



ADJUSTING IMPORTS OF ALUMINUM INTO THE UNITED STATES

10690

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. On January 19, 2018, the Secretary of Commerce (Secretary) transmitted to the President a report on the Secretary's investigation into the effect of imports of aluminum articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised the President of his opinion that aluminum articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

2. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), the President concurred in the Secretary's finding that aluminum articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of aluminum articles (aluminum articles), by imposing a 10 percent ad valorem tariff on such articles imported from all countries except Canada and Mexico. Proclamation 9704 further stated that any country with which the United States has a security relationship is welcome to discuss alternative ways to address the threatened impairment of the national security caused by imports from that country, and noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that the President determines that imports from that

country no longer threaten to impair the national security, the President may remove or modify the restriction on aluminum articles imports from that country and, if necessary, adjust the tariff as it applies to other countries, as the national security interests of the United States require.

3. In Proclamation 9710 of March 22, 2018 (Adjusting Imports of Aluminum Into the United States), the President noted the continuing discussions with the European Union (EU) on behalf of its member countries on satisfactory alternative means to address the threatened impairment to the national security by aluminum articles imported from the EU. Recognizing that the EU has an important security relationship with the United States, the President determined that the necessary and appropriate means to address the threat to the national security posed by imports of aluminum articles from the member countries of the EU was to continue the ongoing discussions and to exempt aluminum articles imports from these countries from the tariff proclaimed in Proclamation 9704 until May 1, 2018. In Proclamation 9739 of April 30, 2018 (Adjusting Imports of Aluminum Into the United States), the President noted that, unless the President determines by further proclamation that the United States has reached a satisfactory alternative means to remove the threatened impairment to the national security by imports of aluminum articles from the member countries of the EU, the tariff proclaimed in clause 2 of Proclamation 9704 shall be effective June 1, 2018, for these countries.

4. In Proclamation 10327 of December 27, 2021 (Adjusting Imports of Aluminum Into the United States), I noted that the United States successfully concluded discussions with the EU on behalf of the EU's member countries on satisfactory alternative means to address the threatened impairment of the national

security posed by aluminum articles imports from the EU. The United States and the EU agreed to expand coordination involving trade remedies and customs matters, monitor bilateral steel and aluminum trade, cooperate on addressing non-market excess capacity, and annually review their arrangement and their ongoing cooperation. In addition, the United States and the EU agreed to seek to conclude, by October 31, 2023, negotiations on global steel and aluminum arrangements to restore market-oriented conditions and support the reduction of carbon intensity of steel and aluminum across modes of production.

5. Pursuant to the agreement described in Proclamation 10327, the United States implemented a number of actions, including a tariff-rate quota that restricts the quantity of aluminum articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9704. I concluded that these measures provide an effective, long-term alternative means to address any contribution by EU aluminum articles imports to the threatened impairment to the national security by restraining aluminum articles imports to the United States from the EU, limiting transshipment, and discouraging excess aluminum capacity and production. In light of this agreement, I also determined that specified volumes of eligible aluminum articles imports from the EU no longer threaten to impair the national security and decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9704 through December 31, 2023. I also found that the agreed-upon aggregate tariff-rate quota volume, totaling 18,000 metric tons of unwrought aluminum and 366,040 metric tons of semi-finished wrought aluminum, is consistent with the objective of reaching and sustaining a

sufficient capacity utilization rate in the domestic aluminum industry.

6. During the past 2 years, the United States and the EU have made substantial progress to identify the sources of non-market excess capacity and the actions needed to address distortions resulting from that non-market excess capacity. The United States and the EU are continuing their discussions on global steel and aluminum arrangements to restore market-oriented conditions in their steel and aluminum sectors and support the reduction of the greenhouse gas emissions intensity of steel and aluminum across all modes of production. These discussions are anticipated to include alternative measures to prevent imports of aluminum from the EU from threatening the national security of the United States.

7. In light of the ongoing discussions and joint actions pursuant to the agreement described in Proclamation 10327, I have determined that the necessary and appropriate means to address the threat to the national security posed by imports of aluminum articles from the member countries of the EU is to continue the discussions and joint actions with the EU and to extend the tariff-rate quota that restricts the quantity of aluminum articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9704. In order to be eligible for in-quota treatment, all imports of aluminum articles from the EU must be accompanied by a certificate of analysis. In my judgment, these measures will provide an effective, long-term alternative means to address any contribution by EU aluminum articles imports to the threatened impairment of the national security by restraining aluminum articles imports to the United States from the EU, limiting transshipment, discouraging excess aluminum capacity and

production, and strengthening the United States-EU partnership in a fashion that will better enable future arrangements.

