

June 16, 2025

The Honorable Howard W. Lutnick
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

RE: *Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process*
(RIN 0694-AK13): **Public Comment Docket No. BIS-2025-0023**

Dear Secretary Lutnick:

The undersigned associations represent a wide range of industries that manufacture, import, distribute, or depend on downstream products affected by the Section 232 steel and aluminum tariffs, including those classified as derivative articles under Presidential Proclamations 10895, “Adjusting Imports of Aluminum into the United States,” and 10896 “Adjusting Imports of Steel into the United States (‘the Proclamations’).

We are closely following the Bureau of Industry and Security (“BIS”) and the Department of Commerce (“Commerce”)’s providing the opportunity for public comments on the product inclusion process established in the Federal Register notice, *Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process* (90 Fed.Reg. 18780 (May 5, 2025)). We are concerned that the process as proposed in the interim final rule is too short, is missing key elements necessary for the Department’s review, could impact a wider array of downstream industries than intended, and result in significant supply chain disruption across multiple sectors, including sectors that are essential to national security.

Overview

Our members depend on a predictable and transparent trade regime and regulatory environment to plan investments, meet consumer demand, maintain critical infrastructure, and ensure compliance. Many of the affected products are components, replacement parts, and specialized inputs with no viable domestic substitutes.

To date, requestors have submitted hundreds of HTS codes of steel and aluminum derivatives as Section 232 inclusion requests, covering over \$310 billion in annual U.S. imports. The potential inclusion of such a wide array of items, particularly where many products do not meaningfully contain steel or aluminum, risks disrupting sectors far removed from the primary industries targeted by the original Section 232 actions.

We respectfully submit the following comments and recommendations on the *Adoption and Procedures of the Section 232 Steel and Aluminum Tariff Inclusions Process* (BIS-2025-0023, RIN 0694-AK13), with the aim of improving the implementation process and minimizing

unintended consequences. We ask that Commerce amend the process to address the issues outlined below:

Comments & Recommendations on the Interim Final Rule

1. **Extend Time for Public Comment.** We are concerned that an overly hasty process will lead to poor results and believe that extending the public comment period will yield significantly richer data and evidence about the potential impact of inclusions. The first window for submitting inclusion requests resulted in 58 submissions from 42 organizations covering 945 10-digit HTS codes. The limited 14-day window for the public to comment on proposed products makes it difficult for stakeholders to consider the commercial and operational implications of each inclusion request. Stakeholders need to review the many requests and associated harmonized tariff system (HTS) codes, determine which products may require comment, analyze import data, and gather input on global sourcing patterns and internal dependencies. To allow sufficient time for affected importers to effectively review and analyze the products proposed, we recommend extending the public comment period to at least 45 days.
2. **Limit Scope Within HTS Numbers.** Several of the HTS categories proposed for inclusion as derivatives during the May 1-14 window are broad bucket tariff categories that capture many products that do not contain steel/aluminum. For example, tariff numbers for finished retail products often cover products regardless of packaging type, capturing imports in non-metal packages such as paperboard, plastic, or glass. Other examples include catch all “not elsewhere specified or indicated” (nesoi) categories that capture a wide variety of products that may not even contain steel or aluminum content. In considering new derivative products to add to the Section 232 scope, Commerce should refrain from adding full HTS numbers to the Section 232 annexes and instead narrowly tailor the language for the Chapter 99 annexes so that only products that actually contain steel or aluminum have to be imported using a Section 232 derivative Chapter 99 number. While a Section 232 tariff would not be owed on products without steel or aluminum, importers of products that contain no steel or aluminum would still be subject to a massive compliance and documentation burden if the full tariff number is subject to Section 232 duties. We note that Commerce routinely applies antidumping or countervailing duties to product scopes that are narrower than the full tariff line and should the same approach for derivative products.
3. **Hold a Public Hearing.** Public hearings are a critical element for government rulemaking processes and provide an important complement to written submissions. A hearing offers distinct advantages that written comments alone cannot provide. A hearing provides decision-makers an opportunity to probe more deeply into complex issues or concerns that may not be fully explained in written submissions. Hearings also give stakeholders an opportunity to clarify their views and correct misunderstandings in real time. Public hearing testimony, questions, and responses would better inform both the public and decision-makers at Commerce about the derivative products being

proposed and the potential impacts on other industries if the proposed products are included.

