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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

ADDITIONAL MISCELLANEOUS TRADE AND TARIFF LEGISLATION

JULY 7, 1998

Printed for the use of the Committee on Ways and Means by its staff

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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE CONTACT: (202) 225–6649
December 22, 1997
No. TR–19

Crane Announces Request for Written Comments on Additional Miscellaneous Trade and Tariff Legislation

Congressman Philip M. Crane (R–IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written public comments for the record from all parties interested in additional technical corrections to recent trade legislation and miscellaneous trade and tariff proposals.

BACKGROUND:

During the 105th Congress, a number of technical amendments have been proposed to facilitate the implementation of major trade legislation passed during the 103rd and 104th Congresses, including the North American Free Trade Agreements Implementation Act (P.L. 103–182), the Uruguay Round Agreements Act (P.L. 103–465), and the Miscellaneous Trade and Technical Corrections Act of 1996 (P.L. 104–295).

On June 30, 1997, Chairman Crane requested written public comments from parties interested in technical corrections to U.S. trade laws, and legislation introduced by Members to provide temporary suspensions of duty for specific products (TR–10). The request for comments included all such bills introduced by Members to that date during the 105th Congress.

In response to Chairman Crane's request, the Subcommittee prepared a draft bill, including those provisions which were non-controversial and revenue neutral based on the public comments, Administration review, and estimates by the Congressional Budget Office. The provisions also reflected technical comments by the U.S. International Trade Commission and revisions proposed by the Administration. On October 7, 1997, Chairman Crane introduced H.R. 2622, the "Miscellaneous Trade and Technical Corrections Act of 1997." The Committee reported H.R. 2622 to the House on October 31, 1997 (H. Rept. 105–367).

Chairman Crane is requesting submission of written comments on additional proposals to amend U.S. trade law and on legislation introduced to provide temporary suspensions of duty or other duty changes for specific products. This request for written comments includes all such bills introduced by Members after June 30, 1997, and before the end of the First Session of the 105th Congress.

PROPOSED MISCELLANEOUS TRADE PROVISIONS, DUTY-SUSPENSION, DUTY-REDUCTION, AND DUTY-FREE ENTRY BILLS:

1. H.R. 2148 would amend subchapter II of chapter 99 of the Harmonized Tariff Schedule (HTS) by inserting a new heading for viscose rayon yarn, untwisted or with a twist not exceeding 120 turns/m (provided for in subheading 5403.31.00), except for medium-tenacity rayon filament yarn (2.8 to 4.1 grains per denier) manufactured solely for the purpose of carbonizing, and to provide a reduced duty of 7.5 percent through December 31, 1998.

2. H.R. 2151 would amend the notes to chapters 61 and 62 of the HTS by adding at the end of each a new note to cover costumes and pieces or component thereof; and, amend note 1(e) of chapter 95 of the HTS by inserting a provision for costumes, and pieces or components thereof.

3. H.R. 2236 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irganox 1520 (CAS No. 110553–27–0) (provided for in subheading 2930.90.29) as duty free through December 31, 1999.

4. H.R. 2237 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irganox 1425 (CAS No. 65140–9–2) (provided for in subheading 2931.00.30) as duty free through December 31, 1999.

5. H.R. 2238 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irganox 565 (CAS No. 991–84–4) (provided for in subheading 2933.69.60) as duty free through December 31, 1999.

6. H.R. 2239 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irganox 1520LR (provided for in subheading 3812.30.60) as duty free through December 31, 1999.

7. H.R. 2240 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacure 184 (CAS No. 947–19–3) (provided for in subheading 2914.40.40) as duty free through December 31, 1999.

8. H.R. 2241 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Darocure 1173 (CAS No. 7473–98–5) (provided for in subheading 2914.40.40) as duty free through December 31, 1999.

9. H.R. 2242 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacure 819 (CAS No. 162881–26–7) (provided for in subheading 2931.00.30) as duty free through December 31, 1999.

10. H.R. 2243 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacure 369 (CAS No. 119313–12–1) (provided for in subheading 2934.90.39) as duty free through December 31, 1999.

11. H.R. 2244 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacure 1700 (provided for in subheading 3815.90.50) as duty free through December 31, 1999.

