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U.S. Department of Commerce Initiates Section 232 National Security Investigation of Vanadium Imports

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June 3, 2020 – U.S. Secretary of Commerce Wilbur Ross announced the initiation of an investigation by the Bureau of Industry and Security into “whether the present quantities or circumstances of vanadium imports into the United States threaten to impair the national security” pursuant to Section 232 of the Trade Expansion Act of 1962, as amended. The investigation is in response to a November 19, 2019 petition filed by domestic producers, AMG Vanadium LLC in Cambridge, Ohio and U.S. Vanadium LLC in Hot Springs, Arkansas.

According to the announcement, “[v]anadium is a metal used in production of metal alloys and as a catalyst for chemicals across aerospace, defense, energy, and infrastructure sectors. Designated a strategic and critical material, vanadium is used for national defense and critical infrastructure applications. Examples include aircraft, jet engines, ballistic missiles, energy storage, bridges, buildings, and pipelines.” The petitioners claim that their industry is adversely impacted by unfairly traded low-priced imports, lack of export markets, and “the distortionary effect of Chinese and Russian industrial policies.”

Section 232 permits Commerce, in consultation with the Defense Department and other U.S. authorities, to investigate imports from around the world, determine their effect “in such quantities or under such circumstances” on U.S. national security, and make recommendations to the President for action or inaction. Factors include (1) existing domestic production of the product; (2) future capacity needs; (3) manpower, raw materials, production equipment, facilities, and other supplies needed to meet projected national defense requirements; (4) investment, exploration, and development needs to meet future requirements; and (5) any other relevant factors. The President may, but is not required to, take action upon an affirmative determination.

The Federal Register notice published today invites interested parties to submit written comments, data, analysis, and other pertinent information. A report to the President is due within 270 days of initiation, including

Commerce's determination and recommended actions, such as tariffs or quotas. The President then has 90 days to determine whether he agrees with the findings and, if so, whether to take action. The President has 15 days to implement the action and 30 days to inform the Congress.

Estimated Schedule:

Written submissions by interested parties: July 20, 2020
Rebuttal comments by interested parties: August 17, 2020
Report to the President: February 22, 2021
President's Decision: May 23, 2021
Implementation of the President's Action: June 7, 2021
President informs Congress: June 22, 2021

This is the eighth Section 232 investigation initiated by the Trump Administration. As previously reported, Commerce's Bureau of Industry and Security is currently investigating imports of certain inputs for electrical generation equipment and mobile cranes. There are Section 232 measures in place on steel and aluminum imports, but other investigations into automobiles and automotive parts, uranium, and titanium did not result in import restrictions.

Please contact the experienced attorneys in Hughes Hubbard's International Trade practice with any questions or to learn more about providing comments to Commerce during this process.

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