MASTER CUSTOMS SPECIALIST (MCS) COURSE

Part 5: Admissibility Requirements |

Module 21: Quota Processing

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INTRODUCTION

Import quotas are quantity controls that regulate the amount of a commodity that can be imported into the U.S. during a specific time period.

Quotas are established by legislation, Presidential proclamation, and Executive Order. Some quotas are provided for in the Harmonized Tariff Schedule of the United States.

There are two types of quotas administered by CBP – absolute quota and tariff-rate quota. Tariff preference levels (TPLs) set in many free trade agreements and special trade legislation are administered like tariff-rate quotas and are listed as a third tariff on some pages on CBP.gov.

Lesson 1: Absolute Quota

Absolute quotas (AQ) strictly limit the quantity of a product that is permitted to be entered or withdrawn from warehouse for consumption during a specific time period. Product can also be withdrawn from a foreign trade zone (FTZ). Because an FTZ is considered foreign soil, this method may not be specified separately on CBP.gov pages.

Once the limit is reached, no further entries or withdrawals for consumption are permitted until the next quota period opens. Once the quota fills, an importer must warehouse, export, destroy or abandon excess merchandise. If the quota fills at the time of opening, the entries submitted are prorated and importers will receive only a portion of the amount submitted.

Absolute quotas have played a major role in U.S. trade history, particularly regarding textiles. As of January 1, 2005, absolute quota/visa processing of textiles was eliminated.

Under Section 232 of the Trade Expansion Act of 1962, the President issued a Presidential Proclamation establishing absolute quota for steel mill articles from Argentina, Brazil and South Korea.

When a quota is established, a Quota Bulletin (QB) is issued. A QB will include critical information including, but not limited to:

- The impacted subheadings of the HTSUS
- Quota period
- Quantity limitations and how they are calculated
- Reporting instructions
- Countries covered, if applicable
- Special instructions specific to the QB or product

Example: QB 19-008: 2019 Absolute Quota for Steel Mill Articles – First Quarter Limits
Quota Bulletins can contain legalese that makes reading them a bit of a challenge. The first portion of the QB matches the original QB. Let's look at paragraph 2 of this bulletin as an example:

> *Subheadings 9903.80.05 through 9903.80.58, inclusive, set forth the ordinary customs duty treatment for the steel mill articles of any country enumerated in the superior text to such subheadings, subject to the annual aggregate quantitative limitations proclaimed for these subheadings. Beginning on July 1, 2018, imports from any such country in an aggregate quantity under any such subheading during any of the periods January through March, April through June, July through September, or October through December in any year that is in excess of 500,000 kg and 30 percent of the total aggregate quantity provided for a calendar year for such country, as set forth on the Internet site of U.S. Customs and Border Protection (CBP), shall not be allowed.*

Let's break this down:

Subheadings 9903.80.05 through 9903.80.58, inclusive, set forth the ordinary customs duty treatment for the steel mill articles of any country enumerated in the superior text to such subheadings...

This language provides the HTSUS codes to review which shows the duty rates and any impacted country. Chapter 99 Additional U.S. Note (AUSN) 16 provides additional information covering these subheadings as well.

Heading/ Subheading	Stat. Suf-fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
		Except as provided in subheadings 9903.80.60 and 9903.80.61, iron or steel products of Argentina, of Brazil, or of South Korea enumerated in U.S. note 16(b) to this subchapter, if entered in aggregate quantities prescribed in subdivision (e) of such note for any calendar year starting on January 1, 2018 and for any portion thereof as prescribed in such subdivision (e):				
9903.80.05	1/	Hot-rolled sheet, provided for in subheading 7208.10.60, 7208.26.00, 7208.27.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7225.30.70 or 7225.40.70..	1/	Free		

The subheading description in the HTSUS states the impacted countries – Argentina, Brazil and South Korea. It also provides direction as to the AUSN that will be helpful. The HTS description states the specific impacted product and where you would classify that within the HTSUS.

...subject to the annual aggregate quantitative limitations proclaimed for these subheadings...

This is saying that there is a total (aggregate) amount (quantitative) limit that was proclaimed (in the Presidential proclamation) for the products in that subheading. That maximum annual amount cannot be exceeded.

Beginning on July 1, 2018, imports from any such country in an aggregate quantity under any such subheading during any of the periods January through March, April through June, July through September, or October through December in any year...

The absolute quota began on July 1, 2018 and has quarterly limits. So, there will be a defined limit for:

- 1st Quarter: January – March
- 2nd Quarter: April – June
- 3rd Quarter: July – September
- 4th Quarter: October – December

...that is in excess of 500,000 kg and 30 percent of the total aggregate quantity provided for a calendar year for such country, as set forth on the Internet site of U.S. Customs and Border Protection (CBP), shall not be allowed.

