

February 19, 2026

The Honorable Jeffery Kessler
Undersecretary of Industry and Security
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Re: Request for Policy Clarification of what is intended as “aluminum, copper, and steel content of the derivative article” as stated in the Presidential Proclamations

Dear Undersecretary Kessler:

For over 100 years, the American Association of Exporters and Importers (AAEI) has served as a prominent and trusted national voice for the United States' international trade community. AAEI proudly represents various industry sectors within the global trade landscape, comprising manufacturers, importers, exporters, wholesalers, retailers, and their service providers such as customs brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests, and ports. Many of its members are small businesses seeking opportunities to export to foreign markets, while our larger-sized members help to fuel the economy through their supply chains. As the premier U.S. international trade organization, AAEI is recognized for its expertise in the day-to-day enablement of trade, including the administration and compliance with import and export laws of the United States, making it an indispensable resource for those directly involved in and impacted by developments in international trade.

AAEI is requesting the Department of Commerce (“Commerce”) provide a formal policy clarification regarding the meaning and valuation of the phrase “aluminum/steel content of the derivative article” and the value of the “semi-finished copper products and intensive copper derivative products” as stated in Presidential Proclamations 9980, 10895, 10896, 10947, and 10962. The absence of a clear, Commerce-issued definition has resulted in conflicting interpretations in the field and is creating significant compliance uncertainty for U.S. importers.

Background

As context for our request, the following actions are relevant:

- On January 24, 2020, the President issued Proclamation 9980, "Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles into the United States."
- On February 10, 2025, the President issued Proclamation 10895, “Adjusting Imports of Aluminum into The United States.”
- On February 10, 2025, the President issued Proclamation 10896, “Adjusting Imports of Steel into the United States.”

- On June 3, 2025, the President issued Proclamation 10947, “Adjusting Imports of Aluminum and Steel into the United States.”
- On June 16, 2025, the Commerce Department published a Federal Register notice adding additional steel derivative products to the Annex listing the products subject to Section 232 duties. See 90 FR 25208.
- On July 30, 2025, the President issued Proclamation 10895, “Adjusting Imports of Copper into The United States.”

AAEI Engagement and Concerns

AAEI is requesting that Commerce clarify what is intended as the value of the “aluminum/steel content of the derivative article” as stated in the Presidential Proclamations. This request for guidance to Commerce is based upon the statement in the Presidential Proclamations that “the Secretary may issue regulations and guidance consistent with this proclamation, including to address operational necessity.” Further, while the Presidential Proclamations charge CBP with informing importers of the information to be reported, they are not authorized by the President to interpret the scope of the Proclamations.

AAEI met with CBP’s Base Metals Center for Excellence and Expertise (“Base Metal CEE”) on January 15, 2026, to discuss the unofficial document being circulated by the Base Metal CEE which sets out the CEE’s interpretation of how importers should be calculating the value of the content of derivatives for the assessment of 232 tariffs. AAEI is concerned that the Base Metal CEE’s current approach:

- Departs from methodologies previously used by Commerce to assess material content for trade-remedy purposes, creating uncertainty for companies seeking to comply in good faith;
- Appears inconsistent with the plain language and intent of the Presidential Proclamations, which focus on the embedded aluminum, steel, or copper input rather than downstream value-added elements; and
- Relies on CBP’s Request for Information (“CF28”) and Notice of Action (“CF29”) actions in the absence of publicly issued Commerce guidance, leading to uneven application and avoidable compliance disputes.

When AAEI brought this concern to the CEE on January 15th, CBP directed AAEI to Commerce, stating that CBP was acting based on Commerce’s instructions. Accordingly, we are now reaching out to Commerce for clarification on this issue.

Trade Impacts

The lack of a uniform definition of “content” and “value” has already led to:

- Divergent enforcement positions across ports and accounts;
- Substantial disputes arising from CF28/29 actions;
- Increased litigation risk, including matters currently pending before the Court of International Trade; and
- Material uncertainty for companies attempting to structure compliant sourcing and valuation practices.

Absent prompt guidance, well-intentioned importers face inconsistent treatment and potential retroactive liabilities despite good-faith compliance efforts.

