consuming industries and the economy at large. That is hardly a recipe for rational policymaking.

From 2000 to 2009, 80 percent (130 of 164) of all U.S. antidumping measures were imposed on imports of intermediate goods. The restrictions clearly raise the costs of production for downstream producers, rendering them less competitive at home and abroad. Yet the statute forbids the administering authority to consider the downstream impact. In one-third of those cases, the petitioning industry obtaining relief consisted of a single company—a monopolist. In many cases, the downstream U.S. producers moved their operations to Canada, Mexico, or other saner shores in order to remain competitive.[12]

During the financial crisis and subsequent recession in 2009, as G-20 governments were reassuring each other that they would not resort to beggar-thy-neighbor protectionism, the Canadian and Mexican governments took an entirely different tack, slashing duties on imported intermediate goods. Those governments properly recognized import duties as business costs and, because business revenues were projected to plunge on account of the global economic contraction, chose to alleviate the burdens on their businesses by reducing their import taxes. That logic is universal and does not apply only in times of economic recession.

Recognizing that downstream import-consuming industries account for a greater share of U.S. GDP, employ more workers, pay more taxes, and are more innovative than the protected firms in upstream industries that produce raw materials, Congress should permanently eliminate import duties on all intermediate goods, regardless of the existence of domestic production. Import duties are taxes on U.S. producers and consumers for the benefit of some—and sometimes for the benefit of nobody. Any government seeking to minimize irrational policies and hoping to make its economy a magnet for investment in value-added activities should avoid needless taxes on downstream industries. That includes the U.S. government.

Congress should establish a policy of zero tariffs on intermediate goods and reform the antidumping law to require the administering authorities to conduct an analysis of the economic costs of prospective antidumping duties on downstream industries. The statute should instruct the authorities to deny imposition of duties if the estimated costs are deemed excessive or disproportionate to the estimated benefit conferred on the petitioning industry. Those would be meaningful reforms that would go a long way to bolster U.S. attractiveness, now and in the future, as a destination for both U.S. and foreign direct investment, which will be a major determinant of economic growth in the 21st century.

It's time for Congress to start thinking big on tariff reform.

Note

1. United States House of Representatives Ways and Means Committee, "Bipartisan Members Introduce American Manufacturing Competitiveness Act of 2016: Strengthens MTB Process,

Upholds House Earmark Ban," news release, April 13, 2016, http://waysandmeans.house.gov/bipartisan-members-introduce-bill-to-strengthen-miscellaneous-tariff-bill-process/.
2. Ibid.
3. President Barack Obama, "Remarks by the President at the Signing of the Manufacturing Enhancement Act of 2010," White House, Office of the Press Secretary, August 11, 2010.
4. For a list of all imported product classifications and their official tariff rates, see the U.S. Harmonized Tariff Schedule, https://hts.usitc.gov/current.
5. U S. House of Representatives Ways and Means Committee, "Bipartisan Members Introduce American Manufacturing Competitiveness Act of 2016."
6. Ibid. This figure is based on a $748 million annual cost, quoted in the news release, and multiplied by four years.
7. Calculated from data extracted from USITC's Interactive Tariff and Trade DataWeb, https://dataweb.usitc.gov/and U.S. Customs and Border Protection, "Antidumping and Countervailing Duty Collection of Outstanding Claims: Fiscal Year 2014 Report to Congress," November 24, 2014, http://www.cbp.gov/sites/default/files/documents/ADCVD-Outstanding-Collections-Report-FY14.pdf.
8. See the U.S. Harmonized Tariff Schedule, https://hts.usitc.gov/current.
9. U.S. Bureau of the Census, U.S. International Trade in Goods and Services (FT900), December 2015, exhibit 8, "U.S. Imports of Goods by End-Use Category and Commodity," February 5, 2016, http://www.census.gov/foreign-trade/Press-Release/2015pr/12/exh8.pdf.
10. World Trade Organization, "International Trade Statistics 2013," https://www.wto.org/english/res_e/statis_e/its2013_e/its13_highlights4_e.pdf.
11. Calculated from data extracted from the USITC's Interactive Tariff and Trade DataWeb, https://dataweb.usitc.gov/and U.S. Customs and Border Protection, "Antidumping and Countervailing Duty Collection of Outstanding Claims: Fiscal Year 2014 Report to Congress," November 24, 2014, http://www.cbp.gov/sites/default/files/documents/ADCVD-Outstanding-Collections-Report-FY14.pdf.
12. Daniel Ikenson, "Economic Self-Flagellation: How U.S. Antidumping Policy Subverts the National Export Initiative," Cato Trade Policy Analysis no. 46, May 31, 2011.