

Court of International Trade Rejects Challenge to Steel Tariffs

On Monday, March 25th, the Court of International Trade decided it would not overturn President Trump's 25% tariff on steel imports. The Court is the body responsible for hearing constitutional challenges to federal trade policy. The three judges on the panel were Claire R. Kelly, Jennifer Choe-Groves, and Gary S. Katzmman.

The plaintiffs, the American Institute for International Steel, a trade association, along with two member companies (Sim-Tex and Kurt Orban partners) had challenged the administration, arguing that President Trump had overstepped his authority when he claimed that the tariff was justified under Section 232 of the Trade Expansion Act. The act involves the protection of national security, but the court's ruling supported the president's imposition of tariffs and indicated the plaintiff lacked the authority to second-guess the president's authority.

In challenging the tariffs, the plaintiffs argued that Section 232 of the Trade Expansion Act of 1962 runs counter to a constitutional prohibition against transfer of powers. The plaintiffs believe the Constitution does not permit Congress to delegate its powers to the president without any "intelligible principle, "or a set of clear standards to limit the president's power." The panel of judges disagreed, concluding that a 1976 case heard at the Supreme Court — *Algonquin SNG Inc. v. Federal Energy Administration* — had already decided that Section 232 met the intelligible principle standard.

The steel importers tried to argue that they should not be constrained by the 1976 Supreme Court ruling because it pertained to a specific remedy rather than an underlying law. But the judges disagree, saying the 1976 ruling actually did address the delegation issue.

As part of its ruling, the panel also wrote that "[I]dentifying the line between regulation of trade in furtherance of national security and an impermissible encroachment into the role of Congress could be elusive in some cases because judicial review would allow neither an inquiry into the president's motives nor a review of his fact-finding."

Professor Alan Morrison of George Washington University is representing the steel importers in this case. He stated earlier in March that regardless of how the court ruled, the decision would probably be appealed and most likely wind up before the Supreme Court.

Sources:

<https://www.washingtonexaminer.com/policy/economy/court-rejects-challenge-to-trumps-steel-tariffs>

<https://www.cit.uscourts.gov/sites/cit/files/19-37.pdf>

<https://www.politico.com/story/2019/03/25/trump-steel-tariffs-case-1292005>

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