

cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Vanadium

**AGENCY:** Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

**ACTION:** Notice of request for public comments.

**SUMMARY:** On May 28, 2020, in response to a petition, the Secretary of Commerce (the “Secretary”) initiated an investigation to determine the effects on the national security from imports of vanadium. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended.

Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce’s (the “Department”) Bureau of Industry and Security by July 20, 2020. Rebuttal comments will be due by August 17, 2020. While the Department is interested in any information related to this investigation that the public can provide, this notice identifies particular issues of significance.

**DATES:** The due date for filing comments is July 20, 2020. The due date for rebuttal comments is August 17, 2020. Rebuttal comments may only address issues raised in comments filed on or before July 20, 2020.

**ADDRESSES:** *Submissions:* All written comments on the notice must be addressed to Section 232 Vanadium Investigation and filed through the Federal eRulemaking Portal: <http://www.regulations.gov>. To submit comments via <http://www.regulations.gov>, enter docket number BIS-2020-0002 on the home page and click “search.” The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now!” (For further information on using <http://www.regulations.gov>, please consult the

resources provided on the website by clicking on “How to Use This Site.”)

**FOR FURTHER INFORMATION CONTACT:**

Industrial Studies Division, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482-5481, [Vanadium232@bis.doc.gov](mailto:Vanadium232@bis.doc.gov). Unless otherwise protected by law, any information received from the public during the course of this investigation may be made publicly available. For more information about the section 232 program, including the regulations and the text of previous investigations, please see [www.bis.doc.gov/232](http://www.bis.doc.gov/232).

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 28, 2020, in response to a petition, the Secretary initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security from imports of vanadium. If the Secretary finds that vanadium is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in his report on the findings of the investigation.

**Written Comments**

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (“NSIBR”). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Department’s Office of Technology Evaluation no later than July 20, 2020. Rebuttal comments submitted in response to issues raised in comments received on or before July 20, 2020 may be filed no later than August 17, 2020.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the NSIBR as they affect national security, including the following:

- (i) Quantity of or other circumstances related to the importation of vanadium;
- (ii) Domestic production and productive capacity needed for vanadium to meet projected national defense requirements;
- (iii) Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce vanadium;
- (iv) Growth requirements of the vanadium industry to meet national defense requirements and/or requirements for supplies and services

necessary to assure such growth including investment, exploration, and development;

(v) The impact of foreign competition on the economic welfare of the vanadium industry;

(vi) The displacement of any domestic vanadium production causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;

(vii) Relevant factors that are causing or will cause a weakening of our national economy; and

(viii) Any other relevant factors, including the use and importance of vanadium in critical infrastructure sectors identified in Presidential Policy Directive 21 (Feb. 12, 2013) (for a listing of those sectors see <https://www.dhs.gov/cisa/critical-infrastructure-sectors>).

**Requirements for Written Comments**

The <http://www.regulations.gov> website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. The Department prefers that comments be provided in an attached document. The Department prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than those two, please indicate the name of the application in the “Type Comment” field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible please include any exhibits, annexes, or other attachments in the same file as part of the submission itself rather than in separate files. Comments will be placed in the docket and open to public inspection, except information determined to be confidential as set forth in § 705.6 of the NSIBR. Comments may be viewed on <http://www.regulations.gov> by entering docket number BIS-2020-0002 in the search field on the home page.

Material submitted by members of the public that is properly marked business confidential information and accepted as such by the Department will be exempted from public disclosure as set forth in § 705.6 of the NSIBR. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission

which can be placed in the public file on <http://www.regulations.gov>. Communications from agencies of the United States Government will not be made available for public inspection. For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC". Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. The non-confidential version must be clearly marked "PUBLIC". The file name of the non-confidential version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. If a public hearing is held in support of this investigation, a separate **Federal Register** notice will be published providing the date and information about the hearing.

The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at <https://efoia.bis.doc.gov/> (see "Electronic FOIA" heading). If requesters cannot access the website, they may call 202-482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

**Richard E. Ashooh,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-412-801]

#### **Ball Bearings and Parts Thereof From the United Kingdom: Third Amended Final Results of Antidumping Duty Administrative Review Pursuant to Court Decision; 2010-2011**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 26, 2020, the United States Court of International Trade (CIT) sustained the October 2019 final results of redetermination pertaining to the administrative review

of the antidumping duty order on ball bearings and parts thereof (ball bearings) from the United Kingdom covering the period May 1, 2010 through April 30, 2011. The Department of Commerce (Commerce) is, therefore, amending the final results with respect to Bayerische Motoren Werke AG (BMW).

