

CSMS #18-000424

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Title: **UPDATE: Additional Duty on Imports of Steel and Aluminum Articles Under Section 232; FTZ**

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Related: [18-000372](#), [18-000352](#), [18-000317](#)

BACKGROUND:

On March 8, 2018, the President issued Proclamations 9704 and 9705 on Adjusting Imports of Steel and Aluminum into the United States, under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), providing for additional import duties for steel mill and aluminum articles, effective March 23, 2018. See the Federal Register, 83 FR 11619 and 83 FR 11625 (March 15, 2018). On March 22, 2018, the President issued Proclamations 9710 and 9711 on Adjusting Imports of Steel and Aluminum into the United States. See the Federal Register, 83 FR 13355 and 83 FR 13361 (March 28, 2018). On April 30, the President issued Proclamations 9740 and 9739 on Adjusting Imports of Steel and Aluminum into the United States. See the Federal Register, 83 FR 20683 and 83 FR 20677 (May 7, 2018). On May 31, 2018, the President issued Proclamations 9758 and 9759 on Adjusting Imports of Steel and Aluminum into the United States. See the Federal Register, 83 FR 25849 and 83 FR 25857 (June 5, 2018).

These duty requirements are effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on March 23, 2018.

GUIDANCE:

FOREIGN TRADE ZONES

The aforementioned Presidential Proclamations include provisions for the treatment of steel and aluminum articles admitted to a U.S. foreign trade zone (FTZ). The current provisions, as amended, are outlined in the following paragraphs.

Steel

Clause 5 of Proclamation 9711, as amended, is as follows:

Any steel article, except those eligible for admission under "domestic status" as defined in 19 CFR 146.43, which is subject to the duty imposed pursuant to Proclamation 9705, as amended, or to the quantitative limitations established by proclamation, that is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern daylight time on March 23, 2018, 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 or quantitative limitations related to the classification under the applicable HTSUS subheading. Any steel article, except those eligible for admission under "domestic status" as defined in 19 CFR 146.43, which is subject to the duty imposed pursuant to Proclamation 9705, as amended, or to the quantitative limitations established by proclamation, 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 daylight time on March 23, 2018, will likewise be subject upon entry for consumption to any ad valorem rates of duty or quantitative limitations related to the classification under applicable HTSUS subheadings imposed by Proclamation 9705, as amended by this proclamation.

Clause 5 of Proclamation 9740, as amended, is as follows:

Steel articles shall not be subject upon entry for consumption to the duty established in clause 2 of Proclamation 9705, as amended, or to the quantitative limitations established by proclamation, merely by reason of manufacture in a U.S. foreign trade zone. However, steel articles admitted to a U.S. foreign trade zone in "privileged foreign status" pursuant to clause 5 of Proclamation 9711, as amended, shall retain that status consistent with 19 CFR 146.41(e).

Aluminum

Clause 5 of Proclamation 9710, as amended, is as follows:

Any aluminum article, except those eligible for admission under "domestic status" as defined in 19 CFR 146.43, which is subject to the duty imposed pursuant to Proclamation 9704, as amended, or to the quantitative limitations established by proclamation, that is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern daylight time on March 23, 2018, 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 or quantitative limitations related to the classification under the applicable HTSUS subheading. Any aluminum article, except those eligible for admission under "domestic status" as defined in 19 CFR 146.43, which is subject to the duty imposed pursuant to Proclamation 9704, as amended, or to the quantitative limitations established by proclamation, 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 daylight time on March 23, 2018, will likewise be subject upon entry for consumption to any ad valorem rates of duty or quantitative limitations related to the classification under applicable HTSUS subheadings imposed by Proclamation 9704, as amended by this proclamation.

Clause 4 of Proclamation 9739, as amended, is as follows:

Aluminum articles shall not be subject upon entry for consumption to the duty established in clause 2 of Proclamation 9704, as amended, or to the quantitative limitations established by proclamation, merely by reason of manufacture in a U.S. foreign trade zone. However, aluminum articles admitted to a U.S. foreign trade zone in "privileged foreign status" pursuant to clause 5 of Proclamation 9710, as amended, shall retain that status consistent with 19 CFR 146.41(e).

