

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

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April 15, 2019

The Honorable Wilbur L. Ross, Jr.  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Mr. Secretary:

Enclosed are questions that have been directed to you and submitted for the official record for the hearing on Thursday, March 14, 2019, with Secretary of Commerce Wilbur L. Ross, Jr.

Please return your written responses to these questions by April 29, 2019. Your responses should be addressed to the Committee office at 2157 Rayburn House Office Building, Washington, D.C. 20515. Please also send an electronic version of your response by email to Amy Stratton, Clerk, at [Amy.Stratton@mail.house.gov](mailto:Amy.Stratton@mail.house.gov).

If you need additional information or have other questions, please contact Elisa LaNier, Chief Clerk, at (202) 225-5051.

Sincerely,



Elijah E. Cummings  
Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

**The Honorable Wilbur L. Ross, Jr.**  
**Secretary**  
**Department of Commerce**

**Questions from Chairman Elijah Cummings**

March 14, 2019, Full Committee Hearing with "Commerce Secretary, Wilbur L. Ross, Jr."

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**Addition of Citizenship Question**

1. With whom at the White House did you discuss the addition of a citizenship question to the 2020 Census? When did those conversations occur, and what did you discuss?
2. Did you speak with Kris Kobach after his July 14, 2017, email to you? If so, please describe when those conversations occurred and what was discussed.
3. Did you speak with anyone else at the Department of Commerce about your conversations with Kris Kobach? If so, with whom did you speak, and what did you discuss?
4. Did you speak with any other senior Administration officials about your conversations with Kris Kobach? If so, with whom did you speak, and what did you discuss?
5. Why did the Department of Commerce approach the Department of Homeland Security (DHS) about adding a citizenship question?
6. Are you aware of any discussions involving officials at the Department of Commerce, DHS, the Department of Justice (DOJ), the White House, or other federal agencies about using census citizenship data to assist with immigration enforcement? If so, please describe who participated and what was discussed.
7. In addition to DOJ and DHS, did you or others at the Department of Commerce approach any other agencies about the addition of a citizenship question to the 2020 Census?
8. Prior to DOJ's December 2017 request, did the Department of Commerce approach the Census Bureau directly about adding a citizenship question? Who was involved in those discussions, and what was discussed?
9. Prior to DOJ's December 2017 request, did officials at the Department of Commerce conclude that the Department needed a request from another agency in order to add the citizenship question to the Census? Who made that decision, and on what basis?

10. Please describe each of your conversations with Attorney General Jeff Sessions about the addition of a citizenship question to the 2020 Census, including your September 2017 discussion and any others. Please describe when the conversations took place, who else participated, and what was discussed.
11. Did you ever ask the Attorney General to send you a letter requesting the addition of a citizenship question? If so, please describe what was discussed and when.
12. Did you ever discuss with Attorney General Sessions how the addition of a citizenship question could impact congressional apportionment? If so, please describe what was discussed and when.
13. In the last three years, have you had discussions with anyone else, including any government official or any other person, about how congressional apportionment may be affected by adding a citizenship question to the 2020 Census? If so, who participated in these discussions and what was discussed?
14. Please describe the contents of the August 11, 2017, memorandum that James Uthemier wrote to you about the addition of the citizenship question to the 2020 Census.
15. Why did Mr. Uthmeier write you this memorandum?
16. Did the memorandum include any other rationale for the addition of a citizenship question other than the one in DOJ's December 12, 2017, letter? If so, please describe the rationale.
17. Did you or others at the Department of Commerce direct Mr. Uthmeier to provide a copy of this memorandum to DOJ? If so, why?
18. Was the memorandum hand-delivered to John Gore at DOJ in the Fall of 2017 the same or similar to the memorandum that Mr. Uthemier emailed you on August 11, 2017?
19. What was the content of the handwritten note from Mr. Uthmeier to Mr. Gore?
20. Why were the memorandum and note delivered by hand rather than by email?
21. Prior to receiving DOJ's December 2017 letter, did anyone ever propose to you possible rationales for the addition of a citizenship question other than the one described in that letter? If so, what were those rationales, who proposed them, and what actions did you take in response?