4. **Provide Clear & Transparent Inclusion Criteria.** We urge Commerce to publish clear and objective criteria for how it will evaluate inclusion requests and apply them consistently to all petitions. Of the 945 10-digit HTS codes within existing requests, over 50 percent (480) showed declines in imports from 2022 to 2024. BIS should establish a “ground rule” that it will not publish or otherwise consider any inclusion requests for products where imports have declined, as these fail to meet the clear direction in the Proclamations that imports must have demonstrably increased in a manner that threatens national security. In addition to showing a decline in imports, BIS should:
 - consider petitions only from a producer of the proposed product, or at a minimum require petitions to outline how imports of the proposed product(s) directly impact their business;
 - require petitioners to ensure submissions make clear whether the inclusion request is for a derivative steel product, a derivative aluminum product, or both and make this information publicly available;
 - require a justification for each proposed HTS code – supported by at least some non-confidential evidence that interested parties can review and rebut – and disregard at the outset submissions that lack a credible rationale;
 - prohibit repeated inclusion requests for the same product after an initial request has been denied; and
 - establish minimum steel/aluminum content thresholds (by value and volume) in order for a product to be eligible for inclusion; excluding products with *de minimis* steel/aluminum content will align with the national security objectives of the 232 tariffs, remove an unnecessary regulatory burden for U.S. businesses, and allow BIS and CBP resources to be more efficiently deployed.
5. **Expand Inclusion Criteria.** The steel and aluminum Proclamations direct Commerce to consider whether a proposed derivative product contains steel/aluminum and whether its import levels have increased in a manner that threatens national security. This limited approach overlooks critical contextual factors such as:
 - insufficient domestic supply or production capacity;
 - inability to switch suppliers due to unique specifications, certifications, and/or qualification procedures;
 - quality differentials, particularly for inputs to high-end products, and lead times;
 - the impact of granting requests on other aspects of national security (e.g., other industries essential for national security that rely on the product at issue); and
 - zero duty commitments in sector-specific agreements the United States is a party to, such as the Agreement on Trade in Civil Aircraft and the Information Technology Agreement.

6. **Mechanism for Removing Derivative Product Designation.** When a derivative product is approved for inclusion, this designation should not continue permanently without future review. The Department should add a formal process, or 'off-ramp,' for reviewing and removing products from the derivative tariff list when factual circumstances have changed or the justification for their inclusion no longer holds, particularly when inclusion causes undue harm to downstream industries or end users, or no domestic alternative exists.

Connection to Broader Use of Section 232 Authorities

While we support efforts to safeguard national security and promote a strong domestic production economy, we implore Commerce to recognize the increasing complexity involved in navigating Section 232 measures. It will be important to ensure that the use of Section 232 authorities remains targeted, transparent, and grounded in economic and technical analysis. A well-calibrated approach, informed by ongoing industry engagement, can help advance the shared goals of Commerce and U.S. industry.

We also continue to be concerned that there is no flexibility to mitigate the impact of Section 232 duties when there is no domestic source for these products. In his 2018 report to the President for the initial steel and aluminum investigations, the Secretary of Commerce explicitly recommended an "appeal process" through which affected U.S. parties could seek relief from any Section 232 remedy, noting a "lack of sufficient U.S. production capacity," as a key factor. This recommendation remains as worthy today as it was in 2018 and is all the more important given that the now higher 50 percent steel and aluminum tariff will make it commercially impossible to import many types of equipment, components, and materials needed for further manufacturing in the United States. Many steel and aluminum products - such as those for which Commerce previously granted General Exclusions - are not made in the United States and domestic producers repeatedly have expressed no interest in starting their production. Continued application of Section 232 duties when no domestically produced alternative exists undermines both domestic manufacturing capacity and undermines the global competitiveness of goods made in the United States for export to foreign markets.

More generally, we continue to encourage the Administration to think more strategically about solutions to ensure that Section 232 duties do not become a barrier to manufacturing in the United States by curtailing access to crucial inputs. This includes moving away from reliance on Section 232 actions to address industrial policy objectives and ensuring coherence across the Administration's several ongoing tariff actions, in particular to avoid layering of tariffs on top of one another in a manner that risks supply chain disruptions and significant price increases across the U.S. economy.

We thank you for the opportunity to comment. We welcome continued dialogue on ways to improve the Section 232 inclusion process. Please feel free to contact Tiffany Smith (tsmith@nftc.org) if you have any questions on the issues raised in this submission or would like additional information.

Sincerely,

1. AdvaMed -- Advanced Medical Technology Association
2. American Automotive Policy Council (AAPC)
3. American Chemistry Council (ACC)
4. American Clean Power Association (ACP)
5. Association of Equipment Manufacturers (AEM)
6. Autos Drive America
7. The Borderplex Alliance
8. Can Manufacturers Institute (CMI)
9. Coalition American Metal Manufacturers and Users (CAMMU)
10. Consumer Technology Association (CTA)
11. Experiential Designers and Producers Association (EDPA)
12. Flexible Packaging Association (FPA)
13. Global Business Alliance (GBA)
14. Information Technology Industry Council (ITI)
15. MEMA, The Vehicle Suppliers Association
16. North American Association of Food Equipment Manufacturers (NAFEM)
17. National Confectioners Association (NCA)
18. National Foreign Trade Council (NFTC)
19. National Marine Manufacturers Association (NMMA)
20. National Pork Producers Council (NPPC)
21. National Retail Federation (NRF)
22. Outdoor Power Equipment Institute (OPEI)
23. Outdoor Power Parts and Accessories Association (OPPAA)
24. PRINTING United Alliance
25. Retail Industry Leaders Association (RILA)
26. Technology Trade Regulation Alliance (TTRA)
27. United States Council of International Business (USCIB)
28. United States Fashion Industry Association (USFIA)
29. U.S. Tire Manufacturers Association
30. VDMA America