

Commerce Launches Section 232 Investigation of Rare Earth Magnets, Seeks Comments

September 30, 2021

On September 24, 2021, the Department of Commerce announced that its Bureau of Industry and Security (BIS) is investigating whether imports of neodymium-ironboron (NdFeB) permanent magnets, or rare earth magnets, undermine U.S. national security. Commerce also published a Federal Register notice seeking comments on the investigation; comments are due **November 12, 2021.**

The announcement noted that the investigation is consistent with a recommendation that resulted from the Biden Administration's 100-day supply chain reviews, which focused on the critical minerals and materials supply chain, among three other key industries.

Rare earth magnets are used in critical national security systems such as fighter aircraft and missile guidance systems. They are also used in critical infrastructures such as electronic vehicles and wind turbines, as well as computer hard drives, audio equipment, and MRI devices.

If the Commerce Secretary finds that these products are being imported into the United States in "such quantities or under such circumstances as to threaten to impair the national security," she will report her findings to the President. The President then has 90 days to determine whether to "adjust" imports or take other non-trade related action, and 15 days to take such action as he deems warranted.

While Commerce "is interested in any information" related to the investigation it identified areas of particular significance. Specifically, Commerce seeks comment on:

- The quantity or other circumstances related to imports of rare earth magnets;

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Practice Areas

International Trade
National Security
Supply Chain and Transactional Support

- Domestic production and productive capacity needed for rare earth magnets;
- Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce rare earth magnets;
- Growth requirements of the rare earth magnets industry to meet national defense requirements and/or requirements for supplies and services necessary to assure such growth including investment, exploration, and development;
- The impact of foreign competition on the economic welfare of the domestic rare earth magnets industry;
- The displacement of any domestic rare earth magnets production causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;
- Relevant factors that are causing or will cause a weakening of our national economy; and
- Any other relevant factors, including the use and importance of rare earth magnets in critical infrastructure.

Wiley has robust Supply Chain, National Security, and International Trade practices and extensive experience helping clients to navigate Section 232 investigations. For more information about this investigation or the request for comments, please contact one of the attorneys listed on the alert.

Nicole Hager, a Law Clerk at Wiley Rein LLP, contributed to this alert.