Product Exclusions and FTZs

Imports which have been granted a product exclusion from the Section 232 measures, and which are not subject to the Section 232 duties or quotas, are not covered by the FTZ provisions of the Proclamations, but instead are subject to the FTZ provisions in 19 CFR part 146.

Products Entered Under the Provisions of Chapter 98, HTSUS

U.S. Note 19 to Subchapter III of Chapter 99, HTSUS, was amended to read, in pertinent part, "[h]eading 9903.85.01 provides the ordinary customs duty treatment of aluminum products of all countries other than products of the United States and other than of countries expressly exempt therefrom"

U.S. Note 16 to Subchapter III of Chapter 99, HTSUS, was amended to read, in pertinent part, "[h]eading 9903.80.01 provides the ordinary customs duty treatment of iron or steel products of all countries other than products of the United States and other than of countries expressly exempt therefrom"

The amended U.S. Notes 19 and 16 to Subchapter III of Chapter 99, HTSUS, clarify that "[g]oods 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 U.S. Customs and Border Protection ('CBP') regulations, except that duties under subheading 9802.00.60 shall be assessed based upon the full value of the imported article."

Accordingly, where a valid claim for Chapter 98 treatment is made for goods that would have otherwise been subject to Section 232 duties (i.e., classifiable in one of the named provisions in Ch. 72, 73 or 76 and a product of a country other than the United States or an exempt country), Section 232 duties are assessed in the same manner as regular customs duties. This means that goods eligible for Chapter 98 provisions that provide duty-free treatment are free of Section 232 duties. By contrast, where the Chapter 98 provision provides for the assessment of duties on a portion of the article, such as the value of the repair or other processing, Section 232 duties are to be assessed on that value. However, an exception occurs for subheading 9802.00.60, HTSUS. If covered goods are entered under this provision, Section 232 duties are to be assessed on the entire value of the articles.

Temporary Importations Under Bond ("TIB")

Generally, goods otherwise subject to 232 duties may enter the U.S. under a TIB. The TIB's bond amount must account for the additional Section 232 duties in the event of the bond's breach.

Goods subject to 232 quantitative limitations may enter the U.S. under a TIB. However, goods entered under a TIB shall be decremented against any applicable 232 quotas. See T.D. 54802(53) and T.D. 54802(54).

Certain Originating Goods

For originating goods which are products of the United States and which undergo processing in Canada or Mexico, the following rules apply:

If the processing performed in Canada or Mexico effects a substantial transformation so as to render the good a product of Canada or Mexico, the duties imposed by section 232 apply.

If, after the processing performed in Canada or Mexico, no substantial transformation occurs, the good remains a product of the United States, and is not subject to 232 duties.

NAFTA Duty Deferral Restrictions

Goods subject to NAFTA duty-deferral restrictions require a NAFTA consumption entry upon exportation to Mexico or Canada. Duties imposed by section 232 will apply when a consumption entry is required.

FOR FURTHER INFORMATION:

For more information, please refer to the Presidential Proclamations on Adjusting Imports of Steel and Aluminum into the United States, Federal Register, 83 FR 11619 and 83 FR 11625 (March 15, 2018); the March 22, 2018 Presidential Proclamations on Adjusting Imports of Steel and Aluminum into the United States. 83 FR 13355 and 83 FR 13361 (March 28, 2018); and the April 30, 2018 Proclamations on Adjusting Imports of Steel and Aluminum into the United States. 83 FR 20683 and 83 FR 20677 (May 7, 2018); and the May 31, 2018, Proclamations on Adjusting Imports of Steel and Aluminum into the United States, 83 FR 25849 and 83 FR 25857 (June 5, 2018). Also see Frequently Asked Questions at: <https://www.cbp.gov/trade/programs-administration/entry-summary/232-tariffs-aluminum-and-steel>.

Questions related to Section 232 entry filing requirements should be emailed to traderemedy@cbp.dhs.gov. Questions from the importing community concerning ACE rejections should be referred to their Client Representative.