

For a guy who hates regulation, Trump sure is proposing a huge one
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President Donald Trump hates regulations. He regularly talks about how awful they are and how, as president, he plans to get rid of them.

But in his speech to a joint session of Congress on Tuesday night, he proposed some regulations that would be onerous and incredibly expensive to American business.

Mostly, they come down to one sentence: "Buy American, hire American."

It sounds like nationalism, and that's nice. Trump wants to apply it to his \$1 trillion infrastructure bill, as well as other big projects like the Dakota Access pipeline, which — again — sounds a lot sweeter than it is. Experts say doing so would make projects exponentially more expensive and hurt American businesses in the long run.

"It would be really dumb and dangerous for it to be a 100% requirement, so hopefully he means 'take us seriously not literally' on that," said Joel Moser, the CEO of Aquamarine Investment Partners LLC, a private-equity firm that invests in infrastructure projects around the world.

"If we're supposed to take him literally," Moser continued, "that everything is supposed to be purchased American, he's missing the entire way big projects are built globally."

You see, like almost everything else, infrastructure development is a global business. And if we don't see it that way, we're going to get left behind.

So you want to build a bridge ...

Perhaps you've tried to build a massive infrastructure project before, and you know how the bidding process works. Companies from all over the world compete on price and quality and to gain contracts. That's why the *Keystone Access pipeline is a Canadian project — they won the bid, fair and square.

This is generally how capitalism works, and it's why limiting projects to American companies or products — like American steel, which is more expensive than, say, Chinese steel — will make them more expensive.

Having a foreign company win a bid comes with more perks than just the best price. It comes with investment from that company's government. That means US infrastructure projects have gotten billions in financing from countries like Germany, South Korea, and Japan.

Now, that isn't to say other countries don't protect their workers and their companies. They do, and we do too.

"Every country the last 20 years requires anybody bidding to have some local content," Moser said, "but in a largest sense capital movement is global."

In short, when we shut foreign companies out of the bidding process, we shut out foreign money that could help us finance it as well. Obviously, that's no good for the taxpayers who will be footing some of this bill, according to Trump's speech.

No one puts Baby in a corner

This "Buy American, hire American" regulation has a downside for businesses too. American construction companies compete for bids in other countries too. If we shut our borders to foreign companies, foreign countries can shut our companies out of their projects too.

"You're going to drive the prices up for American products and destroy the bottom line for American industries," Moser said.

Take the granddaddy of all American construction companies, Caterpillar, for instance. Foreign projects helped save the company's year in 2016.

"Retail new business volume for 2016 was \$10.91 billion, a decrease of \$511 million, or 4 percent, from 2015," the company said in its fourth-quarter earnings announcement. "The decrease was primarily related to lower volume across North America, marine and mining, partially offset by an increase in Asia/Pacific and Europe."

And there's more. When Trump signed a memorandum requiring the Dakota Access pipeline to be made with American steel, we were reminded that such a measure flies in the face of 70 years of international trade law made through the World Trade Organization.

WTO members — including most of the world — are supposed allow one another to compete fairly on the price of goods.

From the "General Agreement on Tariffs and Trade," WTO, 1947 and 1994 via Reuters:

"The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use."

If we violate this rule, countries around the world have every right to punish American companies by shutting them out of their bids. We could get sued by the WTO too.

Of course, as Moser pointed out to Business Insider, the US could do all of this. We have the people, we have the resources, we have the technology — "but it would be with a dramatic negative impact on the country," he said.

So yeah. Not so America first.

*A previous version of this article referred to the Keystone pipeline as the Dakota.