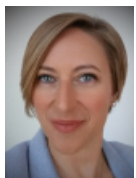




Stephanie Rickard

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Trump has the power to raise tariffs because Congress has given up its control over trade policy



*On April 2nd, President Trump announced wide ranging “reciprocal” tariffs against many other countries, causing turmoil across global markets. **Stephanie Rickard** writes that while the US Constitution gives Congress power over tariff policy, it has increasingly delegated that power to the presidency. Now, despite the seemingly severe consequences of Trump’s radical action on tariffs, political considerations mean that Congressional legislators – especially Republicans – are reluctant to act to end the tariff chaos.*

In April 2025, the Trump administration raised tariffs to rates not seen in more than a century. How was the president able to do this? And how might Congress respond?

Constitutional authority

Under the US Constitution, Congress has the authority to regulate international trade. Article I, Section 8 grants Congress the power “to lay and collect Taxes, Duties, Imposts and Excises,” and “to regulate Commerce with foreign Nations.” For much of America’s history, from the Civil War through the Smoot-Hawley Tariff of 1930, Congress exercised this power.

Delegation

This changed with the 1934 Reciprocal Trade Agreements Act (RTAA) which delegated tariff-setting authority to the executive branch. Since then, Congress has increasingly ceded control over trade policy to the president. One example of such delegation is Trade Promotion Authority (TPA) **sometimes called fast-track authority, which allows the president to negotiate trade agreements under specific congressional guidelines.** TPA also streamlines the legislative approval process for trade deals by giving Congress only an up-or-down vote. Although the most recent TPA **expired** in July 2021, trade authority remains in the hands of the executive, as it has since 1934.

The possible consequences of delegation

Less protectionism

Delegating trade authority to the president could, at least in theory, engender lower tariffs.

Legislators represent **specific geographic constituencies and may therefore prioritize the interests of local industry** over national consumer welfare. In contrast, the president, as the sole nationally elected official, may act in the broader national interest. Also, the president may be more attuned to the costs tariffs impose on consumers, who are geographically diffuse and less politically organized than protectionist industries.

But the Trump administration's tariff hikes in 2025 challenge this idea, and indeed, **little evidence** supports the claim that politicians with larger constituencies are less protectionist. This does not mean that Congress' decision is without consequences. The delegation of trade authority to the president has several important implications, as recent developments illustrate.

Greater policy volatility

Allowing the president to take action on tariffs without legislative approval reduces the number of "veto players" – that is, institutional actors whose agreement is required for policy change. Fewer veto players make it easier to implement new policies. It increases the risk of abrupt and unpredictable policy shifts, as seen in the tariff decisions of the second Trump administration.

Undermining the most-favoured-nation principle

The Trump administration's so-called "reciprocal" tariffs undermine a foundational principle of the modern trade system: the most-favored-nation (MFN) concept. Under MFN, any tariff concession granted to one country must be extended to all others with MFN status.

This principle has a long history in American trade policy. In 1923, the US announced that it would adopt unconditional MFN. Prior to this, the United States had adhered to a conditional MFN policy, in which tariff concessions to one country would not be extended to others **unless a reciprocal reduction was offered**. Sound familiar? The Trump administration's reciprocal tariffs harken back to this earlier era, effectively reversing a century of US trade principles.

Erosion of US leadership

By violating MFN principles, the US not only departs from its historical policy but also undermines a key pillar of the World Trade Organization and the multilateral trade regime. This unilateral action weakens the United States' position as a global leader and institution-builder. The postwar international trading system is built on a set of shared principles, such as MFN. The United States was instrumental in crafting these rules. By bypassing multilateral rules, the US risks eroding the very system from which it has long benefitted. It also diminishes the country's credibility as a reliable and principled global leader.



“Liberation Day, President Trump at the Make America Wealthy Again Event – April 2, 2025” by The White House is United States government work.

Will Congress act?

What, if anything, will Congress do in response to Trump’s trade actions?

Although Congress delegated trade authority to the President, it retained the role to advise, monitor and legislate on trade policy issues. Two Congressional committees, the House Ways and Means and the Senate Finance Committee have primary responsibility for trade policy issues. In the coming months, these committees may take steps to reassert their oversight and influence over trade.

Because Congress delegated its trade powers, it also retains the authority to reclaim them. The key question is whether the political will exists to do so.

If enough legislators align with President Trump’s trade agenda, Congress is unlikely to act. But some signs of dissent have begun to surface following the administration’s April 2, 2025 tariff **announcement**. Democratic Senator Richard Blumenthal called on Trump to fully reverse the tariffs, **saying** they have “already done such devastating damage and will continue to cause harm.” [The 90 day pause] is “leaving deep uncertainty and confusion. Businesses can’t plan without knowing what’s happening 90 days hence.”

Concern has come not only from Democrats. Four Republican senators **broke** with their party to vote for a Democratic-led resolution demanding a halt to the US tariffs on Canada. Though the resolution is unlikely to pass in the Republican-controlled House, the vote revealed growing discomfort with Trump’s tariff strategy within the Republican party.

The day after the “reciprocal” tariffs were announced, Chuck Grassley, a Republican who has served in Congress for 50 years, and Democratic Senator Maria Cantwell **introduced** a bill to reassert Congress’s power over trade. The legislation would curb the president’s ability to unilaterally enact

tariffs and give Congress the authority to block new levies after 60 days. Speaking in support of the legislation Grassley **said**: “For too long, Congress has delegated its clear authority to regulate interstate and foreign commerce to the executive branch.”

Although the bi-partisan legislation, called the Trade Review Act of 2025, has, to date, picked up seven more Republican co-sponsors, it nevertheless faces significant hurdles. The Trump administration has threatened to veto it, and Senate Republican leaders have not committed to bringing it to the floor. Their hesitance suggests a reluctance among Republicans to challenge Trump on trade.

Further evidence of this reluctance emerged on April 9, when the House narrowly passed a budget resolution rule that included language banning the House from voting to terminate Trump’s emergency declaration used to impose tariffs. By supporting this, legislators gave up their power to revoke Trump’s tariffs, at least until October. All but three Republicans voted for this legislation.

Electoral fallout

Why is Congress, and specifically Congressional Republicans, reluctant to act? One explanation lies in electoral incentives. Research has **found** that voters living near industries protected by tariffs implemented during Trump’s first term were more likely to vote for Republicans in congressional races. Republican lawmakers’ hesitation to curb the administration’s tariff authority or roll back existing tariffs may reflect a strategic electoral calculation. They may hope to reproduce the positive electoral effects of tariffs as a strategy to bolster their own prospects in future elections and to secure long-term partisan success.

Don’t count on Congress to put an end to the tariff chaos anytime soon.

- *Professor Stephanie Rickard spoke at the LSE Phelan US Centre event, “Is there a new Washington consensus?” on 11 February 2025. **Watch and listen to recordings of the event.***
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Stephanie Rickard is a Professor at the London School of Economics. Her book, "Spending to Win" examines government subsidies. Her research explores industrial subsidies, agricultural subsidies and subsidies related to the environment.

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