
Presidential Documents

Title 3—

Proclamation 9980 of January 24, 2020

The President

Adjusting Imports of Derivative Aluminum Articles and Derivative Steel Articles Into the United States

By the President of the United States of America

A Proclamation

1. On January 11, 2018, the Secretary of Commerce (Secretary) transmitted to me a report on his investigation into the effect of imports of steel articles on the national security of the United States, and on January 19, 2018, the Secretary transmitted to me a report on his investigation into the effect of imports of aluminum articles on the national security of the United States. Both reports were issued pursuant to section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

2. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), and Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), I concurred in the Secretary's findings that aluminum articles and steel articles were 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. I therefore decided to adjust the imports of aluminum articles, as defined in clause 1 of Proclamation 9704, as amended, by imposing a 10 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018. I also decided to adjust the imports of steel articles, as defined in clause 1 of Proclamation 9705, as amended, by imposing a 25 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018.

3. In Proclamation 9758 of May 31, 2018 (Adjusting Imports of Aluminum Into the United States), I decided to further adjust imports of aluminum articles by imposing quotas on such articles from the Argentine Republic (Argentina). In Proclamation 9740 of April 30, 2018 (Adjusting Imports of Steel Into the United States), I decided to adjust imports of steel articles by imposing quotas on such articles from the Republic of Korea (South Korea), and in Proclamation 9759 of May 31, 2018 (Adjusting Imports of Steel Into the United States), I decided to adjust imports of steel articles by imposing quotas on such articles from Argentina and the Republic of Brazil (Brazil).

4. In Proclamation 9704 and Proclamation 9705, I directed the Secretary to monitor imports of aluminum articles and steel articles, respectively, and inform me of any circumstances that in the Secretary's opinion might indicate the need for further action under section 232 of the Trade Expansion Act of 1962, as amended.

5. The Secretary has informed me that domestic steel producers' capacity utilization has not stabilized for an extended period of time at or above the 80 percent capacity utilization level identified in his report as necessary to remove the threatened impairment of the national security. Stabilizing at that level is important to provide the industry with a reasonable expectation that market conditions will prevail long enough to justify the investment necessary to ramp up production to a sustainable and profitable level. Capacity utilization in the aluminum industry has improved, but it is still below the target capacity utilization that the Secretary recommended in his report. Although imports of aluminum articles and steel articles have declined

since the imposition of the tariffs and quotas, the Secretary has informed me that imports of certain derivatives of aluminum articles and imports of certain derivatives of steel articles have significantly increased since the imposition of the tariffs and quotas. The net effect of the increase of imports of these derivatives has been to erode the customer base for U.S. producers of aluminum and steel and undermine the purpose of the proclamations adjusting imports of aluminum and steel articles to remove the threatened impairment of the national security.

6. The derivative articles the Secretary identified are described in Annex I (aluminum) and Annex II (steel) to this proclamation. For purposes of this proclamation, the Secretary determined that an article is “derivative” of an aluminum article or steel article if all of the following conditions are present: (a) the aluminum article or steel article represents, on average, two-thirds or more of the total cost of materials of the derivative article; (b) import volumes of such derivative article increased year-to-year since June 1, 2018, following the imposition of the tariffs in Proclamation 9704 and Proclamation 9705, as amended by Proclamation 9739 and Proclamation 9740, respectively, in comparison to import volumes of such derivative article during the 2 preceding years; and (c) import volumes of such derivative article following the imposition of the tariffs exceeded the 4 percent average increase in the total volume of goods imported into the United States during the same period since June 1, 2018. The modifications to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States described in Annex I (aluminum) and Annex II (steel) to this proclamation implement the Secretary’s determinations in this regard.

7. From June 2018 to May 2019, import volumes of steel nails, tacks, drawing pins, corrugated nails, staples, and similar derivative articles increased by 33 percent, compared to June 2017 to May 2018, and increased by 29 percent, compared to June 2016 to May 2017. From January 2019 to November 2019, import volumes of such articles increased by 23 percent, compared to the same period in 2017. Similarly, from June 2018 to May 2019, import volumes of aluminum stranded wire, cables, plaited bands, and the like (including slings and similar derivative articles) increased by 152 percent, compared to June 2017 to May 2018, and increased by 52 percent, compared to June 2016 to May 2017. From January 2019 to November 2019, import volumes of such articles increased by 127 percent, compared to the same period in 2017. Finally, from June 2018 to May 2019, import volumes of bumper and body stampings of aluminum and steel for motor vehicles and tractors increased by 38 percent, compared to June 2017 to May 2018, and increased by 56 percent, compared to June 2016 to May 2017. From January 2019 to November 2019, import volumes of such articles increased by 37 percent, compared to the same period in 2017.