AAEI Requests

AAEI respectfully requests that Commerce:

1. Issue formal, public guidance defining how the “aluminum/steel content of the derivative article” must be calculated and valued for Section 232 purposes.
2. Issue formal, public guidance defining how the “semi-finished copper and intensive copper derivative products” are valued for Section 232 purposes, including criteria for identifying copper-intensive products and confirmation that the Section 232 tariffs apply only to the copper portion of a copper alloy such as brass or bronze and providing a methodology for calculating and valuing copper content.
3. Provide written instructions to CBP’s Base Metal CEE to ensure uniform national application consistent with such guidance.
4. Confirm that the value of the aluminum, copper, and steel content should be limited to the embedded material input, excluding downstream markups such as labor, overhead, profit, engineering, and assembly.
5. Consider an interim safe-harbor approach for entries filed prior to publication of Commerce guidance. Doing so allows importers not to be penalized for using a reasonable, good-faith valuation method until such time as Commerce issues formal guidance.

6. AAEI respectfully requests that Commerce consider allowing importers to adopt a standardized and commercially familiar method for valuing aluminum, steel, and copper content within derivative articles. Specifically, Commerce could permit importers to value the covered metal content using the actual weight of the aluminum, steel, or copper contained in the article multiplied by a publicly recognized daily market price at the time of import. This approach would align with common commercial practice, provide an objective and verifiable basis for valuation, and avoid the need to allocate downstream costs such as labor, overhead, profit, engineering, or assembly that are unrelated to the metal input itself.

Such a methodology would promote consistency, transparency, and administrability for both government and industry, reduce CF28/CF29 disputes, and allow CBP and Commerce resources to focus on products with meaningful metal content rather than on complex value-added allocations.

7. AAEI respectfully requests that Commerce consider establishing a content materiality threshold — by weight and/or value — below which imports would not be subject to Section 232 duties. Applying a materiality threshold would align enforcement with the national security objectives of the program, reduce unnecessary compliance burdens, and allow CBP and Commerce resources to focus on articles containing material levels of covered metals. In considering an appropriate materiality threshold, Commerce may look to the original Proclamation 9980 which defined a derivative as an article containing two-thirds metal.

To assist your review of 1-4 above, AAEI is attaching the unofficial instructions from the Base Metal CEE (Attachment A), an example of CF29 guidance (Attachment B), Base Metal CEE Informal Instructions (Attachment C) demonstrating the inconsistent approaches currently being applied in the field as inconsistent with the plain meaning of the language in the Presidential Proclamations.

AAEI and its members are committed to compliance with U.S. trade laws and appreciate BIS's leadership in implementing Section 232 measures. Clear and consistent guidance is essential to ensuring compliance while minimizing unnecessary uncertainty and the enforcement disputes which are very likely to arise with the conflicting definitions provided by CBP (one of which is even an "official" document). AAEI acknowledges that CBP's interpretation of content is being challenged by way of Case No. 26-853¹ (Attachment D) at the Court of International Trade. However, in the interim, the trade industry requests policy clarification of what is intended as the value of "aluminum/steel content of the derivative article" as stated in the Presidential Proclamations.

¹ Please see *Express Fasteners, LLC v. United States*, filed on or about January 27, 2026.



We appreciate your consideration of these urgent concerns and would welcome the opportunity to engage further with Commerce's staff on these issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. C. Laney Jr.", is positioned below the text "Respectfully submitted,".

Eugene C. Laney Jr.
President & CEO

Attachment A: Unofficial Instructions from the Base Metal CEE
Attachment B: Notice of Action (“CF29”) with CBP Instructions
Attachment C: Base Metal CEE Informal Instructions

Attachment A: Unofficial Instructions from the Base Metal CEE

CBP Base Metals Center 01/15/2026

Regarding Section 232 “content value”, below is what we have been sharing for the last several months.