The quarterly limit for this absolute quota is 500,000 kgs and 30 percent of the annual total limit for that country. This can be a bit confusing, but the statement "as set forth on the Internet site of U.S. Customs and Border Protection (CBP)" lets you know that there will be specific guidance and support available on CBP's website. We'll look at that later in this module.

Once the quarterly limit is reached, no more product will be allowed until the next quarter.

At the end of the QB, the specific limits are provided. For each subheading, the annual limit and first quarter limits are listed by country.

Below, you will see the limits for 9903.80.05, which we looked at previously. Each country has its own limits. These are the relevant numbers to watch.

COUNTRIES COVERED:

Argentina, Brazil and South Korea

2019 Absolute Quota First Quarter

QUOTA ID	Quantitative Limitations per Country						
	Article Description	Argentina Annual Limit (kg)	1st Quarter Limit (kg)	Brazil Annual Limit (kg)	1st Quarter Limit (kg)	South Korea Annual Limit (kg)	1st Quarter Limit (kg)
9903.80.05	Hot-rolled sheet, provided for in subheading 7208.10.60, 7208.26.00, 7208.27.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7225.30.70 or 7225.40.70...	6,475,837.00	1,942,751.10	108,453,546.00	32,536,063.80	404,694,045.00	121,408,213.50

The QB also references CBP's website. To assist all entities importing quota products, CBP provides a weekly update on the status of all quota limits. The below information is excerpted from 2nd Qtr 2019. Brazil's limit filled 6/21/19 while Korea and Argentina had two products close to filling on 6/27/19. Others were open.

Quota/License Commodity Description	Quota/License Country Name	Quota Peri	Quota Region/Country Maximum Quanti	Quota/License Allocated Quantity	Quota Region/Cou ntry Percent Filled	Quota Region/Cou ntry Status Code	Quota Region/Country Status Date
Hot-rolled sheet	ARGENTINA	201902	1942751.1	1615038	83.13%	OPEN	
Hot-rolled sheet	KOREA, REPUBLIC OF	201902	121408213.5	86736540	71.44%	OPEN	
HOT-ROLLED STRIP	KOREA, REPUBLIC OF	201902	249173	2640	1.06%	OPEN	
HOT-ROLLED PLATE	ARGENTINA	201902	1035168.3	827669	79.96%	OPEN	
HOT-ROLLED PLATE	KOREA, REPUBLIC OF	201902	37604076	33340896	88.66%	POTF	
HOT-ROLLED SHEET	BRAZIL	201902	500000	500000	100.00%	FILL	06/21/2019 11:45: AM
HOT-ROLLED SHEET	KOREA, REPUBLIC OF	201902	500000	18244	3.65%	OPEN	
HOT-ROLLED STRIP	KOREA, REPUBLIC OF	201902	13346		0.00%	OPEN	
HOT-ROLLED PLATE	KOREA, REPUBLIC OF	201902	11972		0.00%	OPEN	

For hot-rolled sheet from Brazil, importers would be required to make a business decision as to how and where the freight will be held until entry can be submitted on July 1st or if the importer wants to destroy or export the product. This will often depend n the total costs incurred and long-term business plans for the product.

Lesson 2: Tariff Rate Quota

Tariff rate quotas (TRQs) permit a specified quantity of merchandise to be entered or withdrawn from warehouse for consumption at a reduced duty rate during a specified time period. Quantities imported in excess of the quota or outside of a quota period can be entered in unlimited amounts during the quota period but are subject to higher rates of duty.

Once CBP determines the date and time a quota is filled, field officers are authorized to make the required duty rate adjustments on the portion of the merchandise not entitled to quota preference.

An importer may elect not to pay the higher duty rate. If the importer has not taken possession of the goods, there are a number of options available:

- Enter the goods into an FTZ or bonded warehouse until the opening of the next quota period
- Export the goods
- Destroy the goods under CBP supervision.

While the CBP administers these quotas, they have no authority to change or modify quotas. This responsibility lies with Partner Government Agencies (PGAs).

Agencies, such as the Department of Agriculture, National Marine Fisheries Service, International Trade Commission, or the Department of Commerce determine and fix quota limits, in conjunction with the Office of the United States Trade Representative.

Some products subject to TRQs require licensing to import at the lower rate.

Consider dairy imports. The USDA uses import licensing to administer the TRQ system. For dairy products subject to TRQs, a license from the Foreign Agriculture Service (FAS) is required to import items at the low-tier tariff rate. Individuals must apply annually for a license between Sept. 1 and Oct. 15. The license is good for a specified amount of a specific product for one year.

