



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 201120-0309]

RIN: 0694-XC067

Notice of Request for Public Comments by the Titanium Sponge Working Group

AGENCY: Bureau of Industry and Security, Commerce.

ACTIONS: Notice of request for public comments.

SUMMARY: In March of 2019, the Secretary initiated an investigation under Section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects on the national security from imports of titanium sponge. In February of 2020, the President issued a memorandum concurring with the Secretary's findings that titanium sponge imports threatened to impair U.S. national security. The President's concurrence also agreed that actions to adjust imports under Section 232, such as tariffs, should not be taken at this time and established an interagency working group. The work of the Titanium Sponge Working Group has proceeded in exploring measures to ensure access to titanium sponge in the United States for use for national defense and in critical industries during an emergency, and at this time the Bureau of Industry and Security (BIS) is seeking public comments to better inform the deliberations of the working group.

DATES: The due date for filing original comments is [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The due date for rebuttal comments is [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Rebuttal comments may only address issues raised in the original comment it is filed under, which was filed on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Submissions:* All written comments on the notice must be addressed to the Titanium Sponge Working Group and filed through the Federal eRulemaking Portal:

<http://www.regulations.gov>. To submit comments via <http://www.regulations.gov>, enter docket number BIS–2020–0037 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: TSWG@bis.doc.gov; Titanium Sponge 232 Project Line 202-482-3110. E-mail is the preferred method of contact, and will facilitate a more timely response by BIS.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2019, 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 titanium sponge. This petition led the Bureau of Industry and Security (BIS) to publish a *Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Titanium Sponge* on March 8, 2019 (84 FR 8503). The March 8, 2019 notice requested comments specific to the status of the titanium sponge industrial base in the United States. While the comments received were pertinent, several developments have occurred since the end of that notice period that warrant this notice of request for additional comments.

On November 29, 2019, the Secretary transmitted to the President a report on the Section 232 investigation in which he found that titanium sponge imports threatened to impair the national security, and stated that there is a risk of the United States being completely dependent on imports of titanium sponge and could therefore lack surge capacity required to support defense and critical industries needs in an extended national emergency. On February 27, 2020, the President issued a memorandum regarding the Section 232 investigation into whether imports

of titanium sponge threatened to impair the national security. The President concurred with the Secretary's finding that imports of titanium sponge threatened to impair U.S. national security, and also agreed with the Secretary's recommendation that he not take actions to adjust imports under Section 232 at that time. Instead, the President directed the Secretaries of Commerce and Defense to form a working group, along with other executive departments and agencies that they deemed appropriate, to develop recommended actions.

The Titanium Sponge Working Group (TSWG), established at the President's direction, consists of the following permanent members: the Departments of Commerce, Defense, Interior, and State, which are joined by rotating members from other U.S. Government agencies as needed. The goal of the TSWG is to reach interagency agreement on measures needed to ensure access to titanium sponge in the United States for use for national defense and critical industries in an emergency. The TSWG will submit to the President a report detailing agreed upon recommendations to ensure U.S. access to titanium sponge for national defense and critical industries purposes, in addition to detailing the current and projected U.S. industrial requirements.

The establishment of the TSWG and the required report, along with the impact of the ongoing COVID-19 pandemic on U.S. access to titanium sponge, merit a comment period to solicit information to assist the interagency working group in its deliberations regarding imports of titanium sponge. The Department of Commerce (Department) has determined that although there is significant governmental expertise on the TSWG, receiving public input in this area would further the understanding of the TSWG members as they develop potential solutions to address the issue of imports of titanium sponge.

Although the President established the working group after he concurred with the Secretary that imports of titanium sponge threatened to impair the national security, the solicitation of comments to assist in the TSWG deliberations is distinct from the Department's prior Section 232 titanium sponge investigation. However, the Section 232 investigation and the

TSWG both deal with the importance of access to titanium sponge for national defense and critical industries purposes. Therefore, BIS is handling the solicitation of comments similarly to how BIS has previously solicited comments for Section 232 investigations. The TSWG will consider the public comments when preparing interagency recommendations to the President for further consideration.

