

Intelligence MEMOS



From: Christopher Sands

To: Concerned Canadians

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Re: **LARGER ROLE FOR CONGRESS WILL MAKE THIS NEGOTIATION DIFFERENT THAN CUFTA AND NAFTA TALKS**

Speaking in Kenosha, Wisconsin in April, U.S. President Donald Trump scrambled expectations for the renegotiation of NAFTA [when he called Canadian supply management](#) programs for the dairy sector “a disgrace” and added, “We’re also going to stand up for our dairy farmers, because in Canada some very unfair things have happened to our dairy farmers and others.”

One week later, the Trump administration [announced](#) duties on Canadian softwood lumber.

Two months earlier, meeting with Prime Minister Justin Trudeau, [Trump had said](#) that with regard to Canada, he believed that NAFTA renegotiation would only involve a few small “tweaks.” Trump’s tweak comment seemed more like a twerk to many Canadians after April.

What explains the shift? The fact that the United States Congress is reasserting its constitutional authority over trade policy, and the Trump administration must champion the concerns of congressional leaders now to get a renegotiated NAFTA approved later.

Congress gives voice to the local employers who demand an end to perceived protectionism or unfair competition from abroad. Unlike the U.S. president, Congress is not elected by the whole of the United States. Appeals to net economic benefits from trade liberalization for the country as a whole won’t budge Members of Congress on an issue that is causing problems for their voters.

After congressional amendments to the implementing legislation for the General Agreement on Tariffs and Trade’s Kennedy Round agreement nearly led other countries to reject the deal, the Gerald Ford administration persuaded Congress to pass the 1974 Trade Act to reassure U.S. trading partners and launch the negotiation of the Tokyo Round. This legislation established the “fast track” procedure under which Congress would authorize the president to enter into negotiations and promise a vote on any resulting trade agreement with no amendments allowed.

With each subsequent grant of what is now called “trade promotion authority” Congress has attached more conditions that trade negotiators must meet in order to qualify an eventual agreement for fast tracked approval. The [current authority](#), granted to the Obama administration to allow for the negotiation of the Transatlantic Trade and Investment Partnership and the Trans Pacific Partnership, carries over to the Trump administration for any agreement that meets its conditions and is completed by July 1, 2018 (with an option to extend to July 1, 2021).

There had been [speculation in Washington](#) that the Trump administration might ask Congress to grant trade negotiating authority expressly for the NAFTA renegotiation. This might have freed the Trump team from some of the constraints imposed by Congress on the Obama administration. He may have been testing the reaction of key congressional leaders with his comments in Wisconsin about Canadian dairy. Now that the Trump administration has given its [formal notice to Congress](#) of his intent to begin NAFTA renegotiation in 90 days, it is clear that the United States will conduct these talks will occur under the 2015 terms and conditions.

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