



May 3, 2019

The Honorable Adam Smith
Chairman, Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Mac Thornberry
Ranking Member, Committee on Armed
Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Ranking Member Thornberry,

On behalf of the members of our undersigned associations and the thousands of workers engaged in textiles, apparel and other sewn products, footwear, and specialty metals manufacturing in the United States, we urge you to restore the coverage of the Berry and Specialty Metals Amendments (10 U.S.C. §§2533a and 2533b) and reject further recommendations that would weaken these industrial base supports. In particular, we encourage you to apply Berry and Specialty Metals coverage to all acquisitions above \$150,000 and reject recommendations 35 and 64 of Volume III of the Advisory Panel on Streamlining and Codifying Acquisition Regulations (the “Section 809 Panel”). This would strengthen the defense industrial base, encourage American innovation, and support tens of thousands of American manufacturing jobs.

The Berry and Specialty Metals Amendments are longstanding bulwarks that support the domestic manufacture of textiles, apparel and other sewn products, footwear, specialty metals, and other items

to assist warfighters meet a variety of national security contingencies. Industries covered by these laws employ thousands of Americans across the United States, and the laws remain popular across a wide cross-section of the House of Representatives.

Both the Berry and Specialty Metals Amendments only cover acquisitions made above the Simplified Acquisition Threshold (SAT). In 2017, the National Defense Authorization Act for Fiscal Year 2018 adopted a Section 809 Panel recommendation to increase the SAT from \$150,000 to \$250,000. This has led to increased use of foreign sources for U.S. military contracts and threatens to weaken the domestic industrial base. It has also inadvertently raised the complexity of acquisitions in the \$150,000-\$250,000 range for items covered by the Berry or Specialty Metals Amendments. We therefore urge you to revise the language of the Berry and Specialty Metals Amendments to reinstate coverage at the \$150,000 level (adjustable for inflation). This would allow the SAT to float freely but still provide needed supports for the domestic industrial base.

We further urge you to reject two proposals from the 809 Panel's Volume III report. Recommendation 35 would transition the Department of Defense acquisition system nomenclature from the language of "commercial" and "commercially available off-the-shelf" to "readily available" and "readily available with customization." Though our associations take no position on the broader merits of the advisability of that change, we are concerned by the report's suggestion that certain acquisition laws, such as the Berry Amendment, should not apply to "readily available" or "readily available with customization" items (see pages 30-31 and 42 of the narrative section and page 18 of the implementation details in [Part I](#) of the Volume III report). This is similar to a provision included in the Section 809 Panel's [Volume I](#) report to exempt all commercial and commercially available off-the-shelf acquisitions from Berry coverage — that recommendation was rejected by the Armed Services Committee last year. As two former Senate staffers recently [pointed out](#), the approach taken by the 809 Panel would also put great discretion into the hands of potential sellers rather than keeping much of that authority within the government. We strongly urge the Committee to reject this year's suggestion as well, as such an exemption would deleteriously affect American industry by sending American military purchases to overseas companies, reinforcing negative commercial trends and weakening the domestic industrial base.

Recommendation 64 (page 330 of [Part II](#) of Volume III) would modify the Berry Amendment by allowing the inclusion of foreign material in Berry-covered products, using an exception contained in the Buy American Act. We oppose this recommendation as adding unneeded complexity into the acquisition process and potentially harming domestic industry. As currently operating, the Berry Amendment has simpler implementation than the Buy American Act and has been more successful in maintaining the defense industrial base. Weakening the Berry Amendment will hinder the government in using the Defense Priorities and Allocations System to meet surge requirements and will limit the government's ability to inspect and assure quality for critical safety items. We therefore oppose the attempt to make the Berry and Specialty Metals Amendments adjuncts to the Buy American Act as bad policy on multiple fronts.

American manufacturers have been supplying the U.S. military with innovative, high-quality goods for decades, with laws such as the Berry and Specialty Metals Amendments helping maintain a capable and responsive industrial base to meet U.S. national security needs. Your committee could assist in the maintenance of a vibrant and capable defense industrial sector in this year's defense authorization bill. We therefore strongly urge you to reverse previous adjustments to the scope of the Berry and Specialty Metals Amendments and reject the recommendations of the Section 809 Panel with regard to the Berry Amendment. Thank you for your continued strong support for the warm industrial base.

Thank you,

AFL-CIO

Alliance for American Manufacturing

American Apparel and Footwear Association

American Flock Association

American Sheep Institute

Coalition for a Prosperous America

Georgia Association of Manufacturers

Hand Tools Institute

National Cotton Council

National Council of Textile Organizations

Parachute Industry Association

SEAMS

Service Employees International Union

Specialty Steel Industry of North America

TIMET

Tooling, Manufacturing & Technologies Association

United States Industrial Fabrics Institute

United Steel Workers

Warrior Protection and Readiness Coalition