



When Trump Says ‘Buy American,’ What Does He Mean By American?

Josh Siegel

May 10, 2017

In anticipation of that executive order, signed April 18, steel mills such as NLMK that depend on imported steel — known in industry terms as “re-rollers” — increased their government lobbying efforts, worried that Trump could impose a more restrictive “Buy America” standard to other categories of government spending.

If this were to happen, to compete for lucrative government work NLMK would have to buy more expensive steel slabs domestically, and the supply isn’t readily available, company executives say.

McMurray, who was laid off for 13 weeks in 2009 when business was particularly bad, warns of the potential consequences.

“If the policies continue to where we can’t import the slabs, you won’t have layoffs,” he says. “You will have worse.”

The Trump administration declined The Daily Signal’s request for comment for this report.

‘Different Than Competitors’

Historically, most U.S. steel mills — including NLMK — were so-called integrated mills that combine and melt raw materials to produce their own slabs of steel.

NLMK, like other manufacturers, found it not cost effective to fabricate the steel on site — which requires maintaining a multimillion-dollar furnace to melt the steel.

So 18 years ago, NLMK began importing semi-finished steel slabs from other countries such as Russia and Brazil that have rich deposits of iron ore and coal, the raw materials that become steel. NLMK’s parent company is based in Russia (the acronym stands for Novolipetsk Steel).

“People who aren’t educated about the evolution of the steel industry don’t understand the jobs that went away, and this model that we and others adopted that put jobs back to work, and sustained jobs,” Bob Miller, NLMK’s sharply dressed president and CEO, tells The Daily Signal.

Under NLMK's production model, the process starts at the railroad tracks on the mill property, where five trains per week arrive from the Port of Philadelphia carrying slabs of semi-finished steel that were produced overseas and delivered by boat.

A forklift-like slab hauler transports the steel into NLMK's hot rolling mill. The process looks like a fire-powered, more explosive version of the rolling of dough.

The heat flattens the steel slab, reducing its thickness. The steel then moves to a pickling line, where an acid solution rinses the steel to remove stains and rust. Next is a finishing unit, called a cold mill, which stretches and thins the steel some more.

Miller, 51, says the mill rolls 150,000 tons of steel slab per month.

"We've been successful," Miller says. "Our whole business model is to be different than all of our competitors. So we outservice them. We outproduce them. We are nimble. We don't have the layers, so customers can call and pick up the phone and talk to me."

Defining 'Made in America'

All of this work, as defined by law, does not qualify as being made in America.

The Surface Transportation Assistance Act of 1982 placed domestic content requirements on federal grants that go to states and localities, mandating that various materials, such as steel, used for infrastructure projects must be "produced in the United States."

Individual agencies within the Department of Transportation, such as the Federal Highway Administration, interpret the meaning of "produced in the United States" differently, but many agencies say steel must be "melted and poured" in America to qualify.

Under this definition, NLMK's steel would not qualify because the mill does not have its own furnace to melt the steel, but instead imports already-melted slabs from overseas.

That means NLMK's steel cannot be used in certain state and local infrastructure projects that are funded with federal grant money.

While government-funded work makes up less than 5 percent of the company's business, Miller says the reverberations of the "melted and poured" standard have a deeper impact.

NLMK sells much of its steel to service centers — which are wholesalers — that then distribute the steel to end users.

These service centers can't always predict what inventory will be used for projects funded with federal grants.

Jim Banker, NLMK's executive vice president, says some customers are holding back on purchasing steel from his mill because they fear the government later could rule the steel doesn't meet the American-made definition.

"We have customers proactively coming to us and saying we are getting nervous about buying from you," Banker says. "Our customers' customers are saying we need steel melted and poured in the U.S. That's the threat we are getting. This is very real for us right now."

In his April executive order, Trump affirms that the U.S. will promote steel “melted and poured” in America.

“Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,” the order reads.

In his first days in office, Trump also issued a memo calling for the “melted and poured” standard to be mandated for iron or steel products used in construction of U.S. oil pipelines.

By drawing explicit attention to the “melted and poured” standard, Miller and Banker fear, Trump will make these “Buy America” requirements more far-reaching, expanding their application into additional types of government-funded work.

The mill executives worry that by Trump’s bringing public attention to a little-known aspect of federal law, potential customers could be discouraged to buy from import-reliant manufacturers such as NLMK even when the rules don’t apply.

“How about the guy who is a patriot, and he happens to turn on Fox News and these executive orders are coming out and it’s the first time he is really hearing about ‘melted and poured,’” Miller says, adding:

He is a guy that buys our steel, but just kind feels like, ‘You know, we are going to do the right thing, we are going to make the country great again.’ And so he makes his own decision to lend his hand of support to [Trump], and he decides he won’t buy steel from us anymore because we can’t satisfy ‘melted and poured.’ That’s the collateral damage part of this.