8. It is the Secretary’s assessment that foreign producers of these derivative articles have increased shipments of such articles to the United States to circumvent the duties on aluminum articles and steel articles imposed in Proclamation 9704 and Proclamation 9705, and that imports of these derivative articles threaten to undermine the actions taken to address the risk to the national security of the United States found in Proclamation 9704 and Proclamation 9705. As detailed in the Secretary’s reports, domestic production capacity to produce aluminum articles and steel articles for national defense and critical infrastructure is essential to United States national security. This domestic production capacity is used to provide the essential inputs of aluminum and steel used in derivative aluminum articles and derivative steel articles. The Secretary has assessed that reducing imports of the derivative articles described in Annex I and Annex II to this proclamation would reduce circumvention and facilitate the adjustment of imports that Proclamation 9704 and Proclamation 9705, as amended, made to increase domestic capacity utilization to address the threatened impairment of the national security of the United States.

9. Based on the Secretary's assessments, I have concluded that it is necessary and appropriate in light of our national security interests to adjust the tariffs imposed by previous proclamations to apply to the derivatives of aluminum articles and steel articles described in Annex I and Annex II to this proclamation. This action is necessary and appropriate to address circumvention that is undermining the effectiveness of the adjustment of imports made in Proclamation 9704 and Proclamation 9705, as amended, and to remove the threatened impairment of the national security of the United States found in those proclamations.

10. 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 of the United States.

11. 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, DONALD J. TRUMP, 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) In order to establish increases in the duty rate on imports of certain derivative articles, subchapter III of chapter 99 of the HTSUS is modified as provided in Annex I and Annex II to this proclamation. Except as otherwise provided in this proclamation, all imports of derivative aluminum articles specified in Annex I to this proclamation shall be subject to an additional 10 percent ad valorem rate of duty, and all imports of derivative steel articles specified in Annex II to this proclamation shall be subject to an additional 25 percent ad valorem rate of duty, with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 8, 2020. These rates of duty, which are in addition to any other duties, fees, exactions, and charges applicable to such imported derivative aluminum articles or steel articles, shall apply to imports of derivative aluminum articles described in Annex I to this proclamation from all countries except Argentina, the Commonwealth of Australia (Australia), Canada, and the United Mexican States (Mexico) and to imports of derivative steel articles described in Annex II to this proclamation from all countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea. The Secretary shall continue to monitor imports of the derivative articles described in Annex I and Annex II to this proclamation, and shall, from time to time, in consultation with the United States Trade Representative (USTR), review the status of such imports with respect to the national security of the United States. In the event of a surge of imports of any derivative article described in Annex I or Annex II to this proclamation from any excepted country, the Secretary, with the concurrence of the USTR, is authorized to extend application of the tariff imposed by this proclamation on imports of any derivative article experiencing such surge from such country, or to adopt appropriate quotas for imports of such derivative article from such country, or to negotiate a voluntary agreement with such country to ensure that imports of such derivative article from such country do not undermine the effectiveness of the adjustment of imports made in Proclamation 9704 and Proclamation 9705, as amended. The Secretary shall publish such action in the *Federal Register* and notification shall be provided to U.S. Customs and Border Protection (CBP) of the Department of Homeland Security.

(2) The Secretary, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the USTR, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and such other senior executive branch officials as the Secretary deems appropriate, is hereby authorized to provide relief from the additional duties set forth in clause 1 of this proclamation for any derivative article determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality and is also authorized to provide such relief based upon specific national security considerations. Such relief shall be provided for a derivative article only after a request for exclusion is made by a directly affected party located in the United States. If the Secretary determines that a particular derivative article should be excluded, the Secretary shall publicly post such determination and notify CBP concerning such article so that it will be excluded from the duties described in clause 1 of this proclamation. For merchandise entered for consumption, or withdrawn from warehouse for consumption, on or after the date the duty established under this proclamation is effective and with respect to which liquidation is not final, such relief shall be retroactive to the date the request for relief was accepted by the Department of Commerce.

(3) Any derivative article described in Annex I or Annex II to this proclamation, except those eligible for admission under “domestic status” as defined in 19 CFR 146.43, that is subject to the duty imposed by clause 1 of this proclamation and that is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern standard time on February 8, 2020, may only be admitted as “privileged foreign status” as defined in 19 CFR 146.41, and will be subject upon entry for consumption to any ad valorem rates of duty related to the classification under the applicable HTSUS subheading. Any derivative article that is described in Annex I or Annex II to this proclamation, except those eligible for admission under “domestic status” as defined in 19 CFR 146.43, that is subject to the duty imposed by clause 1 of this proclamation, and that was admitted into a U.S. foreign trade zone under “privileged foreign status” as defined in 19 CFR 146.41, prior to 12:01 a.m. eastern standard time on February 8, 2020, will likewise be subject upon entry for consumption to any ad valorem rates of duty related to the classification under the applicable HTSUS subheading added by this proclamation.

