

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
JOHN HOEVEN, NORTH DAKOTA
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI
THOMAS R. CARPER, DELAWARE
HEIDI HEITKAMP, NORTH DAKOTA
GARY C. PETERS, MICHIGAN
MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA
DOUG JONES, ALABAMA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

August 27, 2018

Mr. Roger Newport
Chief Executive Officer
AK Steel Holding Corporation
9227 Centre Pointe Drive
West Chester, OH 45069

Dear Mr. Newport:

The Committee on Homeland Security and Governmental Affairs is continuing to conduct oversight of the Trump Administration's trade policies, specifically relating to the tariffs on steel and aluminum. We respectfully write to request information about your company's role in the tariff exclusion process.¹

On March 8, 2018, the Trump Administration announced tariffs on steel and aluminum, authorized by Section 232 of the 1962 Trade Expansion Act.² On March 18, 2018, the Commerce Department established a process for businesses to apply for exclusions of specific steel and aluminum import products.³ Upon receiving an exclusion request, the Department determines whether the product is produced domestically in sufficient availability and quality.⁴ The Department also established a process through which other businesses or organizations could object to exclusion requests by providing information on the domestic production of the product that is the subject of the exclusion request.⁵

¹ Press Release, U.S. Dep't of Commerce, U.S. Department of Commerce Announces Steel and Aluminum Tariff Exclusion Process (Mar. 18, 2018), <https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-announces-steel-and-aluminum-tariff-exclusion>; *see also* Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum Into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum, 83 Fed. Reg. 12106-12112 (Mar. 19, 2018) (codified in 15 C.F.R. pt. 705), <https://www.regulations.gov/document?D=BIS-2018-0002-0001>.

² Dave Jackson, *Trump announces steel and aluminum tariffs, but with 'flexible' exceptions* (Mar. 8, 2018), USA TODAY, <https://www.usatoday.com/story/news/politics/2018/03/08/trump-planning-make-formal-tariff-announcement/406065002/>.

³ Press Release, U.S. Dep't of Commerce, U.S. Department of Commerce Announces Steel and Aluminum Tariff Exclusion Process (Mar. 18, 2018), <https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-announces-steel-and-aluminum-tariff-exclusion>; *see also* Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum Into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum, *supra* note 1.

⁴ Press Release, U.S. Dep't of Commerce, *supra* note 3.

⁵ *Id.*

Commerce Secretary Wilbur Ross stated that the Department had received more than 20,000 steel and aluminum exclusion requests.⁶ By the end of July 2018, the Department had reportedly denied 639 requests, with half of those denials reportedly receiving an objection from U.S. Steel, Nucor, or AK Steel Holding Corporation.⁷ Department officials allegedly boasted that “they have not granted a single steel exclusion request that drew an objection” from domestic steel producers.⁸

U.S. businesses have reported that the exclusion process is time-consuming and burdensome.⁹ Business leaders have described the exclusion process as “miserable” and expressed concerns about its arbitrary and uncertain nature.¹⁰

In light of the concerns about the exclusion process for the steel and aluminum tariffs, we respectfully request the following information:

1. Please provide a list of all objections that the AK Steel Holding Corporation has submitted to the Department since March 2018, including the following data:
 - a. The date on which your company filed the objection(s);
 - b. Whether the Department requested any additional information or clarification about your company’s objection(s), and the date(s) of those request(s) and any response to those request(s); and
 - c. Whether the Department approved or denied the exclusion(s) to which your company filed objection(s), and the date(s) of the Department’s final decision(s).
2. Please explain how the AK Steel Holding Corporation determines whether to submit an objection to a particular exclusion request.
3. Please produce all documents and communications between or among employees or agents of the AK Steel Holding Corporation and employees or contractors of the Commerce Department for the period September 1, 2017 to the present referring or relating to the steel and aluminum tariffs, the tariff exclusion process, or objections to tariff exclusions.

⁶ Press Release, U.S. Dep’t of Commerce, Opening Statement by Commerce Secretary Wilbur L. Ross at Senate Committee on Finance (June 20, 2018), <https://www.commerce.gov/news/secretary-speeches/2018/06/opening-statement-commerce-secretary-wilbur-l-ross-senate-committee>.

⁷ Jim Tankersley, *Steel Giants with Ties to Trump Officials Block Tariff Relief for Hundreds of Firms*, N.Y. TIMES (Aug. 5, 2018), <https://www.nytimes.com/2018/08/05/us/politics/nucor-us-steel-tariff-exemptions.html>.

⁸ *Id.*

⁹ Press Release, H. Subcomm. on Trade, Chairman Reichert Leads Hearing on Exclusion Process for Section 232 Tariffs (July 24, 2018), <https://reichert.house.gov/press-release/chairman-reichert-leads-hearing-exclusion-process-section-232-tariffs>.

¹⁰ *Examining the Effect of Tariffs on Wisconsin Businesses: Roundtable Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (July 16, 2018) (Field Hearing held in Milwaukee, WI).

4. Please produce all documents and communications between or among employees or agents of the AK Steel Holding Corporation and employees of the Executive Office of the President for the period September 1, 2017 to the present referring or relating to the steel and aluminum tariffs, the tariff exclusion process, or objections to tariff exclusions.

Please provide this information as soon as possible but no later than 5:00 p.m. on September 10, 2018.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”¹¹ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine “the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices”¹²

If you have any questions, please ask your staff to contact Josh McLeod or Scott Wittmann with Chairman Johnson’s staff at (202) 224-4751 or Sarah Garcia and Thomas Richards with Ranking Member McCaskill’s staff at (202) 224-2627. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman



Claire McCaskill
Ranking Member

cc: The Honorable Robert Lighthizer
United States Trade Representative

Mr. Peter Navarro
Director, National Trade Council

The Honorable Wilbur Ross
U.S. Department of Commerce

Enclosure

¹¹ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

¹² S. Res. 62 § 12(e)(1)(A), 115th Cong. (2017).