### **Financial Interests**

1. Have you or any of your family members maintained any financial interest in or control over any asset you agreed to divest in your ethics agreement?
2. Have you always followed your financial conflicts of interest recusal obligations? Have you ever been counseled that you did not meet your recusal obligations?
3. Have you now divested of all of the financial interests you promised to divest in your ethics agreement? Are you aware of any violations of your ethics agreement that you have not yet disclosed? If so, what are they?
4. Do you have any financial interest or control over any trust to which you have transferred assets pursuant to your ethics agreement? Do your wife or your children have any financial interest or control in any such trusts?
5. Do you expect to receive any future ownership interest or control of any trust to which you have transferred assets pursuant to your ethics agreement? Do your wife or your children expect to receive any future ownership interest or control of any such trust?
6. Have you ever sought a waiver for a potential conflict of interest? If so, please describe the circumstances and the result of your request.
7. As Secretary of Commerce, have you ever discussed any Trump Administration policies or decisions with executives of companies in which you or anyone in your family holds an ownership stake? If so, please describe who participated in these discussions and what was discussed.
8. Since becoming Secretary of Commerce, did you make any profit from short positions you opened on assets that you agreed to divest? If so, please describe the asset and the short position taken and state the amount of profit.

### **Nuclear Technology**

1. In an April 14, 2017, email to your Director of Scheduling, Tina-Marie Henry, William A. Nitze confirms a meeting with you for April 21, 2017, to discuss "a Middle East Power Infrastructure and Security Initiative developed by the IP3 group." Was the meeting with Mr. Nitze the first time you learned of IP3's plan to transfer nuclear technology to Saudi Arabia?
2. Mr. Nitze further stated that "Secretaries Mattis and Perry have been briefed on the Initiative and have given it their full support and Tom Barrack regards it as a key part of his Marshall Plan for the Middle East." He continued, "IP3 believes, however, that Secretary Ross would be the ideal leader and point person for the

initiative within the Administration.” Have you discussed the plan with Secretaries Mattis and Perry? Have you discussed the plan with Tom Barrack?

3. Mr. Nitze also stated that the Middle East Marshall Plan would “solv[e] the Westinghouse problem.” What is “the Westinghouse problem” as described by Mr. Nitze?
4. Have any officials from the Department of Commerce been involved in discussions about the sale or purchase of Westinghouse? If so, please identify the officials in question, all individuals or parties involved in the communications, the dates of discussions, and the substance of the discussion.
5. Have you discussed the plan to transfer nuclear technology to Saudi Arabia with President Trump? If so, please identify all individuals or parties involved in any conversation, the dates of any conversation, and the substance of the discussion.
6. Please identify the dates of any meetings between Department of Commerce officials and any officials from IP3, ACU, or Iron Bridge, all participants in those meetings, and the substance of the discussion. Please describe what materials, if any, were received by Department of Commerce officials in conjunction with any meetings with officials from IP3, ACU, or Iron Bridge.
7. Has the Department of Commerce coordinated with any other government agencies regarding a plan to transfer nuclear technology to Saudi Arabia? If so, please identify all individuals or parties involved in any conversation, the dates of any conversation, and the substance of the discussion.
8. Who have been the primary points of contact within each agency regarding any plan to transfer nuclear technology to Saudi Arabia, including the Department of Commerce?
9. Is the Trump Administration continuing to engage with Saudi Arabia about a nuclear deal? If so, please describe the current status of the engagement.
10. What steps has the Department of Commerce taken so far to locate and produce responsive documents to the Committee’s February 19, 2019, letter?
11. What is the volume of responsive material identified by the Department of Commerce?
12. When does the Department of Commerce plan to make its first production? By what date does the Department of Commerce expect to have produced all responsive documents?

**The Honorable Wilbur L. Ross, Jr.**  
**Secretary**  
**Department of Commerce**

**Questions from Congressman Stephen F. Lynch**

March 14, 2019, Full Committee Hearing with “Commerce Secretary, Wilbur L. Ross, Jr.”