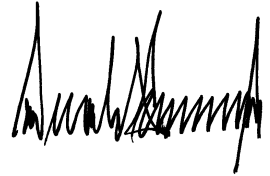
(4) Derivative articles shall not be subject upon entry for consumption to the duty established in clause 1 of this proclamation merely by reason of manufacture in a U.S. foreign trade zone. However, derivative articles admitted into a U.S. foreign trade zone in “privileged foreign status” pursuant to clause 3 of this proclamation shall retain that status consistent with 19 CFR 146.41(e).

(5) No drawback shall be available with respect to the duties imposed on any derivative article imposed by clause 1 of this proclamation.

(6) The Secretary, in consultation with CBP and other relevant executive departments and agencies, shall revise the HTSUS so that it conforms to the amendments and effective dates directed in this proclamation. The Secretary shall publish any such modification to the HTSUS in the *Federal Register*.

(7) 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-fourth day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

Annex I

Derivatives of Aluminum Articles

Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified as set forth below, with the material in the new tariff provisions inserted in the columns labeled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively. The modifications 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 February 8, 2020.

1. U.S. note 19(a) to subchapter III is modified in the first sentence by adding at the end thereof " or described in subdivision (a)(iii) of this note".
2. U.S. note 19(a)(i) to subchapter III is modified by deleting the word "Heading" and by inserting in lieu thereof "Except as provided elsewhere in this note, heading".
3. The following new subdivision (a)(iii) is inserted in numerical sequence in U.S. note 19 to subchapter III:

"(iii) Heading 9903.85.03 provides the ordinary customs duty treatment of the derivative aluminum products enumerated in this subdivision of all countries other than products of the United States and other than of countries expressly exempted therefrom pursuant to the article description of such heading. For any products covered by heading 9903.85.03 that are eligible for special tariff treatment under any of the free trade agreements or preference programs listed in general note 3(c)(i) to the tariff schedule, the duty provided in heading 9903.85.03 shall be collected in addition to any special rate of duty otherwise applicable under the appropriate tariff subheading, except where prohibited by law. Goods for which entry is claimed under a provision of chapter 98 and which are subject to the additional duties prescribed herein shall be eligible for and subject to the terms of such provision and applicable CBP

regulations, except that duties under subheading 9802.00.60 shall be assessed based upon the full value of the imported article. No claim for entry or for any duty exemption or reduction shall be allowed for the derivative aluminum products enumerated in this subdivision under a provision of chapter 99 that may set forth a lower rate of duty or provide duty-free treatment, taking into account information supplied by CBP, but any additional duty prescribed in any provision of this subchapter or subchapter IV of chapter 99 shall be imposed in addition to the duty in heading 9903.85.03. Heading 9903.85.03 shall apply only to the following derivative aluminum products:

- (A) stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and with steel core, not electrically insulated; the foregoing fitted with fittings or made up into articles (described in subheading 7614.10.50);
- (B) stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing comprising electrical conductors, not fitted with fittings or made up into articles (described in subheading 7614.90.20);
- (C) stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing not comprising electrical conductors, not fitted with fittings or made up into articles (described in subheading 7614.90.40);
- (D) stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum and not with steel core, not electrically insulated; the foregoing fitted with fittings or made up into articles (described in subheading 7614.90.50);
- (E) bumper stampings of aluminum, the foregoing comprising parts and accessories of the motor

vehicles of headings 8701 to 8705 (described in subheading 8708.10.30); and

(F) body stampings of aluminum, for tractors suitable for agricultural use (described in subheading 8708.29.21)."

4. Subdivision (c) of U.S. note 19 to subchapter III is modified:

a. by deleting "heading 9903.85.01" and by inserting in lieu thereof "headings 9903.85.01 and 9903.85.03"; and

b. by deleting "individual aluminum products otherwise covered by subdivision (b) of this note" and inserting in lieu thereof "individual derivative aluminum products or individual aluminum products otherwise covered by subdivision (a)(iii) or subdivision (b) of this note, respectively,".

5. Subdivision (d) of U.S. note 19 to subchapter III is modified by inserting after "inclusive," the following:
" or any importer of derivative aluminum products covered by this note under heading 9903.85.03,".

