

Congressional-Executive Tug of War

- **Congress, Art. 1 sec. 8** — power to levy tariffs and regulate international commerce
- **President, Art. 2 Foreign Policy Powers** — make treaties (advice/consent), receive Ambassadors and foreign officials, and by practice, conduct foreign policy
- **Congressional Delegation:**
 1. efficiency
 2. protectionist impulses
 3. complexity

Previous congressional delegations of trade authorities premised on Executive Branch being less 'protectionist' – questionable

Select Trade Legislation

- **Section 201 of the Trade Act of 1974** — Allows the President to impose temporary duties and other trade measures if the U.S. International Trade Commission (ITC) determines a surge in imports is a substantial cause or threat of serious injury to a U.S. industry.
- **Section 232 of the Trade Expansion Act of 1962** — Allows the President to adjust imports if the Department of Commerce finds certain products are imported in such quantities or under such circumstances as to threaten to impair U.S. national security.
- **Section 301 of the Trade Act of 1974** — Allows the United States Trade Representative (USTR) to suspend trade agreement concessions or impose import restrictions if it determines a U.S. trading partner is violating trade agreement commitments or engaging in discriminatory or unreasonable practices that burden or restrict U.S. commerce.
- **International Emergency Economic Powers Act (IEEPA) of 1977**— Allows the President to regulate the importation of any property in which any foreign country or a national thereof has any interest if the President declares a national emergency to deal with an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States.
- **Section 338 of the Tariff Act of 1930** – Allows the President to “by proclamation specify and declare new or additional duties... upon articles wholly or in part or product of...any foreign country whenever he shall find as fact such country... discriminates in fact against the commerce of the United States as compared to the commerce of any foreign country” when “he finds that the public interest will be served.”
- **AD/CVD** – Duties imposed after administrative investigations by Commerce/ITC to offset the value of dumping and/or subsidization of imports, thereby leveling the playing field for domestic industries injured by such unfairly traded imports.