

May 16, 2025

Uploaded to: <https://www.regulations.gov>

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

RE: Comments on Section 232 Investigation of Imports of Processed Critical Minerals and Derivative Products (Docket XRIN 0694-XC124)

Dear Secretary Lutnick,

Business Roundtable (“the Roundtable” or “BRT”) respectfully submits these comments to the Department of Commerce (“Commerce”) and Bureau of Industry and Security (“BIS”) in response to the request for public comments on the national security investigation of imports of processed critical minerals and derivative products under Section 232 of the Trade Expansion Act of 1962, as amended (“Section 232”).¹ Business Roundtable is an association of more than 200 chief executive officers (“CEOs”) of America’s leading companies, representing every sector of the U.S. economy. BRT CEOs lead U.S.-based companies that support one in four American jobs and almost a quarter of U.S. gross domestic product. BRT appreciates the opportunity to comment as the production or consumption of products within the scope of this investigation reaches across the Roundtable membership.

BRT agrees that ensuring a reliable supply of critical minerals is important for national security and supports Commerce’s goal to effectively secure U.S. access to critical minerals to strengthen U.S. competitiveness in industries supported by these products. However, BRT believes that: (1) the current broad scope of the investigation, encompassing a long list of processed critical minerals, including rare earth elements (“REE”), and their derivative products could undermine innovation and competitiveness across many segments of the U.S. economy; (2) given the breadth and complexity of the investigation, Commerce should prioritize further stakeholder engagement as it refines the scope, consider a process for companies to petition for relief for critical mineral and derivative product imports that cannot be sourced domestically or available in sufficient quantities to meet domestic demand, and provide sufficient phase-in periods for

¹ Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Critical Minerals and Derivative Products, 90 Fed. Reg. 17,372 (Apr. 25, 2025) (XRIN 0694-XC124).

companies to adjust to any remedial measures implemented through the investigation; (3) to effectively accomplish its goals of securing a reliable supply of critical minerals, the Administration should take a highly focused, strategic approach that makes domestic mining, processing, and recycling critical minerals more cost-effective and efficient; and (4) to address geopolitical threats and secure access to critical minerals, the Administration should establish strategic trade alliances with trusted allies and trading partners. Lastly, BRT encourages Commerce to consider how this investigation intersects with other ongoing Section 232 investigations to avoid overlap that would magnify unintended economic impacts.

I. The Scope of the Section 232 Investigation Should Be Carefully Construed

The current scope of the investigation is overly broad and will cover a wide cross-section of products. The investigation notice defines the term “critical minerals” to cover minerals listed in the “Critical Minerals List” published by the U.S. Geological Survey (“USGS”) and uranium, whereas the term REEs includes the 17 elements included in the Department of Energy’s (“DOE”) April 2020 publication, “Critical Materials Rare Earths Supply Chain.”² The notice provides that additional minerals can be subsequently added during the investigation. The term “derivative products” is defined to include any goods that incorporate processed critical minerals as input, such as motors, batteries, radar systems, wind turbines, and advanced optical devices.³

Overly inclusive and intrusive investigations could hamper investments, innovation, and advancements in these sectors, particularly because the United States currently does not have the domestic capacity to source or process many critical minerals on the USGS’s list. Furthermore, domestic mining and processing capacity to meet domestic demand will take years, if not decades, to establish and scale. In short, there are simply no sufficient domestic alternatives to the current critical minerals supply landscape.

Additionally, the scope of this investigation appears to substantially intersect with the Section 232 investigation of imports of semiconductors and semiconductor manufacturing equipment (“SME”), the scope of which encompasses “semiconductors, semiconductor manufacturing equipment, and their derivative products,” including “semiconductor substrates and bare wafers, legacy chips, leading-edge chips, microelectronics, and SME components” as well as “downstream products that contain semiconductors, such as those that make up the electronics supply chain.”⁴

² *Id.*

³ *Id.*

⁴ *Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Semiconductors and Semiconductor Manufacturing Equipment*, 90 Fed. Reg. 15,950 (Apr. 16, 2025). See also, [Business Roundtable, Comments on Section 232 Investigation of Imports of Semiconductors and Semiconductor Manufacturing Equipment \(May 7, 2025\)](#), [Business Roundtable Comments on Section 232 Investigation of Imports of Semiconductors and Semiconductor Manufacturing Equipment | Business Roundtable](#)

Thus, when taken together, the breadth of these two investigations will have sweeping economic and national security implications that may be damaging to the health and competitiveness of virtually all U.S. industries.

By narrowing the scope of the investigation, Commerce can focus on U.S. national security interests while maintaining the economic welfare of domestic industries and consumers, avoiding inadvertent harmful consequences to the domestic industries that are dependent on processed critical minerals and their derivative products, without sacrificing Commerce's objectives.

