U.S. Supreme Court

FEA v. Algonquin SNG, Inc., 426 U.S. 548 (1976)

Federal Energy Administration v. Algonquin SNG, Inc.

No. 75-382

Argued April 20, 1976

Decided June 17, 1976

426 U.S. 548

CERTIORARI TO THE UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Syllabus

Section 232(b) of the Trade Expansion Act of 1962, as amended by the Trade Act of 1974, provides that, if the Secretary of the Treasury finds that an"article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security,"

… the President is authorized to "take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security."

1. **When it appeared that a prior program established under § 232(b) for adjusting oil imports was not fulfilling its objectives, the Secretary of the Treasury initiated an investigation. On the basis of this investigation, the Secretary found that crude oil and its derivatives and related products were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security, and accordingly recommended to the President that appropriate action be taken to reduce the imports. Following this recommendation, the President promptly issued a Proclamation, *inter alia,* raising the license fees on imported oil. Thereafter, respondents -- eight States and their Governors, 10 utility companies, and a Congressman -- brought suits against petitioners challenging the license fees on the ground, *inter alia,* that they were beyond the President's authority under § 232(b). The District Court denied relief, holding that § 232(b) is a valid delegation to the President of the power to impose license fees on imports, and that the procedures followed by the President and the Secretary in imposing the fees fully complied with the statute. The Court of Appeals reversed, holding that § 232(b) does not authorize the President to impose a license fee scheme as a method of adjusting imports, but encompasses only the use of "direct" controls such as quotas.**

Held: **Section 232(b) authorizes the action taken by the President.**

Section 232(b) does not constitute an improper delegation of power, since it establishes clear preconditions to Presidential action, including a finding by the Secretary of the Treasury that an article is being imported in such quantities or under such circumstances as to threaten to impair the national security. Moreover, even if these preconditions are met, the President can act only to the extent he deems necessary to adjust the imports so that they will not threaten to impair the national security, and § 32(c) sets forth specific factors for him to consider in exercising his authority. Pp. 426 U. S. 558-560.

(b) In authorizing the President to "take such action and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," § 232(b)'s language clearly grants him a measure of discretion in determining the method used to adjust imports, and there is no support in the statute's language that the authorization to the President to "adjust" imports should be read to encompass only quantitative methods, *i.e.*, quotas, as opposed to monetary methods, *i.e.*, license fees, of effecting such adjustments; so to limit the word "adjust" would not comport with the range of factors that can trigger the President's authority under § 232(b)'s language. Pp. 426 U. S. 561-562.

(c) Furthermore, § 232(b)'s legislative history amply indicates that the President's authority extends to the imposition of monetary exactions, *i.e.*, license fees and duties, and belies any suggestion that Congress, despite its use of broad language in the statute itself, intended to confine the President's authority to the imposition of quotas and to bar him from imposing a license fee system such as the one in question. Pp. 426 U. S. 562-571.

……..

MARSHALL, J., delivered the opinion for a unanimous Court.

MR. JUSTICE MARSHALL delivered the opinion Of the Court.

Section 232(b) Of the Trade Expansion Act Of 1962, 76 Stat. 877, as amended by § 127(d) of the Trade Act of 1974, 88 Stat.1993, 19 U.S.C. § 1862(b) (1970 ed., Supp. IV), provides that, if the Secretary of the Treasury finds that an "article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the President is authorized to

"take such action, and for such time, as he deems necessary to adjust the imports of [the] article and its derivatives so that . . . imports [of the article] will not threaten to impair the national security. [Footnote 1] "

All parties to this case agree that § 232(b) authorizes the President to adjust the imports of petroleum and petroleum products by imposing quotas on such imports. What we must decide is whether § 232(b) also authorizes the President to control such imports by imposing on them a system of monetary exactions in the form of license fees.

I

President Nixon's 1973 program apparently did not wholly fulfill the objectives to which it was directed. Accordingly, the Secretary of the Treasury, acting pursuant to § 232(b), *see* n 1, *supra,* initiated an investigation on January 4, 1975, "to determine the effects on the national security of imports of petroleum and petroleum products." Memorandum from Secretary of the Treasury Simon to Assistant Secretary of the Treasury

The President agreed with the findings of the Secretary's investigation and concluded that it was "necessary and consistent with the national security to. further discourage importation into the United States of petroleum, petroleum products, and related products. . . ." Presidential Proclamation No. 4341, 3A CFR 2 (1975). Invoking 232(b), he issued a Proclamation on January 23, 1975, which, effective immediately, raised the so-called "first-tier" license fees that were imposed in 1973, *see supra* at 426 U. S. 553, to the maximum levels previously scheduled to be reached only some months later. [Footnote 4] Presidential Proclamation No. 4341, *supra.* The Proclamation also imposed on all imported oil, whether covered by the first-tier fees or not, a supplemental fee of $1 per barrel for oil entering the United States on or after February 1, 1975. The supplemental fee was scheduled to rise to $2 a barrel for oil entering after March 1, 1975, and to $3 per barrel for oil entering after April 1, 1975. [Footnote 5] Finally, the Proclamation reinstated the tariffs that had been suspended in April, 1973. Soon after issuance of the Proclamation, the Federal Energy Administration (FEA) amended its oil import regulations in order to implement the new program. 40 Fed.Reg. 4771-4776 (1975).

Four days after the Proclamation was issued, respondents -- eight States and their Governors, [Footnote 6] 10 utility companies, [Footnote 7] and Congressman Robert F. Drinan of Massachusetts -- challenged the license fees in two suits filed against the Secretary of the Treasury, the Administrator of the FEA, and the Treasurer of the United States in the United States District Court for the District of Columbia.

II

A

Preliminarily, we reject respondents' suggestion that we must construe § 232(b) narrowly in order to avoid "a serious question of unconstitutional delegation of legislative power

B

In authorizing the President to "take such action, and for such time, as he deems necessary to adjust the imports of [an] article and its derivatives," the language of § 232(b) seems clearly to grant him a measure of discretion in determining the method to be used to adjust imports

C

A final word is in order. Our holding today is a limited one. As respondents themselves acknowledge, a license fee, as much as a quota, has its initial and direct impact on imports, albeit on their price, as opposed to their quantity. Brief for Respondents 26. As a consequence, our conclusion here, fully supported by the relevant legislative history, that the imposition of a license fee is authorized by § 232(b) in no way compels the further conclusion that any action the President might take, as long as it has even a remote impact on imports, is also so authorized.

The judgment of the Court of Appeals is reversed, and this case is remanded to that court for proceedings consistent with this opinion.