



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

June 13, 2019

Kevin Schmidt
Director of Investigations
Cause of Action Institute
1875 Eye Street, NW
Suite 800
Washington, DC 20006

Re: Freedom of Information Request DOC-IOS-2019-000827
Freedom of Information Request DOC-BIS-2019-000742

Dear Mr. Schmidt:

This letter is in further response to your above-referenced Freedom of Information (FOIA) requests to the Department of Commerce (DOC) and the Bureau of Industry & Security (BIS), respectively, both of which were received February 18, 2019. In both of these FOIA requests, you requested:

A copy of the Commerce Secretary's final report to the President regarding Section 232 National Security Investigation of Imports of Automobiles, Including Cars, SUVs, Vans and Light Trucks, and Automotive Parts.

Please see the attached presidential proclamation dated May 17, 2019, which provides a summary of the findings in the Secretary's report.

We are currently reviewing, in conjunction with the Executive Office of the President, whether the Secretary's report constitutes a presidential record within the meaning of the Presidential Records Act, 44 U.S.C. 2201 et seq., in which case it would not be subject to disclosure under FOIA. However, to the extent that the Secretary's Section 232 report to the President of the United States may constitute an agency record within the meaning of FOIA, DOC and BIS are withholding it in full pursuant to 5 U.S.C. § 552(b)(5), which exempts from disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. The report, if an agency record, would be exempted from disclosure under FOIA pursuant to the presidential communications privilege and/or the deliberative process privilege, until all actions deemed necessary to adjust the imports of automobiles and automobile parts so that such imports will not threaten to impair the national security have been completed. See 15 C.F.R. § 705.11.

Although we are aware that this matter is already in litigation, we are required to notify you that if you are dissatisfied with this determination, you have the right to file an administrative appeal if you are not satisfied with our response to your FOIA request. All appeals should include a statement of the reasons why you believe the FOIA response was not satisfactory. An appeal based on documents in this release must be received within 90 calendar days of the date of this response letter at the following address:

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Assistant General Counsel for Employment, Litigation, and Information
U.S. Department of Commerce
Office of General Counsel, Room 5896
1401 Constitution Ave. NW,
Washington, DC 20230

An appeal may also be sent by e-mail to FOIAAppeals@doc.gov, or by FOIAonline at <https://foiaonline.regulations.gov/foia/action/public/home#>.

For your appeal to be complete, it must include the following items:

- a copy of the original request,
- our response to your request,
- a statement explaining why the withheld records should be made available, and why the denial of the records was in error, and
- "Freedom of Information Act Appeal" must appear on your appeal letter. It should also be written on your envelope, or e-mail subject line.

FOIA appeals posted to the e-mail box, FOIAonline, or Office after normal business hours will be deemed received on the next business day. If the 90th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely.

Again, although we are aware this matter is in litigation, we are required to inform you that FOIA grants requesters the right to challenge an agency's final action in federal court. Before doing so, an adjudication of an administrative appeal is ordinarily required.

The Office of Government Information Services (OGIS), an office created within the National Archives and Records Administration, offers free mediation services to FOIA requesters. Its contact information is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road, Room 2510
College Park, MD 20740-6001
Email: ogis@nara.gov
Phone: 301-837-1996
Fax: 301-837-0348
Toll-free: 1-877-684-6448

Because these requests are in litigation in Cause of Action v. DOC (D.D.C. No. 19-cv-778), if you have questions regarding this correspondence, please contact Ms. Melanie

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Hendry, Assistant U.S. Attorney and counsel of record for DOC in this matter, at melanie.hendry2@usdoj.gov, or by phone at (202) 252-2510.

Sincerely,

Bobbie Parsons
FOIA Officer, Immediate Office of the Secretary
Office of Privacy and Open Government
U.S. Department of Commerce

Enclosure:

One (1) document Six (6) pages