II. Critical Minerals and Derivative Product Tariffs Will Severely Impact the U.S. Economy

Critical minerals are an important part of supply chains in virtually all U.S. industries and are essential for U.S. national and economic security. Certain critical minerals, like aluminum, are used in almost all sectors of the U.S. economy. Others, such as arsenic, lithium, nickel, and cobalt, are critical components of advanced industries including semiconductors, aerospace components, electric vehicle ("EV") batteries, and clean energy.⁵ Critical minerals are also essential in many medical and consumer applications. For example, bismuth is a key ingredient in a widely used anti-diarrheal and upset stomach treatment. Similarly, many U.S.-made products—from paints and coatings to plastics and cosmetics—remain dependent on imports of processed titanium compounds.

Given their importance coupled with continuing technological advancements, demand for critical minerals is expected to outpace supply in the short term, creating significant shortages and increased prices and volatility.⁶

Additional tariffs and other trade restrictions on these critical minerals will not only reduce the competitiveness of domestically produced products dependent on these minerals but also cause substantial disruptions in the supply chain. Further, tariffs will result in the use of resources that could have otherwise been invested in innovation, R&D and manufacturing capacity. Many remaining costs will ultimately be passed on to U.S. consumers. Tariffs could also upset the delicate balance between supply and demand, risking production delays, stoppages, and shortages of finished and intermediate goods. More importantly, unilateral actions by the United States could prompt other countries to restrict export of critical minerals

⁵ See *U.S. Geological Survey Releases 2022 List of Critical Minerals*, USGS (Feb. 22, 2022); see also Monia Snoussi-Mimouni and Sandra Avérus, *High demand for energy-related critical minerals creates supply chain pressures*, WTO (Jan. 10, 2024).

⁶ *Strengthening Global Clean Energy Supply Chains*, Business Roundtable (Nov. 2023), 4 ("Business Roundtable Energy Report"), <https://s3.amazonaws.com/brt.org/2023.11.28-StrengtheningGlobalCleanEnergySupplyChains.pdf>; see also, *Toward security in sustainable battery raw material supply*, McKinsey & Co. (Dec. 19, 2024).

on which many U.S. companies rely. China's export ban on gallium, germanium and antimony is one example.⁷

To the extent tariffs are considered as part of any remedy recommendations in the investigation, they should be construed as narrowly as possible to address specific national security risks and avoid stacking with tariffs imposed through different regimes.

III. Policies to Incentivize Domestic Critical Minerals Mining, Processing and Recycling Programs

Domestic mining and processing capabilities for several minerals have atrophied over the past few decades, largely due to unfavorable market conditions and insufficient policy support. Establishing mining and processing facilities requires significant capital and time. Metals mining in the United States decreased by around 25% between 1990 and 2018, leaving significant untapped potential in domestic resources of minerals such as lithium, copper and rare earth elements.⁸ While timing depends on the critical mineral, it takes on average 10 to 20 years for a new processing plant and smelter to become operational.⁹ Rebuilding domestic mining and processing capacity is an endeavor worth undertaking, but it will take years, and BRT encourages Commerce to consider the timeline for sourcing alternatives in critical mineral supply chains as part of the investigation. Maintaining a reliable source of supply while domestic investments scale will be important for U.S. industries that rely upon critical minerals.

As noted in the Roundtable's 2024 report,¹⁰ circular supply chains present a significant opportunity to develop more secure and reliable access to critical minerals and materials that may be in global short supply or for which the United States may be heavily reliant on geopolitically unstable sources. A wide range of products commonly used in consumer and commercial applications contain rich stocks of critical minerals and materials that can be reclaimed, processed and reinserted into supply chains. Initiatives to enhance the recovery and recycling of domestic critical material scrap to prevent such material from being landfilled are important, especially as U.S. recovery rates of certain critical materials, such as aluminum, are quite low compared to other countries.

To support the expansion of domestic sources of critical minerals, Commerce should work across the Administration and with Congress to initiate strategic policy reforms that will make domestic mining, processing, and recycling critical minerals more cost-effective and efficient. When natural resource limitations make domestic sourcing impossible, the U.S. government

⁷ Amy Lv and Tony Munroe, *China bans export of critical minerals to US as trade tensions escalate*, Reuters (Dec. 3, 2024).

⁸ Business Roundtable Energy Report at 7.

⁹ See Alvin Camba, *A Federal Critical Mineral Processing Initiative: Securing U.S. Mineral Independence from China, War On the Rocks* (Apr. 14, 2025); see also *Introducing the Critical Minerals Policy Tracker*, IEA (2022).

