

**Non-Confidential**



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Re: Application for Reconsideration of Safeguard Tariff-Rate Quotas for Nickel-Iron products

Dear Sir, Madam,

I am writing in my capacity as Director of AircraftMaterialsUK.com Ltd ('AMUK' / Company Reg: 4141886). I am contacting you in relation to the current trade remedies in place on certain steel products, mainly the 'safeguarding' tariff quotas as stated in *Trade Remedies Notice 2021 No.1 Safeguard Measure – Tariff-rate quota on steel goods* and *TF0006: Safeguard measures on certain steel products*.

The main reason for my applying for a reconsideration on the tariff-rate quotas will be outlined below in the section '*Background*'. I fully understand that I am past the 1-month deadline for consideration, given the effective date of the Notice of 1<sup>st</sup> July 2021 and would therefore like to make the case to have my application reviewed in the section headed '*Timeline*'. I will then go on to make our formal application in the sections '*The Applicant's Eligibility*', '*The Grounds of the Application*' and '*The Desired Outcome*'.

### Background

We are a family-owned and run business specialising in the import and export of high-tech, specialist and "difficult-to-find" metals and alloys ([www.aircraftmaterials.com](http://www.aircraftmaterials.com)). Established since 2001 we currently employ 11 staff, including the directors. In 2019 we were awarded Export Business of the Year in the Thames Valley Chamber of Commerce Business Awards, reaching the national final in this category. We do not process, fabricate or produce any of the metals; we simply buy them, stock them and resell them.

Our biggest customer, based in the EU, has been purchasing a particular family of nickel-iron alloys from us since 2005 and we have developed the business relationship to the extent that in 2020 their business accounted for a significant portion of our total revenue. We also supply these nickel-iron alloys to other customers, but of most significance is this customer. The main reference in this application to these alloys will be for this EU customer (due to the large volume of business) but has equal bearing on other customers who purchase the alloys.

The alloys in question are:

- (1) Nickel-Iron Alloy 42 (Tradenames: Nilo 42 / Invar 42)  
Chemistry = 42% Nickel, 58% Iron  
Industry Specification: ASTM F30
- (2) Nickel-Iron Alloy 36 (Tradenames: Nilo 36 / Invar 36)  
Chemistry = 36% Nickel, 64% Iron  
Industry Specification: ASTM F1684
- (3) Nickel-Iron-Cobalt Alloy K (Tradenames: Nilo K / Kovar)  
Chemistry = 17% Cobalt, 29% Nickel, 53% Iron  
Industry Specification: ASTM F15

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I cannot attach the full specifications due copyrighting, but I have added screenshots from the specifications to illustrate the chemical composition in Annexure 1.

Collectively these alloys are known as ‘Controlled Expansion Alloys’ or ‘Low Expansion Alloys’. They are used in high-tech electronics applications and glass-to-metal sealing. Their uses come from the fact that their Coefficient of Thermal Expansion (i.e. the extent to which the metal expands when it changes in temperatures) is very controlled; either very low or within a very specific narrow range. Colloquially, the industry refers to them as ‘nickel alloys’ due to their high nickel content.

We supply these in the form of hot rolled plates, of various thicknesses (1.6mm- 12.7mm) and sizes (all under 600mm width).

Currently, the material that we supply is produced by a mill in the USA, and we purchase it via a USA distributor who has the material produced on our behalf, cuts it and then ships it to us.

We perform no further processing to these plates and re-export them immediately. They are sometimes in our warehouse less than 24 hours.

On importing and exporting, we clear these products on two commodity codes depending on the thickness of plates; 7226919119 and 7226919900.

Despite the high nickel contents, these alloys fall under the description of ‘other alloy steel’. In order to be classified as nickel alloys, the nickel content must predominate all other elements in the alloy, which it does not in these cases.