12. H.R. 2245 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacor 252LD (CAS No. 95154–01–1) (provided for in subheading 2934.20.40) as duty free through December 31, 1999.

13. H.R. 2246 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Irgacor 1405 (CAS No. 171054–89–0) (provided for in subheading 2934.90.39) as duty free through December 31, 1999.

14. H.R. 2268 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for 2-amino-4-(4-aminobenzoylamino)-benzenesulfonic acid sodium salt (CAS No. 167614–37–1) (provided for in subheading 2930.90.29) as duty free through December 31, 2000.

15. H.R. 2269 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for 2,3-xylenesulfonamide, 5-amino-N-(2-hydroxyethyl) (CAS No. 25797–78–8) (provided for in subheading 2935.00.95) as duty free through December 31, 2000.

16. H.R. 2270 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for 3-amino-2′-(sulfato-ethylsulfonyl) ethyl benzamide (CAS No. 121315–20–6) (provided for in subheading 2930.90.29) as duty free through December 31, 2000.

17. H.R. 2271 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for 5-Nitro-2-thiazolamine (CAS No. 121–66–4) (provided for in subheading 2934.10.10) as duty free through December 31, 2000.

18. H.R. 2287 would apply rates of duty effective after December 31, 1994, to certain water-resistant wool trousers (provided in subheadings 6203.41.05 or 6204.61.10) that were entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1995.

19. H.R. 2322 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for the organo-phosphorus compound ACM (CAS No. 167004–78–6) (provided for in subheading 2931.00.90.30) as duty free through December 31, 1999.

20. H.R. 2324 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for the synthetic organic coloring matter C.I. Pigment Yellow 109 (CAS No. 106276–79–3) (provided for in subheading 3204.17.04) as duty free through December 31, 1999.

21. H.R. 2325 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for the synthetic organic coloring matter C.I. Pigment Yellow 110 (CAS No. 106276–80–6) (provided for in subheading 3204.17.04) as duty free through December 31, 1999.

22. H.R. 2326 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for the organic chemical para-chlorobenzonitrile (CAS No. 623–03–0) (provided for in subheading 2926.90.14) as duty free through December 31, 1999.

23. H.R. 2334 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for ferroboron (provided for in subheading 7202.99.50) as duty free through December 31, 2000.

24. H.R. 2336 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for woven fabric, suitable for making industrial and automotive power transmission and timing belts, containing 75 percent or more, by weight, of filaments of polyamides or aromatic polyamides, scoured and heat set and of any weight and having warp or fill stretch properties greater than 75 percent at break (provided for in subheading 5407.41.00) to provide most-favored-nation (MFN) duty rate of 6.7 percent ad valorem through December 31, 2000.

25. H.R. 2339 would amend the tariff classification of nuclear fuel assemblies by adding a new note to chapter 84 of the HTS to stipulate that subheading 8401.30.00 applies only to fuel rods which are collected into bundles to form fuel assemblies. In addition, the bill would amend the classification of enriched uranium compound shipped abroad and converted into sintered, enriched uranium dioxide pellets and then inserted into zirconium alloy tubing sealed by the means of plugs, which are welded into either end. The provision would be retroactive to January 15, 1996, for eligible goods classified under HTS subheadings 2844.20.00 and 8109.90.00, pursuant to Additional U.S. Note 3 to chapter 84 as added by the bill.

26. H.R. 2498 would amend the HTS to extend to certain fine jewelry certain trade benefits of insular possessions of the United States under the Production Incentive Certificate program.

27. H.R. 2520 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for halofenozide (CAS. No. 112226–61–6) (provided for in subheading 2928.00.25) as duty free through December 31, 2000.

28. H.R. 2521 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for anion exchange resins based on copolymers of phenol/formaldehyde in primary form (provided for in subheading 3914.00.60) as duty free through December 31, 2000.

29. H.R. 2576 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for β-Bromo-β-nitrostyrene (CAS No. 7166–19–0) (provided for in subheading 2904.90.47) as duty free through December 31, 2000.

30. H.R. 2583 would amend section 304 of the Tariff Act of 1930 to provide an exemption to the country-of-origin marking requirements for golf club components that are imported for processing into finished golf clubs in the United States; and golf clubs that are produced in the United States.

