

# United States Senate

WASHINGTON, DC 20510

May 9, 2024

President Joseph R. Biden, Jr.  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Biden:

We write to express our frustration with your public statements regarding the sale of U.S. Steel Corporation (“U.S. Steel”) to Nippon Steel Corporation (“Nippon”).

For weeks you have maintained that “it is vital for [U.S. Steel] to remain an American steel company that is domestically owned and operated.”<sup>1</sup> You have since asserted that it “*should* remain an American company . . . American-owned and American-operated.”<sup>2</sup> These statements amount to wishes, not declarations, and belie your authority as President of the United States.

By law you possess the authority to block the sale of U.S. Steel unilaterally under the Defense Production Act, 50 U.S.C. § 4565(d), or the International Emergency Economic Powers Act, 50 U.S.C. § 1702(a), when a national emergency is declared. You may exercise these powers now.<sup>3</sup> Pronouncements about what you consider “vital” or what you think “should” happen to U.S. Steel are worthless unless you *act* to keep U.S. Steel under American control.

Your predecessor displayed no such reticence. President Trump exercised his powers to suspend or prohibit foreign transactions unilaterally more than any other president. He forced divestitures to safeguard the American semiconductor industry and protect Americans’ data from firms linked to foreign adversaries.<sup>4</sup> He has already declared that he would block the sale of U.S. Steel.<sup>5</sup>

We urge you to summon the courage to do the right thing. Declare whether you will exercise your presidential authority to prohibit or suspend the sale of U.S. Steel to Nippon.

Sincerely,



JD Vance  
United States Senator



Marco Rubio  
United States Senator



Josh Hawley  
United State Senator

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<sup>1</sup> President Joe Biden, “Statement from President Biden on US Steel,” [The White House](#) (March 14, 2024) (emphasis added).

<sup>2</sup> President Joe Biden (@POTUS), “U.S. Steel has been an iconic American company for more than a century. It should remain an American company. American-owned and American-operated by American union steelworkers – the best in the world.” [X](#) (April 17, 2024) (emphasis added).

<sup>3</sup> Section 721 of the Defense Production Act authorizes the President to “take such action for such time as the President considers appropriate to suspend or prohibit any covered transaction that threatens to impair the national security of the United States.” 50 U.S.C. § 4565(d)(1). A plain reading of the statute and its implementing regulations makes clear that the President may exercise this authority unilaterally according to the President’s judgment and at any time until 15 days after the Committee on Foreign Investment in the United States has completed its review process. To exercise this statutory authority, the President need only “announce the decision on whether or not to take action . . . not later than 15 days after” CFIUS has completed its investigation or referred the transaction to the President. *Id.* The temporal limitation of §4565(d)(1) sets a statutory deadline for presidential action; it does not require the President to wait for the completion of a CFIUS review or for any other milestone. Until fifteen days after the completion of the Committee’s review or a presidential referral, the only statutory limits on presidential authority are non-temporal: namely, (1) “the President must find[]” some “credible evidence” of a potential national security threat and (2) the President must find that other provisions of law “do not . . . provide adequate and appropriate authority . . . to protect the national security.” 50 U.S.C. § 4565(d)(4). Both limitations are measured against the President’s own “judgment.” 31 C.F.R. § 800.101. And the President’s judgment is not subject to judicial review. 50 U.S.C. (e)(1).

Section 203(a) of International Emergency Powers Act authorizes the President to “prohibit any transactions in foreign exchange” and “prevent or prohibit, any acquisition[s] . . . or transactions involving[] any property in which any foreign country or a national thereof has any interest” that is “subject to the jurisdiction of the United States.” 50 U.S.C. § 1702(a)(1). The exercise of the authority is limited “only . . . to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared” or “to deal with any new threat . . . based on a new declaration of national emergency.” 50 U.S.C. § 1701(b). A new declaration of national emergency need not be delimited by geography or nationality and may only be challenged by a joint resolution requiring support of a veto-proof supermajority. 50 U.S.C. § 1622.

<sup>4</sup> President Donald J. Trump, “Order Regarding the Proposed Acquisition of Lattice Semiconductor Corporation by China Venture Capital Fund Corporation Limited,” [The White House](#) (September 13, 2017); President Donald J. Trump, “Presidential Order Regarding the Proposed Takeover of Qualcomm Incorporated by Broadcom Limited,” [The White House](#) (March 12, 2018); President Donald J. Trump, “Order Regarding the Acquisition of Stayntouch, Inc. by Beijing Shiji Information Technology Co., Ltd.,” [The White House](#) (March 6, 2020); President Donald J. Trump, “Order Regarding the Acquisition of Musical.ly by ByteDance Ltd,” [The White House](#) (August 14, 2020).

<sup>5</sup> Joe Deaux and Stephanie Lai, “Trump Says He Would ‘Absolutely’ Block Nippon-US Steel Deal,” [Bloomberg](#) (January 31, 2024).