Since 1<sup>st</sup> July 2021 these commodities have been subject to non-preferential tariff quota order number 058002, which was exhausted within 2 weeks of opening. This means that for our USA produced goods, we are liable for a 25% safeguarding duty against the combined cost of the metal and the freight when it arrives in the UK. One suggestion was that we hold our imports until the quota reopens. We win orders because we can move product around the world in a short space of time and it is simply not an option to tell our customers that they have to wait a couple of months because of the quota limits.

The issue is further confounded due to Brexit and the UK being considered a 3<sup>rd</sup> Country for exports to the EU. This means that the goods are no longer in free-circulation between the UK and EU and our customer is further liable for another 25% on top of our sale value for US-origin material.

### Timeline

We have been importing these particular alloys for many years now and have always been aware of both potential 3<sup>rd</sup> country duty and quota levels. But the true extent of Trade Remedies Notice 2021 No.1 and precisely how it would impact AMUK became apparent to us during discussions with an EU customer of ours on the 16<sup>th</sup> July 2021. Upon learning of these new, vastly reduced quota levels for US produced materials, I contacted our DIT trade advisor by email expressing our concerns. The main result of this was that our DIT trade advisor arranged a virtual meeting between himself, a trade remedies representative from the DIT and myself on the 4<sup>th</sup> August 2021. This was useful to a point, although as I had already emailed the main trade remedies enquiry address, it was felt that I was already asking in the right place.

I was then given various email address contacts at both the DIT and HMRC to raise these concerns and I followed up with further emails on 20<sup>th</sup> July 2021, 23<sup>rd</sup> July, 26<sup>th</sup> July and finally on 3<sup>rd</sup> August whereupon I was provided with the suggestions to proceed down this route that I am now on.

So, my main request for my application to be considered after the deadline is that, during the three-and-a-bit weeks since I started investigating this issue and the impact that it will have on our business, not one of the many Government email addresses or advisors provided me with the information that I could even lodge this application until 6<sup>th</sup> August. I was forwarded around lots of different teams/departments, but feel I would have been able to submit this document within the required one month had I been provided the information sooner.

### The Applicant's Eligibility

We are making this application as an 'importer' and as 'interested party'.

### The Grounds of the Application

The main ground for this application is two-fold:

- (1) In our opinion, the classification system, whilst admittedly very thorough, does not do enough to differentiate between specialist alloys that exist in the world.
- (2) These are such a specialist family of alloys for which there are no UK-based producers whatsoever, with very few manufacturers even worldwide.

I would now like to take the two points in turn, starting with the first.

Whilst I recognise that it would be practically impossible to create sub-divisions/headings to cover every eventuality, I feel that the impact that the current system has on companies who specialise in this field needs to be recognised.

We currently have to classify these products as 'alloy steel'. They do not fit the definition of 'nickel alloys' because nickel is not the predominant element. However, some nickel alloys, due to their complexity, can contain less than 40% nickel and still be considered nickel alloys because nickel predominates over every other element. And yet, these alloys with 30/36/42% nickel cannot be.

The definition of 'other alloy steel' is one that does not fit into the definition of a stainless steel (which these don't because they contain no Chromium) and must simply contain more than 0.3% of Nickel.

The Government's own guidance sheet for classifying iron and steel products ([Classifying iron and steel for import and export - GOV.UK \(www.gov.uk\)](http://www.gov.uk)) differentiates between 'low alloy steels' and 'high alloy steels':

***Low-alloy steels have up to 8% alloying elements. If the concentration is any higher, the goods are considered to constitute high-alloy steels. Alloying elements include:***

***carbon***

***manganese***

***chromium***

***titanium***

***nitrogen***

***cobalt***

***sulphur***

***boron***

***silicon***

***aluminium***

This list does not include nickel, but the prevailing statement simply states that alloying elements 'include' the following list, not that it is exhaustive.

So, the point is that these alloys, whilst simple in their composition are lumped together with any composition of steel which can be 99% iron with very few alloying elements.