There are three types of licenses – historical, nonhistorical (lottery) and designated. If you do not meet the requirements for one of these three licenses, you can still import the subject products. You just would not be eligible for duty free or reduced duty treatment under the TRQ and would pay the higher Column 1 duty rate.

- Historical – Entities who hold a license in the current year and meet the requirements of 7 CFR 6.23 for their specific product can request an historical license for next year.
- Nonhistorical (lottery) – 7 CFR 6.23 also specifies the requirements to be eligible for a nonhistorial license issued via lottery.
- Designated - May be issued to a person who has applied for the license, met the requirements and is designated by the government of a country for such a license.

The Department of Agriculture (DoA) regulation 7 CFR 6.33(a) authorizes a fee to be charged for each license issued to defray DoA's costs of administering the licensing system.

Each year, DoA calculates the annual fee and notifies the trade community through a Federal Register Notice (FRN) as required in 7 CFR 6.33(a). For 2019's annual fee, the FRN provided the following information:

- The total cost to the Department of Agriculture of administering the licensing system for 2019 has been estimated to be $749,300.00 and the estimated number of licenses expected to be issued is 2,500. Of the total cost, $479,200.00 represents staff and supervisory costs directly related to administering the licensing system, and $270,100.00 represents other miscellaneous costs, including travel, postage, publications, forms, and Automatic Data Processing (ADP) system support.
- Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 2019 calendar year, in accordance with 7 CFR 6.33, will be $300 per license.

Lesson 3: Tariff Preference Levels

Many free trade agreements and other special trade legislation establish **Tariff Preference Levels (TPLs)** for certain textile and apparel products. Because of their similarities, CBP administers TPL restraints like tariff-rate quotas. Just as with a TRQ, the commodity can be imported in unlimited quantities. If the current level of imports are under the agreed upon limit, the entry will be eligible for a lower duty rate. Once the limit is reached, the “higher duty” which is the column 1 duty rate applies. If a product is determined to be not eligible for TPL benefits, the Column 1 rate will apply.

Trade negotiations can involve creative approaches to supporting foreign economies. For example, Dominican Republic–Central America Free Trade Agreement(CAFTA-DR) and Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II) both contain an Earned Import Allowance Program.

- The Committee for the Implementation of Textile Agreements (CITA) administers these programs which can be found in the HTS under 9822.06.05 (Dominican Republic) and 9820.62.25 (Haiti).
- When the Dominican Republic (DR) or Haiti use U.S. fabric made from U.S. yarn to produce apparel that is then imported into the U.S., they receive a credit. This credit is accumulated in a web-based licensing program.
- For each 2 square meters of U.S. fabric used by the DR, the country can produce apparel from 1 square meter of foreign fabric and still receive duty-free treatment.
- Haiti has a 3 square meters of U.S. fabric to 1 square meter of foreign fabric ratio.

Lesson 4: eCert

For many types of commodities, an endorsement by a foreign government or its representative is required to signify that the shipments are authorized for export to the United States.

This endorsement is often in the form of an export certificate, certificate of eligibility, or license. The endorsement describes the type and quantity of merchandise, certifies the country of origin and authorizes the shipment to be charged against any applicable quota. The merchandise covered could be textiles/apparel related to a Tariff Preference Level (TPL) or agricultural commodities such as beef or dairy products.

Endorsements may be transferred in the government-to-government Electronic Certification System called eCERT.

Lesson 4: Entry Requirements

Business Hours

Because of the nature of quotas and the impact of quotas filling, CBP has specific hours of operation and ways of handling the presentation of quota entries.

1. CBP only accepts/processes quota entries Monday through Friday from 8:30 a.m. to 4:30 p.m. in all time zones (excluding holidays). This schedule is referred to as the "quota hours of operation"
2. If a quota period officially opens on a holiday or weekend, the quota would open on the next business day.
3. Quota entries may be presented outside of these hours (such as electronically or at a port office) but would not be considered presented until 8:30 am. For example, if a quota entry is transmitted at 5:30 pm CST, it will not be considered presented until 8:30 am CST.

The quota entry submission process is designed for fairness to all importers. Errors in an entry can cause significant problems.

Quota Query

The ACE Quota Query provides the status of the allocated quota at the time the query was made. It does not include unprocessed quota or quota pending allocation. If you need guidance on the status of quotas close to filling, port personnel can provide you details not available in the quota query.

Entry Types

Quota entries should be filed with an entry type 02 for HTS numbers subject to quota until the quota is filled.

Once the quota has filled, closed or is no longer available, entries should be filed with an entry type 01 or other appropriate non-quota entry type at the higher duty rate.