Stricter Enforcement

While the “melted and poured” rules existed for decades before he became president, Trump says he intends to clamp down on loopholes that allow contractors to bypass the requirement.

For example, for projects funded by the Federal Highway Administration, contractors can ignore the made-in-America requirement in cases where complying increases the cost of the project by more than 25 percent.

There are other exemptions.

A 1979 law that codifies various U.S. trade deals, known as the Trade Agreements Act, gives the president the authority to waive domestic content requirements for products sourced from countries that have free trade agreements with America.

Trump’s executive order refers to the historic use of waivers like these as overly “judicious,” and calls for closer scrutiny in how they are applied to ensure “maximum utilization of goods, products, and materials produced in the United States.”

The order also calls for the Commerce Department and the U.S. trade representative to assess how America’s free trade agreements affect application of domestic content requirements.

Steel industry and government contract experts say that all together, Trump’s actions so far amount to little substantive change in American policy.

“The April executive order doesn’t change any law,” Sandy Hoe, a government contracts attorney at Covington & Burling in Washington, D.C., says in an interview with The Daily Signal, explaining:

It is a lot like a lot of [Trump’s] executive orders in that it directs a study. It asks the secretary of commerce [Wilbur Ross] to explain what the department is doing to enforce existing law, so it puts the issue at a higher priority level.

Supporters of strong enforcement of domestic content requirements argue that these rules promote economic growth and create jobs in the U.S. steel industry.

The U.S. steel industry is relatively small. It employs about 140,000 people, or less than one-tenth of 1 percent of the American workforce.

Major American manufacturers in the industry, such as U.S. Steel, have lobbied for more restrictive Buy America provisions, arguing that American companies and workers should benefit from taxpayer-funded infrastructure projects such as those Trump says he intends to pursue.

U.S. Steel, the largest steel company in the country, operates as an integrated mill, meaning it produces its steel from start to finish in the U.S. using an on-site melting furnace.

So unlike NLMK, U.S. Steel satisfies “melted and poured” requirements.

“U.S. Steel finds President Trump’s executive action to be an encouraging development for American manufacturing,” Meghan Cox, the company’s manager of external communications, says in a statement to The Daily Signal. “Our company is proud to produce steel from start to finish in facilities across America. A strong domestic steel industry is at the foundation of America’s economic and national security.”

Kevin Dempsey, senior vice president of policy at the American Iron and Steel Institute, contends that strong Buy America rules encourage further production in the U.S. In an interview with The Daily Signal, Dempsey says steel manufacturers that produce their entire product here should get unique treatment because they take on greater costs.

Dempsey interprets Trump’s executive order as a status quo commitment to keep the Buy America rules as they are.

“The vast majority of expense and investment and fine tuning required to make steel is in the initial melting processes, where you are are creating the initial raw steel,” Dempsey says, adding:

What Trump is doing is coming out firmly in support of the majority of the steel industry that wants to keep the law as it’s been. There are companies like NLMK that are actively seeking to get a change in how Buy America rules apply to make their imported-slab product qualify. Our concern is if you treat a product that is partially made elsewhere as made in America, you are disincentivizing further steel investment in the U.S.

‘Made in the USA’

But some industry experts argue that made-in-America requirements distort the marketplace, disrupt supply chains, and elevate certain manufacturers over others simply because of the business model they choose to use.

Dan Ikenson, director of the trade policy center at the libertarian Cato Institute, says imposing more restrictive Buy America provisions could force customers to stop buying from companies such as NLMK, and choose higher-priced alternatives. That could increase the costs of infrastructure projects.

“If you don’t care about reading the fine print and just read the slogan, made-in-America provisions sound pretty darn patriotic,” Ikenson says, adding:

But the fact is, if you put a premium on this idea of starting and building everything from scratch in the U.S., there is a lot of collateral damage. What it ends up doing is prescribing what your supply chain should be — to do it in a less efficient manner. Economically, the most efficient way to run your business may be option A, but A will disqualify you, so you go to option B, which is inefficient.

Miller, of NLMK, says changing his business model is not feasible. Buying steel slabs domestically would be costly, because of the limited supply here, he says.

And he predicts “there will never be another blast furnace built in the U.S.” because of the expense, so his mill won’t be melting its own steel anytime soon.

As he describes the different components of his on-site steel operation — offloading steel slabs off rail cars, managing the slab yard, heating and cooling slabs into finished coil — he reminds a visitor that each step depends on the same thing: American workers.

“We are made in the U.S.A.,” Miller says. “With all we built here, we’ll manage to survive.”