On the LME, nickel currently trades at around \$18,000 per tonne. There is no specific price for iron, but the LME steel scrap price is \$460 per tonne and iron ore barely tops \$200 per tonne. So, in a single tonne of Alloy 42, more than 95% of its value will be made up by the nickel content, but it is classified along with \$500-per-tonne cheap and nasty steels.

The classification guidance recognises this in part, with a differentiation between low and high alloy steels, but there is no corresponding sub-division on the tariff classification list.



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My understanding of the reasoning for the safeguarding measures is to mitigate against the “increase in imports causing serious injury to UK producers”. The trade remedy notice specifically calls out the steel making plants in Port Talbot and North Lincolnshire. But surely this is mainly commercial steels, used in construction, automotive manufacturing, in huge volumes and, to be blunt, consisting of very cheap grades of alloy steel?

These products that we are importing, but fall under the same classification, are produced in much smaller quantities (perhaps 1000kg at a time) and carry a much higher value. Their intrinsic qualities set them apart from steels used to make buildings and cars. Yet they are included in import quotas designed to protect a completely different product and, in reality, probably contribute such a minute fraction of that quota as to be negligible.

There should be a better method of classifying specialist products so that they are not. As I mentioned before, these products being included in these tariff-rate quota is likely to have considerable impact on our ability to provide it to our best customer at competitive rates.

As already stated, revenue generated by selling these products accounts for a significant percentage of our overall turnover and will also account for a fairly hefty proportion of the corporation tax that we pay to the UK Government at the end of the year. Adding 25% to the product will force us to increase our price to our customers, which will then have the knock-on effect of costing them more, added to the fact they will also have to pay an additional 25% on an already higher value. In the uncertain and competitive world in which we currently find ourselves, this puts us at a huge risk of losing this business.

The Trade Remedy Notice goes as far as to explicitly state “Negative impact on importers, resulting from the application of tariff rate quotas on goods they import, which will likely reduce their ability to compete with United Kingdom producers. The evidence suggests that importers are a lot less economically significant than United Kingdom steel producers with a smaller GVA and turnover and employing relatively few people both overall and in any particular area.”

Yes, we are “less economically significant” than, say, Liberty Steel but we are well-run company who still employs real people, contributing tax and national insurance, who will also feel the impact of losing their jobs. We are fighting everything at the moment, Covid, Brexit and now quotas to keep our employees secure in their livelihoods.

This statement on the Trade Remedy Notice seems nothing more than taking well-run companies like ours, who are dynamic, adapt to changes, seek opportunities where others do not and throwing us to the wolves ‘for the greater good’.

These quotas will have a serious knock-on effect to small companies such as us which we do not believe should be ignored or simply treated as ‘collateral damage’.

On the second of my points, it may be argued “why don’t you just have the alloys produced in the United Kingdom, the whole point of what these measures are actually trying to achieve?”

There are two reasons.

First, we have worked very closely with US distributor for many years to provide a regular and steady supply of this alloy for our customer. The production process for the US distributor via the US mill producer is: (1) US mill producer demands a minimum production of a 10,000kg ‘heat’ which US distributor pays for (2) US mill producer produces the heat and rolls it into primary ‘slabs’ of about 1000kg each which they store on US distributor’s behalf (3) US distributor then places orders to US mill producer to hot roll a slab to a specific thickness as and when required (4) US distributor receives the hot-rolled plate, cuts it to size, and ships it to us.

This way US distributor takes all of the financial risk for the production and supply and we only order the product from them when we have a corresponding back-to-back order from our customer. This alloy, given it’s specialised, low-volume nature would cost us in the region of £300,000 - £400,000 to finance ourselves. Apart from the financials, us moving to a UK/EU supplier would almost certainly be the end of our business relationship with our primary US distributor- something that we are not particularly happy to do as we value our relationships with all our suppliers and would not be able to take a decision like that lightly. The “it’s not personal, it’s just business” is not a tenet to which we adhere.

