Happy Anniversary! The Tariff Acts of 1890 and 1930

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2015 marked two momentous anniversaries within the history of U.S. tariff and trade policy. In 1930 the Smoot-Hawley Tariff Act was enacted. This is also the year my father was born. I am lead to believe that, while simultaneous, neither event had anything to do with the other. At age 85 much of Smoot-Hawley survives to this day. "The Tariff Act of 1930", as it is also known, functions very differently today. I suppose the same could be said of my father.

When implemented, Smoot-Hawley imposed crushing duty rates on a wide range of products. The average rate of duty imposed on dutiable goods was about 59%. The Tariff Act of 1930 imposed the highest duties since the Tariff of Abominations was implemented in 1828 with an average duty rate of 61%.

The intent of Smoot-Hawley was to protect U.S. jobs as the country slid into the Great Depression. Faced with increased tariffs, U.S. imports fell by 66%. Retaliatory tariffs in other countries resulted in a 61% decrease in exports. Unemployment rates rose to 25%. Economists and historians debate the extent to which Smoot-Hawley caused these devastating numbers but agree it was a measurable contributor. They also generally agree that Smoot-Hawley was a failed policy that contributed to the depth and length of the Great Depression.

So costly and profound were the lessons of Smoot-Hawley that the U.S. reversed its protectionist policies by lowering its duties in 1934 and liberalizing trade. The U.S. became a founding member of the General Agreement on Tariffs and Trade (GATT) in 1947 and continues to be a strong supporter of its successor the World Trade Organization (WTO) and its agenda to reduce global tariff and non-tariff barriers to trade.

The duty reforms that took place in 1934 granted the administration the right to negotiate reciprocal trade concessions with other nations. This permits goods from those nations to enjoy most favored nation duty status within the tariff. Today we refer to this as normalized trade relations and can see these more favorable duties reflected in column 1 general of the U.S. Harmonized Tariff Schedule (HTS). The onerous duty rates of Smoot-Hawley still reverberate 85 years later in column 2 of the HTS.

The McKinley Tariff Act of 1890

The second event we acknowledge is the 125th anniversary of the McKinley Tariff Act of 1890. Like Smoot-Hawley, the McKinley Tariff Act was intended to protect U.S. trade interests. It is hard to imagine today that one of the challenges for the government in 1890 was collecting too much revenue. Keep in mind, import duty was the primary revenue stream for the federal government at the time. It was argued, somewhat perversely, that raising duties would result in less importing and, thereby, lower duty collections.

The average rate of dutiable goods rose to 49%. The Act eliminated duties on imported sugar resulting in an overall modest drop in duty revenue of about 4%. Were it not for the sugar offsets, revenue under the new tariff would have increased by 7%. The elimination of the sugar tariff was also considered to be a political measure designed to undercut Hawaii's dominance in the trade.

Examples of duties at the time were as follows:

- Paper 35%
- Dolls and toys 35%
- Cotton clothing 50%
- Jewelry 50%

- Wool clothing 60%
- Decorated ceramics and porcelain 60%
- Raw materials not enumerated under the Act 10%
- Manufactured articles not enumerated under the Act 20%

In addition to these duties, goods imported on non-U.S. flagged vessels were subjected to an additional "discriminating duty" of 10% unless exempted under treaty or other act of Congress.

The McKinley Tariff Act had a modest negative impact upon the U.S. economy, primarily due to the fact that international trade represented a small part of the economy. Nevertheless, the Act resulted in retaliatory tariffs from trading partners. Its greater impact was political pushback from voters, who saw the price of their consumer goods rise dramatically. This resulted in a change of administration in 1892.

And for other purposes…

The McKinley Tariff Act was subtitled "An Act to reduce the revenue and equalize duties on imports, and for other purposes." What were some of those other purposes?

