

Presidential Documents

Title 3—

The President

Proclamation 10106 of October 27, 2020

Adjusting Imports of Aluminum Into the United States

By the President of the United States of America

A Proclamation

1. On January 19, 2018, the Secretary of Commerce (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 under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised me of his opinion that aluminum 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.

2. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), I concurred in the Secretary's finding that aluminum 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, and decided to adjust the imports of aluminum articles, as defined in clause 1 of Proclamation 9704, by imposing a 10 percent ad valorem tariff on such articles imported from most countries. I further stated that any country with which we have a security relationship is welcome to discuss with the United States 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 I determine that imports from that country no longer threaten to impair the national security, I 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 9893 of May 19, 2019 (Adjusting Imports of Aluminum Into the United States), I noted that the United States had successfully concluded discussions with Canada on satisfactory alternative means to address the threatened impairment of the national security posed by aluminum imports from Canada. In particular, the United States agreed on a range of measures with Canada that were expected to allow imports of aluminum from Canada to remain stable at historical levels without meaningful increases, thus permitting the domestic capacity utilization to remain reasonably commensurate with the target level recommended in the Secretary's report. These included measures to monitor for and avoid import surges.

4. In light of this agreement, I determined that, under the framework in the agreement established with Canada, imports of aluminum from Canada would no longer threaten to impair the national security, and thus I decided to exclude Canada from the tariff proclaimed in Proclamation 9704, as amended. I noted that the United States would monitor the implementation and effectiveness of the measures agreed upon with Canada in addressing our national security needs, and that I may revisit this determination as appropriate.

5. In Proclamation 10060 of August 6, 2020 (Adjusting Imports of Aluminum Into the United States), I noted that imports of non-alloyed unwrought

aluminum from Canada had increased substantially following my decision to exclude, on a long-term basis, Canada from the tariff proclaimed in Proclamation 9704. I further noted that this surge in imports coincided with a decrease in imports of these articles from other countries and threatened to harm domestic aluminum production and capacity utilization. In light of these circumstances, I determined that it was necessary and appropriate to re-impose the 10 percent ad valorem tariff proclaimed in Proclamation 9704, as amended, on imports of non-alloyed unwrought aluminum articles from Canada.

6. The United States has held consultations with Canada regarding exports of non-alloyed unwrought aluminum from Canada to the United States. On the basis of these consultations, the United States expects that exports of these articles from Canada to the United States will decrease significantly in the remaining months of 2020, from a monthly average of approximately 154,000 metric tons in the first 7 months of this year to a monthly average of approximately 77,000 tons in September through December. This 50 percent decrease in the volume would reduce United States imports of non-alloyed unwrought aluminum from Canada to a level below the average of monthly imports of these articles from Canada in any calendar year in the past decade, thus alleviating the threatened harm to domestic aluminum production and capacity utilization posed by the previous surge in imports of these articles.

7. In light of these changed circumstances, and in view of the measures previously agreed upon with Canada to address the threatened impairment of the national security posed by aluminum imports from Canada, as described in Proclamation 9893, I have determined that imports of aluminum from Canada will no longer threaten to impair the national security, and thus I have decided to reinstate Canada's exclusion from the tariff on these articles proclaimed in Proclamation 9704, as amended. As specified in this proclamation, I may re-impose the tariff proclaimed in Proclamation 9704 on imports of non-alloyed unwrought aluminum from Canada in the event that the volume of imports of these articles from Canada in the remaining months of 2020 exceeds the quantities that the United States expects will be exported from Canada to the United States during this period. The United States and Canada expect to hold further consultations in December 2020 to discuss the state of aluminum trade between the two countries in light of trade patterns in the last 4 months of 2020 and expected market conditions in 2021.

8. The United States will continue to monitor the implementation and effectiveness of the measures agreed upon with Canada in addressing our national security needs, as described in Proclamation 9893, both with respect to imports of non-alloyed unwrought aluminum and imports of other aluminum articles.

9. 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.

10. 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) Clause 2 of Proclamation 9704, as amended, is further amended in the second sentence by deleting “and” before “(f)” and inserting before the period at the end: “, and (g) on or after 12:01 a.m. eastern daylight time on September 1, 2020, from all countries except Argentina, Australia, Canada, and Mexico.”.