Second, and perhaps the most relevant, is that the sum total number of options I have for UK production of these alloys is ZERO. The only mill that ever produced them was Special Metals Wiggin in Hereford and they now no longer do. So, there can be no justification for charging 25% duty on these alloys as a safeguard against UK producers, because there aren’t any.

There are some producers in the EU who we could purchase from, which would go some way to mitigating the quota issue. At the time of writing, we are looking at the possibility of working with a German producer, but this involves high production investment and long lead times (over 30 weeks) and is still subject to import quotas (albeit much higher).

The only other option we have is to purchase this material from another UK stockist, who does hold stock of these alloys. But whilst we consider this company a supplier, they are also perhaps our biggest competitor for these alloys. Placing enquiries with them and/or purchasing from them would only add risk that they discover the customer and steal the business. This particular customer in Italy is of such importance that the less risk we can assign to it the better.

Our US distributor knows who the customer is and has given us written protection for them. Which also poses another risk- if we tell the US distributor that we can no longer purchase US produced material and have to buy it from UK or EU sources, that agreement of protection will no longer apply (as we are no longer giving them the business) and they will be free to approach the customer directly, putting us at more risk of losing the business.

## The Desired Outcomes

There are a number of outcomes which we believe would treat these alloys fairly:

### (1) Re-classify.

The first, and best, outcome for us would be the ability to classify these nickel-iron alloys differently. Ideally, we would like to be able to classify them as nickel alloys (the commodity code for nickel alloy plate being 7506200090) rather than steels.

As previously stated, to be classified as a nickel alloy, nickel must be the predominant element. But we believe that there should be some allowance for alloys to be classified as nickel alloys if nickel is the predominant element by *value*, or *function* rather than straight weight.

Currently, there is no quota and no 3<sup>rd</sup> country duty on 7506200090 which obviously benefits us.

### (2) Differentiate.

An alternative would be to allow us to differentiate these particular alloys from the standard cheap commercial steels, by putting in a 'high alloy steel' classification. Given that the safeguarding quotas are designed to protect the lower end of the market for steels, I would expect the more specialised alloys to be exempt from quotas and duty, in line with the nickel alloy policy.

### (3) Exemption.

The final outcome would be a mechanism which allows us to claim back the 25% duty on the basis of my reasoning above. Given the fact that we perform no processing and the products are in the UK for barely a week, it seems very unfair that we should be hit a substantial duty bill when in reality what we are doing is creating wealth for the country by exporting. This is in no way a disguised attempt to avoid paying duty- we work diligently to ensure that our products are classified accurately and pay what we owe. It is about highlighting the imbalance that we experience due to the range of alloys that we deal in.

That brings my application to a conclusion. I have tried to convey the issue in as concise a manner as I can whilst clearly defining the gravitas of the situation and sincerely hope that you are able to give the matter the consideration that it needs.

I remain at your disposal for anything further that you may need from me and I look forward to your favourable assistance in this matter.

# Annexure 1:

## Alloy 42 / ASTM F30

 <b>F 30</b>					
<b>TABLE 1 Chemical Requirements</b>					
	Composition, %				
	42 Alloy UNS K94100	46 Alloy UNS K94600	48 Alloy UNS K94800	51 Alloy	52 Alloy UNS N14052
Nickel, <sup>A</sup> nominal	41	46	48	51.5	50.5
Manganese, max	0.80	0.80	0.80	0.60	0.60
Silicon, max	0.30	0.30	0.30	0.30	0.30
Carbon, max	0.05	0.05	0.05	0.05	0.05
Chromium, max	0.25	0.25	0.25	0.25	0.25
Cobalt, max	<sup>B</sup>	<sup>B</sup>	<sup>B</sup>	<sup>B</sup>	<sup>B</sup>
Phosphorus, max	0.025	0.025	0.025	0.0250	0.025
Sulfur, max	0.025	0.025	0.025	0.0250	0.025
Aluminum, max	0.10	0.10	0.10	0.100	0.10
Iron	remainder	remainder	remainder	remainder	remainder

<sup>A</sup> The nickel contents listed are nominal. The nickel contents of the alloys shall be adjusted by the manufacturer so that the alloys meet the requirements for thermal expansion. The 52 Alloy is specifically intended to match lead (Pb) sealing glasses.