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**Rusal Tariff Exemption**

According to the Commerce Department, the tariff exemption process was designed to “hone [the] tariffs to ensure they protect our national security.” Yet, the Department on July 19, 2018, granted an exemption (ID - BIS-2018-0002-0476, submitted by Rusal America on April 30, 2018) for a subsidiary of United Company Rusal PLC, a then-sanctioned Russian company controlled by a sanctioned Russian oligarch. This exemption was reversed in August 2018 after public reports and questions about how and why it was granted.<sup>1</sup>

1. How did providing a tariff exemption to a Treasury-sanctioned subsidiary of a Russia-based company protect national security?
2. Please provide a detailed description of the tariff exemption request and approval process. Specifically, does the exemption process contain provisions to prevent approval of tariff exemptions for entities that are under U.S. sanction? Does it contain provisions to prevent approval for entities that are or have been found guilty of violating federal or state law?
3. Please provide all reports and background information reviewed in the approval of an aluminum tariff exemption for exclusion request BIS-2018-0002-0476 submitted by Rusal America on April 30, 2018.
4. Has Rusal received any other tariff exemptions, either before or after sanctions on the company were lifted by the Treasury Department?
5. Prior to approving the July 2018 exemption, did Commerce Department officials conduct a detailed economic evaluation of the impact of the tariffs – and the exemptions – on Rusal America?
  - a. If so, please provide a copy of this analysis.
  - b. What was the impact on Rusal America’s revenues and expenses? How much money did the Department estimate providing tariff exemptions would save the company on import costs of 3,000 metric tons of aluminum billets?

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<sup>1</sup> *How a Blacklisted Russian Firm Won (and Lost) a Break from Trump’s Tariffs*, New York Times (Aug. 9, 2018) (online at [www.nytimes.com/2018/08/09/us/politics/rusal-tariff-exemption.html](http://www.nytimes.com/2018/08/09/us/politics/rusal-tariff-exemption.html)).

- c. How many Americans did Rusal America employ at the time the tariff exemption was granted? How many were actively engaged in manufacturing?
  
6. Rusal America initially applied for the exemption on aluminum billet tariffs on March 29, 2018. The company re-applied on April 30, and then received approval. According to Rusal, the company re-applied in April after receiving “specific instructions from U.S Department of Commerce staff to revise minor aspects of the previously submitted exclusion form.”<sup>2</sup>
  - a. What “specific instructions” were given to Rusal after the March 29 application was sent?
  - b. Who provided these instructions, and why did they do so?
  - c. When were these instructions provided?
  - d. Which “minor aspects” of the application were revised?
  - e. Rusal indicated having additional information “that is proprietary or otherwise confidential that is relevant and necessary” – in the April 30, 2018, application. Please provide information on the nature of the confidential information, without disclosing private proprietary information.
  
7. United States-based Century Aluminum Company sent a detailed objection providing seven reasons for opposing the Rusal exemption.<sup>3</sup> The decision memo does not explicitly reference this objection.
  - a. Was this objection reviewed as part of the BIS decision process for the Rusal exemption? If so, by whom?
  - b. How were objections evaluated in the decision process, and why were they ultimately ignored?
  
8. The Rusal application indicates that the company import only 1 kilogram of “Primary Homogenized Aluminum Extrusion Billets conforming to AA6005A specification 14" x 236.” in the years 2015-2017. The company sought an exemption from tariffs to import 3,000 metric tons in 2018.
  - a. Did the Commerce Department seek to understand why Rusal suddenly

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<sup>2</sup> Regulations.gov, *EXCLUSION GRANTED - Rusal America Corporation - Billet - HTS 7601209045*, (accessed Aug. 4, 2018) (online at [www.regulations.gov/document?D=BIS-2018-0002-0476](http://www.regulations.gov/document?D=BIS-2018-0002-0476)).

<sup>3</sup> Regulations.gov, *BIS-2018-0002-0478 - Rusal America Corporation - Billet - HTS 7601209045 - Objection 1* (June 26, 2018) (online at [www.regulations.gov/document?D=BIS-2018-0002-2082](http://www.regulations.gov/document?D=BIS-2018-0002-2082)).