(2) In order to establish the removal of the additional duty rate on imports of non-alloyed unwrought aluminum from Canada, subchapter III of chapter 99 of the HTSUS is modified as provided in the Annex to this proclamation.

(3) The Secretary, in consultation with the United States Trade Representative, shall continue to monitor imports of aluminum articles, in particular imports of non-alloyed unwrought aluminum from Canada. In the event that imports of non-alloyed unwrought aluminum from Canada exceed 105 percent of the volumes set forth below for any month, I will consider re-imposing the tariff proclaimed in Proclamation 9704 to imports of these articles from Canada, which may include retroactive application to articles entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 1, 2020. The volumes are: 83,000,000 kilograms for September 2020; 70,000,000 kilograms for October 2020; 83,000,000 kilograms for November 2020; and 70,000,000 kilograms for December 2020. In the event that imports of non-alloyed unwrought aluminum from Canada exceed 105 percent of the volumes above for any month, I may consider whether the volume stipulated for the following month is reduced by the amount of the excess in making my determination whether to re-impose the tariff. I may also consider re-imposing the tariff proclaimed in Proclamation 9704 to imports of these articles from Canada based on the outcome of consultations between the United States and Canada in December 2020 and expected market conditions in 2021.

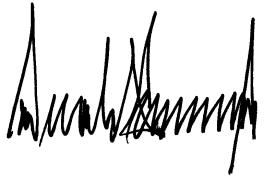
(4) The modifications made by clause 1 of this proclamation and the Annex to this proclamation shall be effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 1, 2020, and shall continue in effect, unless such actions are expressly reduced, modified, or terminated.

(5) Imports of non-alloyed unwrought aluminum articles from Canada provided for in subheading 7601.10, except any articles that are eligible for admission under “domestic status” as defined in 19 CFR 146.43, that are admitted into a United States foreign trade zone on or after 12:01 a.m. eastern daylight time on September 1, 2020, shall continue to be admitted only as “privileged foreign status” as defined in 19 CFR 146.41, and shall not be subject upon entry for consumption on or after such time and date to the duty treatment provided for in heading 9903.85.21, unless and until heading 9903.85.21 becomes applicable to these articles. Imports of non-alloyed unwrought aluminum articles from Canada provided for in subheading 7601.10, admitted into a United States foreign trade zone before 12:01 a.m. eastern daylight time on September 1, 2020, under “privileged foreign status” as defined in 19 CFR 146.41, shall remain subject upon entry for consumption on or after such time and date to the additional 10 percent ad valorem rate of duty imposed by Proclamation 9704, as amended.

(6) In the event that I decide, as described in clause 3 of this proclamation, to re-impose the tariff proclaimed in Proclamation 9704 to imports of non-alloyed unwrought aluminum from Canada, including possible retroactive application of the tariff, no drawback shall be available with respect to such duties imposed.

(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-seventh day of October, in the year of our Lord two thousand and twenty, and of the Independence of the United States of America the two hundred and forty-fifth.

A handwritten signature in black ink, appearing to be a stylized form of the name "Donald J. Trump".

Billing code 3295-F1-P

ANNEX

**TO MODIFY CERTAIN PROVISIONS OF CHAPTER 99 OF
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 1, 2020, and until such time as further modified, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by striking subdivision (iv) of U.S. note 19(a) and inserting in its place the following:

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- (iv) Heading 9903.85.21 provides the ordinary customs duty treatment for unwrought aluminum, non-alloyed, provided for in subheading 7601.10 that is the product of Canada, entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 16, 2020, through 12:00 a.m. on September 1, 2020, and during any subsequent period of effectiveness that may be provided under the terms of this note. Heading 9903.85.21 shall not be used for unwrought aluminum, non-alloyed, provided for in subheading 7601.10 that is the product of Canada, entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. on September 1, 2020, unless and until the President provides that heading 9903.85.21 will again be utilized for imports of these products, including for possible retroactive utilization. For any such products 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 9903.85.21, when applicable to imports of these products, 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 duty prescribed in heading 9903.85.21, when such additional duty is applicable, shall be eligible for and subject to the terms of such provisions 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 aluminum products enumerated in this paragraph 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 9903.85.21 when it is applicable.

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