

Mutually Assured Trade Destruction Tariff-Style Further Diminishes Individual Sovereignty

Regulating for Globalization

20/04/2018

Lawrence A. Kogan (The Kogan Law Group)

Please refer to this post as: Lawrence A. Kogan, 'Mutually Assured Trade Destruction Tariff-Style Further Diminishes Individual Sovereignty', Regulating for Globalization, 20/04/2018, <http://regulatingforglobalization.com/2018/04/20/mutually-assured-trade-destruction-tariff-style-diminishes-individual-sovereignty/>

There was legal mention recently about how the 2017 Tax Cuts and Jobs Act (TCJA) had increased the difficulty for business to deduct environmental litigation expenses (e.g., property remediation expenses or compliance costs) incurred incident to a U.S. Department of Justice Environmental and Natural Resources Department (DOJ-ENRD)-initiated enforcement action.

The inability of a business to deduct expenses incurred in defending against DOJ-ENRD-initiated environmental litigation is but another reason why the administration's tax reform had been foolishly assembled without adequate due diligence and foresight to prevent harm to private property and free enterprise.

The tax bill should have been used as a cudgel to compel U.S. multinationals to return their outsourced Chinese manufacturing hubs (and not mere eye candy factories) to the U.S., as demonstrated by restoration of significant numbers of actual U.S. manufacturing jobs, skills and technologies, as the *quid pro quo* for the promised tax and regulatory relief.

The administration has blown it, thus far, from a trade perspective by focusing on the tail of the dog (tariffs imposed on finished goods) rather than on the body and inner organs of the dog. These consist of the regulations and other hidden indirect taxes which adversely affect the cost and means of production and processing of goods which foreign governments, especially those in China and Europe, have used with aplomb to deny market access to U.S. products, technologies and know-how (i.e., intellectual property) where they haven't already stolen them.

Multinationals have curried too much favor, as they usually do, with new occupants of the White House to gain cover for their prior indiscretions. Multinationals have cried incessantly about China's piracy ways (stealing U.S. IP and technology) achieved vis-a-vis imposition of complex protectionist regulatory and indirect taxation/investment schemes which the

multinationals themselves further facilitated by being all too willing to make bad investment bets on securing increased access to China markets and China's ostensible self-serving legal evolution. Like spoiled children they have long chased the Chinese market which they will never truly have and seek through confession White House and Congressional forgiveness and restoration of their balance sheet assets and cash flow devalued by their own profligate ways.

U.S. multinational chieftains made these reckless decisions to increase short-term stock values to further the size of their expected golden parachutes, knowing all along they could eventually overcome the long-term harm caused to company and shareholder interests by securing governmental support and assistance, despite the dangerous game of moral hazard in which they had engaged.

The bully pulpit should be used to direct federal agency heads to rapidly restore the prior Reagan-era deregulated and reduced taxation environment in the U.S. for the benefit of the millions of small and medium-sized business enterprises operating throughout the nation. It should then be used to establish these restored lower regulatory standards as international standards to which other countries must harmonize as the bargained-for exchange for abiding by our trade agreements. That is the grease of markets, not mutually assured tariff-based trade protectionism. Lower cost regulations, not higher cost tariffs regulations will set us free.

The President is being poorly advised, if not, misadvised by the palliative protectionists within the White House who apparently know little about the regulatory world of the 21st century.

These protectionists have deluded themselves into believing they are defeating the United Nations anti-free market sustainable development-focused globalists without stomping out the root of the problem. The root of the problem is not tariff rates or even old-fashioned governmental subsidies. Instead, the problem is rooted in highly complex and refined multi-level national and regional regulations that inauthentically pose to protect the public interest, which are then raised to the level of global regulatory integration at European rather than Reagan-era America levels.

During the past thirty years, for instance, presidential administrations of both political colors have promulgated U.S. domestic environment, health and safety regulations that have steadily devoured U.S.-based small and medium-sized enterprises to diminish the scope of constitutionally protected private property rights and free enterprise. They also have increased We the People's individual dependence on more government handouts (e.g., farm subsidies) and the exercise by federal agencies of unchecked administrative discretion, which only furthers governmental intrusion into every aspect of our daily lives.

This approach enhances the growth of the unaccountable administrative state in the name of reaffirming U.S. national sovereignty through a trade war of titans that cannot be won under the terms by which it is currently being prosecuted. As the result, our natural rights-based sovereignty as

individuals, as guaranteed by the Declaration of Independence, U.S. Constitution, and Bill of Rights, continues to diminish in the balance

Our public officials seem unable and unwilling to address this critically important challenge. Has adhering to our nation's Founding Documents and one's Oath of Office become a federal crime in post-modern politically acrimonious deep state-driven Washington?

The health of the nation and our children's futures depends on ensuring federal officials' respect for our constitutional rights as sovereign *individuals*, the rule of law and the reversal of the administrative regulatory state. Assuming an international trade posture that is most protective of our individual sovereignty, not our national sovereignty, is *the* primary way to achieve this objective.

National physical sovereign borders are, no doubt, important and facilitative of international trade and adherence to the rule of law. However, functional legal sovereign borders which engender the protection of the regulatory space in which we, as individuals, can operate and prosper without fear of government over-intrusion, are indispensable to guaranteeing the individual freedoms, especially the right to "property," to which the Founding Fathers had dedicated their perilous effort.

This is the stuff of Oath-bound Presidents.

To make sure you do not miss out on regular updates of the Regulation for Globalization Blog, please subscribe to this Blog.