One of the non-tariff protectionist measures inserted into the legislation was a marking requirement which stated:

"That on and after the first day of March, eighteen hundred and ninety-one, all articles of foreign manufacture, such as are usually or ordinarily marked, stamped, branded, or labeled, and all packages containing such or other imported articles, shall, respectively, be plainly marked, stamped, branded, or labeled in legible English words so as to indicate the country of their origin; and unless so marked, stamped, branded, or labeled they shall not be admitted to enter."

The intent of this marking provision was to permit U.S. producers to take advantage of a consumer bias that favored U.S. goods over imported ones. To this day U.S. Customs law includes a labeling provision similar to the above.

Another provision of the Act recognizable to contemporary importers is the inclusion of intellectual property rights protection. The Act prohibited the importation of any goods that copied or simulated the trade-name or trade-mark of any domestic manufacturer. It also permitted the owner of any trade-name or trade-mark to register its intellectual property with Customs for purposes of enforcing the law.

Peculiar to the McKinley Tariff are references to the production, taxing and labeling of smoking opium. From today's perspective, it is surprising that importing, processing, selling and using opium were once legal and accepted in the United States.

History Lessons

Recognizing anniversaries affords us an opportunity to reflect on the past and to learn from it. As I researched these historic laws, I drew from them two general conclusions.

1. Although everything changes, everything remains the same.

While reading the McKinley Tariff Act I was struck by the structure of the tariff and the issues it addressed. But for the flowery language of 1890, I could have been reading regulation from 2015. The tariff schedule of 1890 had many similarities to the Harmonized Tariff Schedule of today. In addition to the marking and

intellectual property provisions mentioned above, the Act also described duty drawback and special provisions for tobacco and alcohol much like current-day regulations.

While reading various articles about the Acts, I was also struck by the political discourse surrounding trade. The arguments on either side of competing economic and political interests are the same as those used today. And lest we think political discourse has only recently become uncivil, an article at the congressional history website[1] described a house member opposing the McKinley Tariff Act as being jeered by the other party.

2. Those who refuse to study history are doomed to repeat it.

This statement, attributed to George Santayana, rings true as we look at the history of U.S. trade policy.

The McKinley and the Smoot-Hawley Tariff Acts each are examples of protectionist trade policies that attempted to pick market winners and losers. In some ways the acts ignored economic realities in order to achieve non-economic political ends. Through experience we have learned the lesson that this type of legislation results in unintended and unwelcome consequences. In short, the price paid by the losers is far dearer than the benefits achieved by the winners if those benefits materialize at all.

Trade policy has been and will continue to be in the news over the next months and years as the U.S. considers ratification of the Transpacific Partnership (TPP) and negotiates a trade agreement with Europe (TTIP). As the debate develops, you will hear various and heartfelt arguments from a range of constituencies. I encourage you to challenge the motivations behind each of the arguments. Are the arguments offered self-serving and at the expense of the greater economy?

Are proponents asking for favorable "winner" status or are they asking merely for a level playing field? Free trade agreements (FTAs), at their cores, are intended to level the playing field by removing duties on originating or qualifying goods. They do this in exchange for the trade complying with rules demonstrating that significant material content comes from and substantial production occurs in the geographical territory of the FTA. These rules of engagement or preference criteria are designed to benefit the economy by enticing it to use materials from the territory to produce goods in the territory. And of course greater production in the territory results in increased employment.

Are opponents decrying loss of favorable treatment or is there a legitimate concern that they are being disadvantaged and being designated as economic losers under the deal? To this day, some domestic industries enjoy the protection of higher duty rates. For example, men's polyester pants bear a duty rate of 27.9%. [2] Removal of this duty rate under an FTA poses a real and immediate economic challenge to U.S. garment producers. Their opposition, therefore, would be understandable. Is it reasonable, however, to continue to designate this industry as an economic winner by shielding it from global markets with a protectionist duty rate?

In the end, question if the arguments posed by proponents and opponents take into account the hard-learned lessons of the McKinley Tariff Act of 1890 or the Smoot-Hawley Tariff Act of 1930.

Or as my 85 year old father would say. "Been there, done that, not going back."

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[1] http://history.house.gov/Home/

[2] HTS 6203.49.20

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