8. In light of the ongoing discussions and joint actions taken pursuant to the agreement described in Proclamation 10327, I have determined that specified volumes of eligible aluminum articles imports from the EU will no longer threaten to impair the national security and have decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9704 through December 31, 2025. The United States will monitor the implementation and effectiveness of the tariff-rate quota and other measures agreed upon with the EU in addressing our national security needs, and I may revisit this determination, as appropriate.

9. The alternative means, including the tariff-rate quota, align with the recommendations specified in the original investigation into the effect of imports of aluminum articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended. The agreed-upon aggregate tariff-rate quota volume specified in the 2021 agreement between the United States and the EU, totaling 18,000 metric tons of unwrought aluminum and 366,040 metric tons of semi-finished wrought aluminum, remains consistent with the objective of reaching and sustaining a sufficient capacity utilization rate in the domestic aluminum industry.

10. In light of my determination to adjust the tariff proclaimed in Proclamation 9704 as applied to eligible aluminum articles imports from the EU, I have considered whether it is necessary and appropriate in light of our national security interests to make any corresponding adjustments to such tariff as it applies to other countries. I have determined that it is

necessary and appropriate, at this time, to maintain the current tariff level as it applies to other countries.

11. Section 232 of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

12. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 232 of the Trade Expansion Act of 1962, as amended, section 301 of title 3, United States Code, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim as follows:

(1) Clause 2 of Proclamation 9704, as amended, is further amended in the second sentence by deleting "and" before "(j)" and inserting before the period at the end: ", and (k) on or after 12:01 a.m. eastern standard time on March 10, 2023, from all countries except Argentina, Australia, Canada, Mexico, and from the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2025, from the United Kingdom, for aluminum articles covered by headings 9903.85.25 through 9903.85.44, inclusive, and from Russia."

(2) Imports of aluminum articles from member countries of the EU in excess of the tariff-rate quota quantities shall

remain subject to the duties imposed by clause 2 of Proclamation 9704, as amended. The Secretary, in consultation with the United States Trade Representative and the Secretary of Homeland Security, shall recommend to the President, as warranted, updates to the in-quota volumes contained in this proclamation.

(3) Aluminum articles from a member country of the EU imported under an exclusion granted pursuant to clause 3 of Proclamation 9704, as amended, shall count against the in-quota volume of the tariff-rate quota implemented in Proclamation 10327 and extended in this proclamation.

(4) Aluminum articles eligible for in-quota treatment under the tariff-rate quota implemented in Proclamation 10327 and extended in this proclamation must be accompanied by a certificate of analysis in order to receive such treatment. The Secretary, in consultation with the Secretary of Homeland Security and the United States Trade Representative, is authorized to take such actions as are necessary to ensure compliance with this requirement. Failure to comply could result in applicable remedies or penalties under United States law.

(5) U.S. note 19(a)(v) to subchapter III of chapter 99 of the HTSUS is amended by inserting, after the last sentence of the first paragraph, the sentence "A Certificate of Analysis for a smelted (unalloyed) primary aluminum used in a product imported under the above subheadings, or such other information as may be required by U.S. Customs and Border Protection, must be supplied by the importer in order to make entry under this subdivision."

(6) The modifications made by this proclamation shall be effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m.

eastern standard time on January 1, 2024, and shall continue in effect, unless such actions are expressly reduced, modified, or terminated.

(7) Any imports of aluminum articles from the member countries of the EU that were admitted into a United States foreign trade zone in "privileged foreign status" as defined in 19 CFR 146.41, prior to 12:01 a.m. eastern standard time on January 1, 2024, shall be subject upon entry for consumption made on or after 12:01 a.m. eastern standard time on January 1, 2024, to the provisions of the tariff-rate quota in effect at the time of the entry for consumption.

(8) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of December, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.

[FR Doc. 2023-28995 Filed: 1/2/2024 8:45 am; Publication Date: 1/3/2024]