**DATES:** Applicable June 3, 2020.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0410.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On January 27, 2015, Commerce published the *Final Results* in the above-referenced administrative review.<sup>1</sup> Commerce selected the highest rate from the petition (254.25 percent) as the weighted-average dumping margin for BMW based on adverse facts available (AFA). BMW of North America LLC appealed the *Final Results* to the CIT, and on March 2, 2017, the CIT remanded the *Final Results*.<sup>2</sup> Specifically, the CIT remanded the *Final Results* directing that Commerce either: (1) Provide a new corroboration analysis for the selected petition rate that is consistent with Commerce's obligations and the Court's opinion; or (2) determine a new AFA rate consistent with Commerce's obligations and the Court's opinion.<sup>3</sup>

On May 12, 2017, Commerce issued its final results of redetermination pursuant to remand, in accordance with the CIT's order.<sup>4</sup> On remand, Commerce determined a new AFA rate of 126.44 percent for BMW, consistent with the *First Remand*. On August 23, 2017, the CIT sustained Commerce's *First Redetermination*.<sup>5</sup> On September 2, 2017, Commerce published the *Second*

#### **Amended Final Results in the Federal Register.**<sup>6</sup>

The CIT's ruling was appealed to the U.S. Court of Appeals for the Federal Circuit (CAFC). On appeal, the CAFC concluded that "Commerce did not set forth its reasoning in sufficient detail to allow review of whether the selected AFA rate was unduly punitive" and remanded the case.<sup>7</sup> Based on the CAFC's decision, the CIT issued the *Second Remand* on July 3, 2019.<sup>8</sup>

On October 1, 2019, Commerce issued its final results of redetermination in accordance with the *Second Remand*.<sup>9</sup> On remand, Commerce determined a new AFA rate of 61.14 percent for BMW, consistent with the *Second Remand*. On March 26, 2020, the CIT sustained Commerce's *Second Redetermination*.<sup>10</sup>

#### **Amended Final Results**

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to BMW. The revised weighted-average dumping margin for BMW for the period May 1, 2010 through April 30, 2011, is as follows:

| Exporter or producer           | Weighted-average dumping margin (percent) |
|--------------------------------|---|
| Bayerische Motoren Werke AG .. | 61.14                                     |

#### **Liquidation and Assessment of Antidumping Duties**

In the event the CIT's ruling is not appealed, or if it is appealed and upheld by a final and conclusive court decision, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties at a rate equal to the weighted-average dumping margin listed above for all entries of subject merchandise during the period May 1, 2010 through April 30, 2011, that were produced and/or exported by BMW.

<sup>1</sup> See *Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 80 FR 4248 (January 27, 2015), amended in *Ball Bearings and Parts Thereof from the United Kingdom: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 80 FR 9694 (February 24, 2015) (*Final Results*).

<sup>2</sup> See *BMW of North America LLC v. United States*, Court No. 15-00052, Slip Op. 17-22 (CIT March 2, 2017) (*First Remand*).

<sup>3</sup> See *First Remand* at 12-17.

<sup>4</sup> See *Results Of Remand Redetermination, BMW of North America LLC v. United States*, Court No. 15-00052, Slip Op. 17-22, dated May 12, 2017 (*First Redetermination*).

<sup>5</sup> See *BMW of North America LLC v. United States*, Slip Op. 17-109, Consol. Court No. 15-00052 (CIT 2017).

<sup>6</sup> See *Ball Bearings and Parts Thereof From the United Kingdom: Notice of Court Decision Not in Harmony With Amended Final Results and Notice of Second Amended Results of Antidumping Duty Administrative Review*, 82 FR 42296 (September 2, 2017) (*Second Amended Final Results*).

<sup>7</sup> See *BMW of North America LLC v. United States*, 926 F.3d 1291, 1293 and 1302 (CAFC May 9, 2019).

<sup>8</sup> See *BMW of North America LLC v. United States*, Court No. 15-00052 Order at 1 (CIT July 3, 2019) (*Second Remand*).

<sup>9</sup> See *Results Of Remand Redetermination, BMW of North America LLC v. United States*, Court No. 2018-1109, dated October 1, 2019 (*Second Redetermination*).

<sup>10</sup> See *BMW of North America LLC v. United States*, Slip Op. 20-41, Consol. Court No. 15-00052 (CIT March 26, 2020).