<sup>B</sup> Cobalt is present as an incidental element and shall be reported separately.

10.1.1 Heat the specimen in a hydrogen atmosphere for 1 h at 900°C and then cool it from 900 to 200°C at a rate not exceeding 5°C/min.

10.1.2 The thermal expansion properties are determined in accordance with Test Method E 228.

10.2 The thermal expansion match between the alloy and a glass may be evaluated by testing the assembly in accordance with Practices F 14, F 140, or F 144.

### 11. Dimensions and Permissible Variations

11.1 *Cold-Rolled Strip*—Cold-rolled strip shall conform to the permissible variations in dimensions prescribed in Table 3, Table 4, and Table 5.

11.2 *Round Wire and Rod*—Wire and rod shall conform to the permissible variations in dimension prescribed in Table 6.

11.3 *Cold-Drawn Tubing*—Cold-drawn tubing, available either as seamless or welded, shall conform to the permissible

## Alloy 36 / ASTM F1684

 <b>F 1684 – 06</b>				
<b>TABLE 1 Chemical Requirements</b>				
<b>NOTE 1</b> —Round observed or calculated values to the nearest unit in the last right-hand place of figures used in expressing the limiting value, in accordance with the rounding-off method of Practice E 29.				
Element	UNS No. K93603	UNS No. K93050	UNS No. K93500	
Iron, nominal	remainder <sup>A</sup>	remainder <sup>A</sup>	remainder <sup>A</sup>	
Nickel, nominal	36 <sup>A</sup>	36 <sup>A</sup>	32 <sup>A</sup>	
Cobalt, max	0.50	0.50	5 <sup>A</sup>	
Manganese, max	0.60	1.00	0.60	
Silicon, max	0.40	0.35	0.25	
Carbon, max	0.05	0.15	0.05	
Aluminum, max	0.10 <sup>B</sup>	... <sup>C</sup>	0.10 <sup>B</sup>	
Magnesium, max	0.10 <sup>B</sup>	... <sup>C</sup>	0.10 <sup>B</sup>	
Zirconium, max	0.10 <sup>B</sup>	... <sup>C</sup>	0.10 <sup>B</sup>	
Titanium, max	0.10 <sup>B</sup>	... <sup>C</sup>	0.10 <sup>B</sup>	
Chromium, max	0.25	0.25	0.25	
Selenium	...	0.15 to 0.30	...	
Phosphorus, max	0.015 <sup>D</sup>	0.020	0.015 <sup>D</sup>	
Sulfur, max	0.015 <sup>D</sup>	0.020	0.015 <sup>D</sup>	

<sup>A</sup> For UNS No. K93603 and K93050, the iron, and nickel requirements are nominal, while for UNS No. K93500, the iron, nickel, and cobalt requirements are nominal. These levels may be adjusted by the manufacturer to meet the requirements for the coefficient of thermal expansion as specified in 12.1.

<sup>B</sup> The total of aluminum, magnesium, titanium, and zirconium shall not exceed 0.20 %.

<sup>C</sup> These elements are not measured for this alloy.

<sup>D</sup> The total of phosphorus and sulfur shall not exceed 0.025 %.

**TABLE 3 Tensile Strength Requirements for Wire and Rod**

**NOTE 1**—The tensile strength limits for Temper D apply only to material ½ in. diameter and under. Consult 6.5 for hardness limits which apply to larger rod sizes.