- Steel articles of chapter 72 are 100% steel. Section 232 duty is assessed on the full entered value of the article. There is no backing out of any costs not allowed by the Customs Value laws. Manufacturing, labor, coating, etc. costs are not subtracted.
- For steel articles of chapter 73, aluminum articles of chapter 76, and articles classified elsewhere (not including chapter 72):
 - If the *articles* are 100% steel or 100% aluminum, there is no non-steel/aluminum content to separate and Section 232 duty is assessed on the full entered value of the article. There is no backing out of any costs not allowed by the Customs Value laws. Manufacturing, labor, coating, etc. costs are not subtracted.
 - If the *articles* are not wholly of steel or aluminum (think, parts/components), and you legitimately have non-steel/aluminum/copper content to separate, the Section 232 duty is assessed on the steel/aluminum content of the article.
 - HQ has said this would be based on “the invoice paid by the buyer of the steel/aluminum content to, or for the benefit of the seller of the steel/aluminum content”. The current position is this is what the *importer* paid for the steel/aluminum content of the *finished* article and is the entered value of the imported article minus the cost of the non-steel part/component of the finished article. Non-steel content does not refer to fabrication, machining, labor, costs, etc.
 - If allowed to separate out steel/aluminum and non-steel/aluminum content value, separate out the cost to the importer of the non-steel/aluminum part/component. There is no backing out of any costs not allowed by the Customs Value laws. Costs for manufacturing, labor, coating, etc., are not subtracted.
- If the value of the steel/aluminum content cannot be determined, then report the duty based on the total entered value, on only one entry summary line.
- If the article is composed of US steel/aluminum and foreign steel/aluminum, Section 232 duty is still assessed based on the article’s country of origin. The value of the US steel/aluminum cannot be separated out.
- Likewise, the exemptions from Section 232 duty for articles made from US melted and poured steel and US smelted and cast aluminum (9903.81.92 and 9903.85.09) are all or nothing provisions. If only a portion of the source steel/aluminum was melted and poured/smelt and cast in the US, the article cannot be split into a US content line and a non-US content line. If the *imported article* is not *exclusively* made of US melted and poured steel

and US smelted and cast aluminum, the Section 232 duty is assessed on the article's entire value.

- Surface treatments like galvanizing are integral to the finished steel product, not a separate component or part. The cost cannot be deducted.
- As far as documentation goes for separating out steel/aluminum content value from non-steel/aluminum value, we would say, "documentation sufficient to support the importer's claimed steel/aluminum content value", if CBP asks.
- Our current understanding is copper and its alloys are treated the same as steel and aluminum. That is, importers should *not break down the chemistry* of the imported articles. Unless we receive guidance otherwise, copper articles and copper alloy articles are treated as the same.

It's simple, except the importer may have to ask the manufacturer/seller a couple more questions than in the past. Take a window for example—

- What did the importer of record pay for the finished windows?
- If the windows have non-steel components/parts like glass, what was the cost of that to the importer?
- Minus the cost to the importer of the non-steel parts from the total window cost to the importer and that equals the Section 232 steel content value.

So if—

- The importer paid \$100 for the window.
- \$20 of the cost is attributable to glass or other component/parts.
- The entered value of the window is \$100. It may be separated into two lines. A non-steel content line of \$20 and a steel content line of \$80.

Continue to monitor the CSMS messages, Trade Remedy FAQs, and CBP rulings posted on cbp.gov, or any changes from the Department of Commerce.

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Attachment B: Notice of Action (“CF29”) with CBP Guidance

NOTICE OF ACTION Box 13: Explanation (Continuation)

The following entry and entries found on Page 2 of this Notice of Action is under review for the steel content of the article imported in line(s). Please ensure all documents are uploaded to ACE/DIS to each individual entry. Please ensure that all questions listed below are addressed and the requested information is provided within 20 days from the date of this CBP 29 Proposed Notice of Action:

1. Calculation Method: Provide the method used to calculate the steel content and non-steel content (“the breakdown”) of the product.
2. Detailed Explanation: Explain in detail how the breakdown was calculated based on the total value of the product.
3. Cost Analysis: Specify the costs that were added and subtracted for each part of the breakdown.
4. Responsible Party: Identify who calculated the breakdown.
5. Importer Awareness: If the importer did not calculate the breakdown, confirm whether they are aware of how it was calculated.
6. Supporting Documents: Submit all documents related to the calculations of the breakdown.
7. Invoices and Packing Lists: Provide all invoices and packing lists associated with this entry.
8. Schematics/Diagrams: Include schematics or diagrams of the product that indicate the steel content of each section, component, or part, along with the percentage of steel content by total weight of the product.
9. Photograph Requested: Provide a photograph of the product in its imported state.

