

Intelligence MEMOS



From: Jon Johnson
To: Kevin Brady, Chairman, House Ways and Means Committee and Orin Hatch, Chairman, Senate Finance Committee
Copy to: Thomas Donohue, President and CEO, US Chamber of Commerce
Date: June 1, 2018
Re: **RECIPROCAL TRADE, TRUMP/ROSS BILATERALISM AND ABUSE OF SECTION 232**

On May 14, US Commerce Secretary Wilbur Ross challenged the WTO most-favoured-nation (MFN) principle as preventing the US from engaging in “reciprocal trade” with its trading partners. In proclaiming May 20 through May 26, as World Trade Week, President Trump stated that his administration “recognizes the importance of prioritizing the interests of American workers and businesses by promoting reciprocal trade.”

Prior to World War II, the US entered into reciprocity agreements with trading partners providing for reciprocal tariff reductions. Tariff reductions were negotiated on a product-by-product-basis.

With the entry into force of the GATT in 1948, the US and its major trading partners adopted a multilateral rather than a bilateral approach to trade. The GATT MFN principle, which is carried forward into the WTO, requires that if a WTO member provides an advantage (e.g., a lower tariff) to products of another country, that same advantage must be allowed to like products of all members. Members also agreed to be bound to rates agreed to in successive rounds of GATT/WTO negotiations and not to raise rates above those levels.

True, WTO rules allow for two or more parties to engage in free trade agreements in which the parties are allowed to give special preferences to each other, as long as substantially all duties are eliminated between them. But that is not what Mr. Ross has in mind. He complained on May 14 that the US bound rates were low and those of trading partners were at higher levels, implying that, for example, if China maintains a tariff of 25 percent on US cars, the US should maintain a tariff of 25 percent on Chinese cars, and not the generally applicable US bound rate of 2.5 percent as agreed at the WTO.

Judging from their rhetoric, the ideal Trump/Ross trading world would revert to the pre-WWII world of bilateral reciprocity agreements. There would be no MFN principle or bound rates, and the tariffs in each agreement would be those negotiated between the US and the other party. In short, they would like to be free to negotiate whatever bilateral tariffs they like, which, taken to its ultimate conclusion, means ditching WTO obligations.

The Trump Administration does not have the constitutional authority to implement its preferred bilateral approach. However, President Trump and Secretary Ross are aiming for similar results by aggressively using Section 232 of the *Trade Expansion Act* of 1962, purportedly for “national security” reasons, to extract bilateral concessions from trading partners, likely in the form of quotas or voluntary export restraints that are “disadvantages” not subject to the same MFN obligations that “advantages” such as tariff preferences are.

This process is already underway with steel and aluminum, with exemptions being allowed only in return for quota commitments or concessions in trade negotiations (such as NAFTA). President Trump and Secretary Ross are now in the process of initiating a Section 232 investigation into the importation of automobiles that has even less credibility as regards national security than the investigation into steel and aluminum.

Congress has the power to shut down this destructive process. It can take a first step by exercising the TPA disapproval process to force the administration to negotiate the basis upon which trade promotion authority will be extended. When an extension of the existing Trade Promotion Authority (TPA) granted by Congress to the administration (from the current July 1/18 to July 1/21) has been requested by the administration, as is currently the case, the TPA’s provisions are extended unless either the House or the Senate adopts an extension disapproval resolution. Any member of either the House or the Senate may introduce such a resolution. If a disapproval resolution is actually passed by either the House or the Senate, authority is not extended. The serious threat of such a resolution being passed could give Congress leverage to force changes in approach on the administration.

It is important that Congress use this leverage to assert its constitutional authority over trade and put a halt to the administration dismantling the world trading system..

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