

SSINA WHITE PAPER HIGH NICKEL STAINLESS GRADE CLASSIFICATIONS

There is an incentive under the Section 232 program for importers to evade the 25% tariffs or quota limitations (Brazil and South Korea have quotas) by classifying high-nickel stainless steel grades as nickel alloys in Chapter 75 of the Harmonized Tariff Schedule (HTS). Nickel-based and nickel-bearing alloys are not covered by the Section 232 tariffs and only have a general duty rate of 2.5% - 3.0% depending upon the product and finished condition.

Chapter 72 (Iron and Steel) of the HTS defines stainless steel as follows:

Note 1(e): “Alloy steel containing by weight 1.2% maximum carbon and 10.5% minimum chromium, with or without other elements.”

Further defined in the HTS is Section XV (Base Metals) Interpretive Note 5(a), which provides:

“An alloy of base metals is to be classified as an alloy of metal which predominates by weight over each of the other metals.”

Stated in more simple terms: if iron, versus nickel, is the predominant element and meets the Note 1(e) definition then the alloy is stainless steel and should be classified in Chapter 72 versus improperly classifying it in Chapter 75 as a nickel-based or nickel-bearing alloy.

The following chart lists the major stainless grades that SSINA believes U.S. importers may be improperly classifying as nickel-based or nickel-bearing alloys:

| TYPICAL CHEMICAL ANALYSIS (%) | | | | | | | | | | |
|-------------------------------|------|------|------|-------|-------|------|------|------|------|-------|
| GRADE | C | MN | Si | CR | NI | Mo | Ti | Al | Cu | FE |
| A-286 UNS S66286 | 0.04 | 0.20 | 0.20 | 14.50 | 25.00 | 1.25 | 2.10 | 0.15 | Res. | 56.00 |
| 904L UNS NO8904 | 0.01 | 1.00 | 0.30 | 21.00 | 25.00 | 4.50 | Res. | Res. | 1.50 | 46.50 |
| ALLOY 926 UNS NO8926 | 0.10 | 0.50 | 0.25 | 20.50 | 25.00 | 6.50 | 2.65 | Res. | 1.00 | 45.50 |
| 330 UNS NO8330 | 0.04 | 1.00 | 1.00 | 18.50 | 35.00 | Res. | Res. | Res. | Res. | 44.50 |
| ALLOY 800 UNS NO8800 | 0.08 | 0.50 | 0.50 | 21.00 | 33.00 | Res. | 0.50 | 0.50 | Res. | 44.00 |

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|------------------------------|-------------|-------------|-------------|--------------|--------------|-------------|-------------|-------------|-------------|--------------|
| 20 Cb3 UNS NO8020 | 0.04 | 1.00 | 0.30 | 20.00 | 33.50 | 2.25 | Res. | Res. | 3.50 | 39.00 |
| CRUTONITE | 0.20 | 0.30 | 0.30 | 15.50 | 30.50 | Res. | 2.65 | 1.75 | 2.20 | 46.50 |

Both domestic producers and importers market these grades as nickel alloy products, and -- with the exception of A-286 -- all have a UNS number indicating nickel alloy (N) versus stainless steel (S). While each grade in the above chart has a high nickel content, the predominant element in each is iron. For tariff classification purposes, each product is properly classified as a stainless steel under Chapter 72 of the HTS. Such products are subject to the Section 232 tariffs.

During the Customs and Border Protection (CBP) training seminars, which are sponsored and taught, in part, by SSINA representatives, the information in the chart is emphasized with the import specialists and customs brokers during the stainless steel and classification sections of the seminar. It is further emphasized that while the mill test certificates list the chemistry, iron is normally listed as “balance”, so customs brokers and import specialists must do the “math” to determine if iron is the predominant element (versus a high nickel element) to classify the material as stainless versus a nickel-based or nickel-bearing alloy.

SSINA continues to monitor imports of flat-rolled and long products in the above grades. The incentive to misclassify in these circumstances is great, and CBP is sensitive to the fact that evasion of section 232 tariffs is occurring with respect to other flat-rolled and long products.

Anyone knowingly purchasing material as nickel-based or nickel-bearing alloys that should be classified as stainless steel under Chapter 72 – and thus subject to the Section 232 tariff – could be implicated in any CBP fraud investigation.