Written Comments

Interested parties are invited to submit written comments, data, analyses, or information pertinent to the task of the TSWG to the Department's Office of Technology Evaluation no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. An original comment will not be considered if: 1) it is received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]; 2) and/or includes rebuttal language pertaining to a different comment. Rebuttal comments may be submitted in response to issues raised in original comments received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] may be filed no later than [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Rebuttal comments may only address issues raised in the original comment it is filed under, which was filed on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Rebuttal comments that address new or different issues other than the issues raised in the original comment it was filed under will not be considered. A rebuttal comment will not be considered if: 1) it is received no later than [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]; 2) and/or includes language that is partially original and partially in response to an original comment.

The Department is particularly interested in comments and information directed to the following criteria:

- (i) Potential measures to ensure access to titanium sponge in the United States for use for national defense and critical industries in an emergency, including, but not

limited to, U.S. Government or industry investment in any portion of the U.S. titanium supply chain (including ore, sponge, semi-finished, and finished titanium products), stockpiling, multilateral negotiations, trade actions, and industrial base analyses.

- (ii) Potential measures to increase access to titanium sponge in the United States for use for national defense and critical industries, and to support domestic production capacity for the production of titanium sponge to meet national defense requirements, including, but not limited to, U.S. Government or industry investment in any portion of the U.S. titanium supply chain (including ore, sponge, semi-finished, and finished titanium products), stockpiling, multilateral negotiations, trade actions, and industrial base analyses.
- (iii) The structure of the global titanium sponge supply chain, including upstream (ore and other feedstock) and downstream (semi-finished and finished titanium products, increased usage of scrap) production steps, especially as the structure may impact recommendations targeting alternative parts of the titanium sponge supply chain in order to ensure and/or increase access to titanium sponge in the United States;
- (iv) Pandemic-related impacts on the supply and demand of titanium sponge and other titanium products in the United States and abroad (such as the decline in aerospace demand, prospects for recovery, maintaining essential workforce, or the recent idling of U.S. sponge operations);
- (v) The role of non-U.S. titanium sponge production and distribution in ensuring and/or increasing access to titanium sponge and domestic titanium sponge capacity in the United States, including prospects for partnerships or joint ventures between U.S. and non-U.S. sponge producers, trade actions (*e.g.*, modification of current global tariff/quota structures on titanium products), or

non-U.S. investment in U.S. production capacity. Additionally, the impact of U.S.-reliance on single or sole source supplies of titanium sponge from non-U.S. sources; and

- (vi) Prospects and risks of brownfield or greenfield investments in any step of the titanium supply chain, including upstream ore extraction and processing, intermediate titanium sponge production, or other downstream titanium production steps; and
- (vii) How great of a threat is cybercrime or malicious cyber activity to organizations in the titanium sponge supply chain? In addressing this question, commenters are encouraged to provide specific examples of how malicious cyber activity such as ransomware, distributed denial of service (DDoS) attacks, or malware have undermined or threatened production in the U.S. and/or the reliability of U.S. supply chain for titanium sponge. Additionally, what actions or policies are recommended to strengthen the titanium sponge and related sectors' ability to prevent, detect, and recover from malicious cyber activity? In addressing this question, to what extent, if any, does dependence on foreign suppliers increase organizations' exposure to cybercrime/impacts or create any additional burdens because of the complexities involved with dealing with different countries' laws on cyber issues?

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 Microsoft Word or Adobe Acrobat, 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 within the comments. Similarly, to the extent possible please include any exhibits, annexes, or other attachments in the same file, so that the submission consists of one instead of multiple files. Comments will be placed in the docket and open to public inspection, except information determined to be confidential. Comments may be viewed on <http://www.regulations.gov> by entering docket number BIS–2020–0037 in the search field on the home page.

All filers should name their files using the name of the person or entity submitting the comments. Communications from agencies of the United States Government will not be made available for public inspection.

Material submitted by members of the public that is properly marked as business confidential information with a valid statutory basis for confidentiality, and which is accepted as such by the Department will not be disclosed publicly. Guidance on submitting business confidential information is as follows: anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, include a statement justifying nondisclosure and referring to the specific legal authority claimed with the submission, and provide a non-confidential version of the submission which will be placed in the public file on <http://www.regulations.gov>. 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.

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