6. The article description of heading 9903.85.01 is modified by deleting "Products" and by inserting in lieu thereof "Except for products described in heading 9903.85.03, products".

7. The following new heading is inserted in such subchapter III in numerical sequence:

"9903.85.03	Derivative aluminum products enumerated in U.S. note 19(a)(iii) to this subchapter, except products of Argentina, of			
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	Australia, of Canada, of Mexico, or any exclusions that may be determined and announced by the Department of Commerce.....	The duty provided in the applicable subheading + 10%	The duty provided in the applicable subheading + 10%	The duty provided in the applicable subheading + 10%"
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Annex II

Derivatives of Steel Articles

Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified as set forth below, with the material in the new tariff provisions inserted in the columns labeled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively. The modifications 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 February 8, 2020.

1. U.S. note 16(a) to subchapter III is modified in the first sentence by adding at the end thereof " or described in subdivision (a)(ii) of this note".
2. U.S. note 16(a)(i) to subchapter III is modified by deleting the word "Heading" and by inserting in lieu thereof "Except as provided elsewhere in this note, heading":
3. The following new subdivision (a)(ii) is inserted in numerical sequence in U.S. note 16 to subchapter III:

"(ii) Heading 9903.80.03 provides the ordinary customs duty treatment of the derivative iron or steel products enumerated in this subdivision of all countries other than products of the United States and other than of countries expressly exempted therefrom pursuant to the article description of such heading. For any products covered by heading 9903.80.03 that are eligible for special tariff treatment under any of the free trade agreements or preference programs listed in general note 3(c)(i) to the tariff schedule, the duty provided in heading 9903.80.03 shall be collected in addition to any special rate of duty otherwise applicable under the appropriate tariff subheading, except where prohibited by law. Goods for which entry is claimed under a provision of chapter 98 and which are subject to the additional duties prescribed herein shall be eligible for and subject to the terms of such provision and applicable CBP

regulations, except that duties under subheading 9802.00.60 shall be assessed based upon the full value of the imported article. No claim for entry or for any duty exemption or reduction shall be allowed for the derivative iron or steel products enumerated in this subdivision under a provision of chapter 99 that may set forth a lower rate of duty or provide duty-free treatment, taking into account information supplied by CBP, but any additional duty prescribed in any provision of this subchapter or subchapter IV of chapter 99 shall be imposed in addition to the duty in heading 9903.80.03. Heading 9903.80.03 shall apply only to the following derivative iron or steel products:

- (A) nails, tacks (other than thumb tacks), drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material (excluding such articles with heads of copper), suitable for use in powder-actuated handtools, threaded (described in subheading 7317.00.30); and
- (B) nails, tacks (other than thumb tacks), drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material (excluding such articles with heads of copper), of one piece construction, whether or not made of round wire; the foregoing described in statistical reporting numbers 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5560, 7317.00.5580 or 7317.00.6560 only and not in other statistical reporting numbers of subheadings 7317.00.55 and 7317.00.65;
- (C) bumper stampings of steel, the foregoing comprising parts and accessories of the motor vehicles of headings 8701 to 8705 (described in subheading 8708.10.30); and
- (D) body stampings of steel, for tractors suitable for agricultural use (described in subheading 8708.29.21)."

4. Subdivision (c) of U.S. note 16 to subchapter III is modified:
 - a. by deleting "heading 9903.80.01" and by inserting in lieu thereof "headings 9903.80.01 and 9903.80.03,"; and
 - b. by deleting "individual iron or steel products otherwise covered by subdivision (b) of this note" and inserting in lieu thereof "individual derivative iron or steel products or individual iron or steel products otherwise covered by subdivision (a)(ii) or subdivision (b) of this note, respectively,".
5. Subdivision (d) of U.S. note 16 to subchapter III is modified by inserting after "inclusive," the following: " or any importer of derivative iron or steel products covered by this note under heading 9903.80.03,".
6. The article description of heading 9903.80.01 is modified by deleting "Products" and by inserting in lieu thereof "Except for derivative iron or steel products described in heading 9903.80.03, products".
7. The following new heading is inserted in such subchapter III in numerical sequence:

<p>"9903.80.03</p>	<p>Derivative iron or steel products enumerated in U.S. note 16(a)(ii) to this subchapter, except products of Argentina, of Australia, of Brazil, of Canada, of Mexico, of South Korea, or any exclusions that may be determined and announced by the Department of Commerce.....</p>	<p>The duty provided</p>	<p>The duty provided</p>	<p>The duty provided</p>
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		in the applicable subheading + 25%	in the applicable subheading + 25%	in the applicable subheading + 25%"
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