CBP will not process non-quota entry or entry summaries as quota. If a filer submits an entry type 02 when quota is no longer available, it will receive system messages notifying them of quota processing status. The exact messages received will depend on entry type, HTS and quota fill status. The filer will then need to correct and re-submit the entry.

Filing Certified from Summary

Trade filers must file quota entries for cargo release (3461) as Certified from Summary. CBP will process the 3461 entry for CBP and PGA requirements. It will process the entry summary (7501) for quota requirements.

If the entry or entry summary is rejected, the specific form (3461 or 7501) will be refiled separately. Rejected entry summaries do not need to be filed as "certified from summary".

Warehouse withdrawals for entry types 32 and 38 should not be Certified from Summary, since there is no cargo entry involved.

While a brokerage system would likely handle this effort behind the scenes, understanding the way the quota entries move through the system can be helpful as they are unique.

With the advent of ACE and supportive programming, CBP does not require paper documents in support of quota entries.

Remote location filing is available for quota and visa entries.

If your entry involves visas, eCert endorsements and other licenses, permits or certificates (LPCs), this information must be included in the entry data at submission.

Presentation Date
ACE will calculate the all-important "quota presentation date" based on electronic timestamps. The latest of these three timestamps will be the entry's presentation date for any priority or allocation that might occur.

1. Submission of the entry in ACE or the physical clock stamp of an entry filed manually via paper outside of ACE.
2. Arrival of the vessel for cargo entry. This is not used for quota warehouse withdrawals.
3. Payment timestamp or timestamp when a future payment date is scheduled via statement. Note this is not based on when the statement will be paid but when it was scheduled for payment.

Each filer must develop procedures for entry submission with this information in mind.

Consider this scenario:

- Filer A: Submits entry and entry summary on April 1st but does not schedule the entry for statement. On April 3rd, the filer assigns (or schedules) the entry to a statement. It will actually pay later.
- Filer B: Submits entry and entry summary on April 2nd and also assigns the entry to a statement.

Based on the ACE calculation method above, Filer B will have priority over Filer A.

Quota Allocation

ACE generally allocates quota daily based on the presentation date and timestamps. A presentation date/time of April 2nd at 2 pm CST will have priority over a April 2nd at 3 pm CST.

ACE also handles USDA licenses. Allocations of USDA licenses happen more frequently.

Once quota has been allocated, filers will receive a system message informing them of the final allocation.

CBP has the ability to manually allocate quotas, when needed. For example, protests, corrections and adjustments, systems issues, and various special cases may occur. Manual allocation is not the preferred method.

Opening Moment Quotas

When quotas are expected to fill the moment they open, special rules apply. Quota entries with presentation dates between 12 midnight (local) and 12 noon (Eastern) on the quota opening date will receive a presentation time of 12 noon (Eastern). This ensures all filers that submitted prior to quota opening in their time zone receive the same quota priority.

Quota processing can be held so CBP Headquarters personnel can review the quota lines prior to issuing proration via ACE. CBP allows for a pre-allocation review of 72 hours after the opening moment to redress concerns prior to finalizing allocation.

When quota is ready for processing, ACE will reject the entry summary and notify the filer of the prorated amount they received. For example, the original entry may have shown 1000 kgs, but the filer received approval for 900 kgs based on proration. The filer has options at that point:

- Adjust the entry to show the prorated amount and resubmit the entry;
- Take other action such as leave the product in a warehouse, do an allotment transfer, etc.

Post-Summary Corrections (PSC) and Cancelations

For entries and entry summaries filed in ACE with quota, the electronic PSC procedures should be used. PSCs do not need to be Certified from Summary.

A word of caution: A PSC is considered a new quota submission. The filer should carefully monitor quota status if a PSC is involved, especially if that quota is filled at the time of PSC. In that case, even though the quota has to be backed out to accept the PSC, there is no available quota for the entry. It does not matter that quota was allocated to the original entry. The quota will remain closed.

If you find yourself in this situation, CBP Headquarters or port personnel should be contacted for guidance.

Common Errors

Errors can occur on entries. Normally, they are easily remedied. However, errors on quota entries present unique risks. Below are common errors identified by CBP on quota entries. A review checklist of these items could help manage these risks, including PSCs.

- Incorrect entry type
- Incorrect classification
- Incorrect value
- Incorrect country of origin/export
- Incorrect quantity or reporting unit of measure
- Incorrectly constructed manufacturer's identification number (MID).
- Missing, invalid or incomplete Information on an export certificate, visa, license, or other required documentation.
- Early submission of the entry summary (prior to the merchandise arrival in the U.S.)