¹⁰ [Resilient, Diverse and Secure: Improving Critical Supply Chains](#), Business Roundtable (July 2024), 18.

should work with trusted allies and trading partners to ensure reliable foreign supply. For the full scope of Business Roundtable's recommendations for strengthening domestic capacity and supply chain resilience for critical minerals and derivative products, please review our reports, [Strengthening Global Clean Energy Supply Chains](#) and [Resilient, Diverse, and Secure: Improving Critical Supply Chains](#). The Administration should consider the following recommendations:

- **Reform the permitting process for domestic mining and processing to make available more resources in a safe, expeditious and predictable way.** Work with state and local counterparts to streamline the permitting and approval processes for critical mineral mining, processing, transportation, distribution, and associated infrastructure, with comprehensive permitting reforms and programs such as the Federal Permitting Improvement Steering Council that work to improve permitting efficiency and predictability.
 - As the Trump Administration has undertaken a variety of initiatives to address bottlenecks in the permitting process, Commerce should utilize these initiatives for the critical mineral sector. These would include “fast-tracking” investment from allied and partner sources in “advanced technology and other important areas,”¹¹ expediting environmental reviews for investments over \$1 billion, and bringing greater efficiency, transparency, and predictability to permitting processes.
- **Enhance capacity for critical minerals reclamation and recycling.** Earlier this year, DOI, through the Office of Surface Mining Reclamation and Enforcement, offered \$1.6 million for research projects to enhance methods to extract critical minerals from mine waste.¹² The Administration should support research to enhance recoveries of strategic minerals and develop artificial substitutes that lessen dependence on foreign-sourced critical minerals.
- **Work with trusted allies and trading partners to enhance supply where domestic sourcing is insufficient.** While building domestic capacity for critical minerals production is important, the United States does not have an adequate supply of all critical minerals required for the products which require them. In addition to developing programs to support the expansion of domestic mining, processing, and recycling of critical minerals, the Administration should engage with trusted allies and trading partners to form strategic trade alliances thereby securing access to critical minerals. As the Administration assesses existing trading relationships with its trusted trading partners, many have existing, or strong potential of, capabilities in the critical

¹¹ Presidential Actions, *America First Investment Policy*, The White House (Feb. 21, 2025).

¹² *Call for research proposals to advance reclamation including commercialization of critical minerals from mine waste*, U.S. Dep't of the Interior (Feb. 3, 2025).

mineral mining, processing, and recycling sectors. These may include Argentina, Australia, Brazil, Chile, the European Union, Indonesia, Peru, the Philippines, South Africa and South Korea. Additionally, BRT was encouraged by the Administration's recent agreement with Ukraine to jointly develop new critical mineral mines in that country.¹³ These trusted trade relationships will also be important to maintain and grow in the interim period when U.S. investment will be needed to achieve the Administration's stated goals.

- **Encourage investments in critical mineral manufacturing and recycling** through competitive tax policies.
- **Adjust the standards** used by USGS and DOE to determine mineral and material criticality and ensure both lists accurately reflect the near-term risk of anticipated supply deficits, with ample opportunity for input from stakeholders.

IV. Transparent and Efficient Process to Evaluate Individual Circumstances Is Needed

In addition to narrowly crafting the scope of the investigation, Commerce should establish a transparent and efficient process by which interested stakeholders can raise specific situations related to their products to Commerce. This process will enable Commerce to prevent any inadvertent yet harmful consequences of the investigation to U.S. industries, workers, and the economy.

The process must be transparent as it will not only enable companies to share information related to the specific situations related to their products but also allow Commerce to fully evaluate all necessary information before making any determinations and build in any phase-in periods allowing industries to safely adjust to any changes. The transparent process will also assist both Commerce and companies to save time and resources to determine whether certain products are truly affected by the scope of the investigation and require attention by the Administration. The process must also be efficient as it will mitigate any inadvertent disruptions to supply chains. Faster processing time means that companies carry on with their day-to-day operations more swiftly and without the uncertainty of potential harmful enforcement.

V. Conclusion

In a time where the critical mineral sector requires significant support from the Administration, Commerce should avoid trade-restrictive measures as they increase costs, reduce resources for innovation investments, and erode competitiveness of U.S. firms that rely on critical minerals in their operations providing goods and services to customers at home and exported abroad.

¹³ *Fact Sheet: President Donald J. Trump Secures Agreement to Establish United States-Ukraine Reconstruction Investment Fund*, The White House (May 1, 2025).

Accordingly, BRT urges Commerce to narrow the investigation's scope and prioritize policies that foster a more cost-effective, efficient domestic mining and processing environment. This strategic approach will reinforce America's economic resilience and leadership.

BRT looks forward to working with Commerce as it refines the scope of the investigation and encourages additional opportunities for stakeholder engagement, including public hearings and industry forums, to ensure that the practical implications of the investigation are fully understood and any unintended consequences are mitigated. Active engagement with stakeholders, such as industry and allied partners, will be essential in effectively protecting critical supply chains and successfully achieving the Administration's policy objectives while avoiding unintended consequences for American competitiveness.

Finally, BRT appreciates Commerce's work to swiftly negotiate deals with top trading partners that level the playing field for American goods and services and remove harmful tariffs and retaliatory measures and welcomes the opportunity to engage with Commerce on these issues as well.

* * * * *

Should you have any questions about this submission, please contact Casey Denoyer, Senior Policy Director (cdenoyer@brt.org or 202-496-3260).