- sought a large quantity of aluminum billets that it previously did not import?
- b. What was the ultimate disposition of the 3,000 metric tons of aluminum billets that Rusal for which Rusal received an exemption?
  - c. Was there a sudden national security need that required the import of this product, and that justified the tariff exemptions for doing so? If so, what was this need?
9. United States persons were prohibited from dealing with Rusal America, while it was under Treasury Department sanctions. As such, the company was unable to buy or sell any product to any American purchaser. However, the company received an “extended wind-down” from the Treasury Department that “authorizes U.S. persons to engage in specified transactions related to winding down or maintaining business with United Company RUSAL PLC (RUSAL) and its subsidiaries.”<sup>4</sup>
- a. Was the product for which Rusal America received exemptions subject to the requirements of the extended wind-down period?
  - b. If so, what provisions were in place to end the exemptions after the end of the wind-down period?
  - c. Did Commerce officials discuss the extended wind-down period with Treasury officials prior to approving the exemptions?
  - d. Did you or any other Commerce Department official have any discussion relating to further extending the wind-down period or ending or otherwise limiting the sanctions on Rusal America?
10. Which officials at BIS, ITA, or elsewhere in the Commerce Department were involved in the determination that Rusal America was entitled to an aluminum tariff exemption?
11. Were you involved in, or aware of, the decision to grant the exemption at any point prior to August 8, 2018? If so, please describe when and how you became aware of the exemption, and the extent of your involvement in deliberating or discussing the grant.
12. BIS notes in its decision memo that it consulted with the ITA and “assessed other

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<sup>4</sup> Department of the Treasury, *Treasury Extends Wind-Down Period for United Company RUSAL PLC*, (Apr. 23, 2018) (online at <https://home.treasury.gov/news/press-releases/sm0365>).



interagency comments as applicable.”<sup>5</sup> Was the Treasury Department consulted during the approval process? If so, who at Treasury was consulted and when? What was the nature of the consultation?

- a. Specifically, did the Commerce Department consult with the Department of Treasury Office of Foreign Assets Control (OFAC) about the decision to grant the exemption?
  - b. If yes, which individuals at OFAC were consulted?
  - c. What advice or information did they provide to the Commerce Department?
13. Were any White House or other Administration officials, including President Trump, involved in, or aware of, the decision to grant Rusal America an exemption? If so, please identify which individuals were aware, and the nature of their involvement.
  14. Did you or any other Commerce Department or Administration officials have any discussion or other communication regarding this exemption, with Mr. Oleg Deripaska or anyone else affiliated with or representing Rusal America on his behalf? If so, please identify all such conversations, the date on which they occurred, and a detailed description of the conversation.
  15. Did you or any other Commerce Department or Administration officials have any discussion or other communication regarding this exemption with Viktor Vekselberg or anyone else affiliated with or representing Rusal America on his behalf? If so, please identify all such communications, the date on which they occurred, and a detailed description of the communications.
  16. Did you or any other Commerce Department or Administration officials have any discussion or other communication regarding this exemption, with any individual employed by Columbus Nova, or anyone else affiliated with or representing Rusal America on their behalf? If so, please identify all such communications, the date on which they occurred, and a detailed description of the communications.
  17. Please provide copies of all email or other communications between any Commerce Department officials and any Rusal America employees or representatives related to the aluminum tariff exemption.
  18. The Rusal exemption was reversed in August 2018.
    - a. Why was the exemption reversed?

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<sup>5</sup> Regulations.gov, BIS Decision Memo - BIS-2018-0002-0476 (accessed Aug. 4, 2018)(online at [www.regulations.gov/document?D=BIS-2018-0002-2796](http://www.regulations.gov/document?D=BIS-2018-0002-2796)).

- b. When specifically was the exemption reversed?
- c. Which individuals at the Department of Commerce, the Department of Treasury, or elsewhere were involved in this decision?
- d. Please provide all documents or communications within or between the Commerce Department, the Treasury Department, or Rusal related to the reversal of the exemption.

### **Foreign-Headquartered Corporations**

- 1. A review of exemptions from President Trump's steel tariffs found the majority of the first batch of exemptions the Commerce Department issued went to foreign-owned companies. What is the explanation for why the majority of steel tariff exemptions have gone to foreign-owned companies rather than U.S.-headquartered firms?
  - a. Why are foreign-headquartered corporations more likely to receive approval of a tariff exemption request than U.S.-headquartered firms?
  - b. How is this outcome – foreign-headquartered corporations receiving more than 80% of all exemptions allowing them to import foreign-produced steel – consistent with President Trump's claims that the tariffs and the tariff exemption process were designed to help American steel and aluminum producers and users?