

Intelligence MEMOS



From: Jon Johnson
To: Orrin Hatch, Chairman of the US Senate Finance Committee
Copy to: Members of Congress
Date: March 28, 2018
Re: **STAND UP FOR TRADE**

When President Donald Trump requested extension of the trade promotion authority (TPA), which expires July 1 you said:

“Because the Constitution very clearly assigns to Congress the power to lay and collect tariffs and to regulate foreign commerce, Congress must have the final word on the fate of NAFTA. The same goes for our other trade agreements, and Congress will vigilantly monitor any developments concerning them as well.”

You also said:

“Congress will use the extension disapproval process under the *Trade Promotion Authority* law to emphasize that the administration must adhere to the TPA negotiating objectives and to encourage the president to seek new agreements with our trading partners.”

I agree that you and your colleagues in Congress must use the extension disapproval process under the *Trade Promotion Authority* law to assert the congressional power over tariffs and foreign commerce.

This means Congress must insist that President Trump not take any steps to withdraw from NAFTA or any other trade agreement without first having received the express consent of Congress.

Congress must insist that the powers to impose tariffs delegated to the President under Section 232 of the *Trade Expansion Act of 1962* and Section 301 of the *Trade Act of 1974*, respectively addressing legitimate concerns around national security and unfair trade practices, be subject to strict congressional oversight to prevent US commerce with foreign nations being imperilled through trade wars through egregious abuse of these powers. Extension of trade promotion authority should be rejected unless the administration ceases to use the threat of Section 232 tariffs on steel and aluminum merely to bludgeon the NAFTA countries into meeting US demands by May 1.

Your committee has expressed grave concerns over the forms that retaliation by China might take against the proposal to impose 25-percent Section 301 tariffs on a wide range of Chinese products. Extension of trade promotion authority should also be disapproved unless Congress receives broad supervisory authority over the imposition of Section 301 tariffs.

The TPA law recognizes the WTO as “the foundation of the global trading system” and US negotiating objectives under the TPA law include full WTO implementation. Extension of trade promotion authority should be disapproved unless the administration ceases to undermine the WTO. The administration must cease boycotting the appointment of new members to the Appellate Body.

The Trump administration has an ambitious trade agenda that it cannot fulfil unless the trade promotion authority is extended. Indicative of the thought processes behind the agenda is President Trump’s concept of “reciprocal” tariffs, under which Chinese tariffs of 25 percent on imported US cars would be countered by “reciprocal” tariffs of 25 percent on Chinese cars, rather than the US bound rate of 2.5 percent. This approach to trade would undermine the most-favoured-nation principle that is at the very heart of the WTO global trading system.

You and all members of Congress have this one opportunity to assert your constitutional responsibilities to stand up for the global trading system that the US had such an important role in creating.

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