Regarding Section 232 “content value”, if you have an article that legitimately has non-steel/aluminum/copper content to separate, the CBP position shifted, but no formal guidance has been posted:

Steel articles of chapter 72 are 100% steel/iron. Section 232 duty is assessed on the full entered value of the article. There is no backing out of any costs not allowed by the Customs Value laws. Manufacturing, labor, coating, etc. costs are not subtracted. This position has remained constant.

For steel articles of chapter 73, aluminum articles of chapter 76, and articles classified elsewhere (not including chapter 72): if the articles are 100% steel or 100% aluminum, there is no non-steel/aluminum content to separate and Section 232 duty is assessed on the full entered value of the article. There is no backing out of any costs not allowed by the Customs Value laws. Manufacturing, labor, coating, etc. costs are not subtracted. This position has remained constant. If the articles are not wholly of steel or aluminum (think, parts/components), the Section 232 duty is assessed on the steel/aluminum content of the article. If the articles are not wholly of steel or aluminum (think in terms of parts/components), the Section 232 duty is assessed on the steel/aluminum content of the article.

HQ has said this would be based on “the invoice paid by the buyer of the steel/aluminum content to, or for the benefit of the seller of the steel/aluminum content”. The current position is this is what the importer paid for the steel/aluminum content of the finished article and is the entered value of the imported article minus the cost of the non-steel part/component of the finished article. Non-steel content does not refer to fabrication, machining, labor, costs, etc.

If allowed to separate out steel/aluminum and non-steel/aluminum content value, separate out the cost to the importer of the non-steel/aluminum part/component. There is no backing out of any costs not allowed by the Customs Value laws. Costs for manufacturing, labor, fabrication, machining, conversion, coating, etc., are not subtracted. If the value of the steel/aluminum content cannot be determined, then report the duty based on the total entered value, on only one entry summary line. Surface treatments like galvanizing are integral to the finished steel product, not a separate component or part. The cost cannot be deducted.

As far as documentation goes for separating out steel/aluminum content value from non-steel/aluminum value, I would say, “documentation sufficient to support the importer’s claimed steel/aluminum content value”, if CBP asks.

Copper and its alloys the same and not breaking down the chemistry of the imported articles. Until HQ indicates otherwise and they haven’t copper articles and copper alloy articles are treated the same.

Continue to monitor the CSMS messages, Trade Remedy FAQs, and CBP rulings posted on cbp.gov.

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CROSS Custom Rulings Online Search System

*****If your entry does not have any derivative line items split, please confirm by uploading your response in ACE documents portal (DIS). Note all entry documents must be uploaded into the ACE documents portal (DIS).*****



Attachment C: Base Metal CEE Informal Guidance

To: AAEI MEMBER

From: CBP Base Metal Center POC

If you have a non-Section 232 content line (no metal) and Section 232 content line (metal), and there are dutiable costs applicable to both lines like profit, overhead, manufacturing, etc., we will accept a proration of those costs across both lines. Traditionally, this is accomplished by creating a value ratio.

If there is no non-metal content (no non-Section 232 content line), the article is presumably 100% steel, aluminum or copper (or their alloys), and there will be only one summary line at the full entered value.

From: AAEI MEMBER

Sent: Thursday, February 12, 2026 8:56 AM

To: CBP Base Metal Center POC [added in bold responses when replying above]

Subject: RE: Metal Content Value - Articles with both steel and aluminum

Hi CBP Base Metal Center POC

Sorry for the back and forth. Your last response leads me to wonder if I – and many other involved people – have misread part of the BMC memo.

We have understood the language “There is no backing out of any costs not allowed by the Customs Value laws. Costs for manufacturing, labor, coating, etc., are not subtracted.” to mean that the value of the non-metal content does not include these costs, and the full amount is attributed to the metal content – no allocation. **[What we mean is not to put all those costs on non-Section 232 content line and to apportion them across both lines instead]**

Your last response indicates that such costs are to be allocated, by value ratio, over the metal and non-metal portions. That would mean reading the quoted language to mean that the listed costs must be part of each value component – the importer cannot just use the supplier’s cost for the metal part, and must include the pro-rata share of additional costs, but also should not use just the supplier’s cost for the non-metal part – both must have the additional costs properly allocated. **[Yes]**

Where there is no non-metal component, the full amount of such additional costs is allocated to the metal. **[Yes]**

Do I have that right? **[Yes, I believe you do]**