Temper Designation	Temper Name	Tensile Strength ksi (MPa)		
		UNS No. K93603	UNS No. K93050	UNS No. K93500
A	Annealed	85 max (586 max)	85 max (586 max)	85 max (586 max)
B	Cold worked	86 min (593 min)	86 min (593 min)	86 min (593 min)
D	Unannealed	...	111 max (765 max)	...

radius Brinell Hardness shall be 235 maximum. Consult Test Method E 10 for Brinell Hardness test procedures.

6.6 *Plate*—Plate will be supplied in annealed temper. The properties for UNS K93603 and UNS K93500 will be as shown in Table 4.

6.7 For rod forms, air anneal, followed by centerless grinding to remove scale, is an acceptable alternate.

### 7. Grain Size

**TABLE 1 Chemical Requirements**

Element	Composition, %
Iron, nominal	53 <sup>A</sup>
Nickel, nominal	29 <sup>A</sup>
Cobalt, nominal	17 <sup>A</sup>
Manganese, max	0.50
Silicon, max	0.20
Carbon, max	0.04
Aluminum, max	0.10 <sup>B</sup>
Magnesium, max	0.10 <sup>B</sup>
Zirconium, max	0.10 <sup>B</sup>
Titanium, max	0.10 <sup>B</sup>
Copper, max	0.20
Chromium, max	0.20
Molybdenum, max	0.20

<sup>A</sup> The iron, nickel, and cobalt requirements listed are nominal. They shall be adjusted by the manufacturer so that the alloy meets the requirements for coefficient of thermal expansion given in Table 4.

<sup>B</sup> The total of aluminum, magnesium, zirconium, and titanium shall not exceed 0.20 %.

9.1.1 Tensile strength shall be the basis for acceptance or rejection for the tempers given in Table 2 and shall conform with the requirements prescribed.

9.1.2 Tension test specimens shall be taken so the longitudinal axis is parallel to the direction of rolling and the test shall be performed in accordance with Test Methods E 8.

*9.2 Wire and Rod:*

9.2.1 Tensile strength shall be the basis for acceptance or rejection for the tempers given in Table 3 and shall conform to the requirements prescribed.

9.2.2 The test shall be performed in accordance with Test Method E 8.

## 10. Surface Finish

10.1 The standard surface finishes available shall be those resulting from the following operations:

## **Non-Confidential application redactions**

The following list of redactions/rewording/amendments have been made to the non-confidential application:

- (1) Background, paragraph 1. Removal of our turnover figure. We do not feel that is necessary to be made public and makes no difference to the point being made to be known publicly.
- (2) Background, paragraph 2. Change of customer location and revenue amount. We feel that this information would assist competitors in narrowing down who our customer is, and the revenue amount would further incentivise them to pursue the business for themselves.
- (3) Background, paragraph 6. Simplifying the description of supply forms. We do not want to provide too much detail of the supply form as this would again give valuable information to our competitors.
- (4) Background, paragraph 7. Removal of the US mill producer and our primary US distributor. This provides more details about the trade that would benefit a competitor.
- (5) Timeline, paragraph 5. Removal of the email trail reference in the main document and from the annexure. These are simply here to provide a case for the consideration of our case after the deadline. The emails themselves have also been removed from the annexure as they also contain sensitive information which would benefit a competitor.
- (6) The Grounds of the Application, paragraph 15. Removal of customer location and revenue amount (as per redaction 2).
- (7) The Grounds of the Application, paragraph 15. Removal of sensitive company financial data and impacts.
- (8) The Grounds of the Application, paragraph 22. Removing the names of our US distributor and mill producer and referring to them instead as 'US distributor' and 'US mill producer'.
- (9) The Grounds of the Application, paragraph 23. Removing the names of our US distributor and referring to them instead as 'US distributor'.
- (10) The Grounds of the Application, paragraph 26. Removing reference to customer's location.
- (11) The Grounds of the Application, paragraph 27. Removing the names of our US distributor and referring to them instead as 'US distributor' and reference to customer's location.