

# Intelligence MEMOS



From: Jon Johnson  
To: The US Congress  
Date: March 9, 2018  
Re: **WITH NATIONAL SECURITY NOW FOR SALE, CONGRESS MUST TAKE CHARGE OF TRADE**

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President Trump has made clear the purpose of the 25 percent tariffs on steel and the 10 percent tariffs on aluminum. The proposed tariffs, purportedly necessary to protect US national security, are now a bargaining chip in the NAFTA renegotiation. As President Trump said earlier this week: "... if we're able to make a deal with Canada and Mexico in NAFTA, then there will be no reason to do the tariffs with Canada and Mexico." Canada is to receive an exemption for now.

Perhaps national security can be traded away by exchanging steel and aluminum for milk, through improving US access to Canada's dairy market. President Trump has also said that exemptions from the tariffs can be exchanged for trading partners, such as the European Union, who "...do something for us."

So much for national security!

The president has also stated that trade wars are "good" and that the US can win a trade war. Successive US administrations and US Congresses have known better. Ever since the beggar-thy-neighbour policies of the 1930s, the Congress and all US administrations until the Trump administration have avoided trade wars. This president, consistent with his evident belief that trade wars are good, is inviting a full-blown trade war with the proposed tariffs.

Congress has the exclusive power under the US Constitution to impose tariffs. Congress has delegated power to impose tariffs to the president under special circumstances. When it enacted Section 232 of the Trade Expansion Act of 1962, Congress delegated power to the president to impose tariffs to address genuine national security concerns. Section 232 has been sparingly used since its enactment because US administrations have recognized that tariffs can be imposed to address national security concerns only in exceptional circumstances. The fact that the president would consider using the proposed tariffs as bargaining chips to extract concessions from trading partners clearly establishes that the president is abusing the powers that Congress granted under Section 232.

Congress can stop the imposition of these tariffs and Congress can do so by reasserting its exclusive powers over tariffs granted under the US Constitution. Many members of both the House and the Senate strongly oppose the imposition of these tariffs. To those Senators and House members who have supported taking action against steel and aluminum imports, you must look at the bigger picture. If imports from certain countries are being unfairly traded, there are legitimate remedies under US law and sanctioned under WTO rules for addressing these situations. If imports of fairly-traded products are causing serious injury to the US domestic steel and aluminum industries, the appropriate remedy is a safeguard action. None of these trade remedies will provoke a trade war. At a minimum, Congress should insist that any action taken under Section 232 be subject to strict Congressional oversight.

The linkage President Trump has made between the proposed tariffs and a NAFTA renegotiation outcome favourable to the US, a linkage that USTR Lighthizer evidently considers a "positive development", underscores the importance of Congress taking charge of the NAFTA renegotiation and making it clear that NAFTA cannot be terminated without the consent of Congress.

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