31. H.R. 2686 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for beta hydroxyalkylamide (CAS No. 6334–25–4) (provided for in subheading 3824.90.90) as duty free through December 31, 2000.

32. H.R. 2770 would amend the Tariff Act of 1930 by inserting a new section 484b to provide that large yachts which would otherwise be dutiable, may be imported without the payment of duty if imported with the intention of offer for sale at a boat show in the United States. Payment of duty would be deferred until such a large yacht is sold.

33. H.R. 2771 would amend Additional U.S. Note 5 to chapter 17 of the HTS relating to the definition of raw value for purposes of the raw sugar import tariff-rate quota.

34. H.R. 2857 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for 2,6-Dimethyl-m-Dioxan-4-ol Acetate (CAS No. 000828–00–2) (provided for in subheading 2932.99.90) as duty free through December 31, 2000.

35. H.R. 2899 would amend chapter 87 of the HTS by inserting a new subheading with the article description for subheading 8714.97.00 for bicycle wheel assemblies consisting of rim, carbon-fiber spokes, and hub flange assembled in one piece, or the above plus a rear freewheel/free hub, to provide an MFN duty rate of 1.5 percent ad valorem.

36. H.R. 3083 would amend subchapter II of chapter 99 of the HTS by inserting a new heading for Grilamid TR90 (CAS. No. 163800–66–6) provided for in subheading 3908.90.70) as duty free through December 31, 1999.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Any person or organization wishing to submit a written statement for the printed record should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label, by the close of business, Monday, January 26, 1998, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS or WordPerfect 5.1 format. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments

by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS__MEANS/'.

H.R. 2148

To suspend temporarily the duty on certain other single viscose rayon yarn.

HICKORY THROWING COMPANY, INC.
HICKORY, NC 28602
January 20, 1998

Mr. A. L. Singleton
Chief of Staff
Committee on Ways & Means
1102 Longworth house Office Building
Washington, DC 20515

Dear Mr. Singleton,

Currently H.R. 2148 is in the Ways & Means Committee process during which you are receiving written public comment. The letter is written to state our official opposition to the passage of this proposed legislation. Specifically, we are opposed to those sections, or any future proposals which would reduce or eliminate the import duties or tariffs that pertain to the importation of continuous filament rayon yarn from any country except those supported by the North American Free Trade Agreement (NAFTA). In addition to the proposed H. R. 2148, we have been informed that similar legislation (H.R. 2622) has been passed from Committee and will be coming to the House of Representatives for a vote. We wish to also go on record as being opposed to this proposed legislation as it pertains to those aspects of rayon yarn duty reductions or elimination. In particular included in H.R. 2148 and buried within the text of H.R. 2622 (Sec.221, Sec.241) is legislation which would undermine the preferences given to our Mexican (NAFTA) partners/ producers in three categories of viscose rayon yarn. If passed, these bills would eliminate the 10% U.S. import duty now charged on "non-NAFTA" produced rayon yarn. We ask that you record our official opposition to those rayon yarn import duty reductions being proposed in H.R. 2148 (and H.R. 2622). Instead we ask that our Representatives support the significant business development which NAFTA has brought to our textile industry. Our particular reasons are as follows.

Since 1990, we have been making substantial investments in both capital equipment and personnel in anticipation of the favorable impacts that NAFTA would bring to our yarn business. In the past six months, we have added over $1,100,000 in projected equipment expenditures and about $1,700,000 to construct a new manufacturing facility in Hickory, NC. Combined with the investments of a related business partner, we will be creating a major new production facility (nearly $4,000,000) *and* creating over 20 new jobs as a direct result of the NAFTA supported business. These projects are well documented as viable projects as the financing is being structured through our local government's Industrial Revenue Bond (IRB) program.

After all the careful planning and work to develop these investments in our company and community, it is devastating to learn that legislation could be passed to undermine the progress that our textile industry has made in recent years. With the U.S. Dollar presently as strong as it is, the European and Asian yarn producers effectively have at least a 25% lower cost on their products sold in the U.S. If you were to grant them a further reduction of 10% by eliminating the import duty, it will be nearly impossible for us to compete. Viscose filament rayon yarn is currently flooding in to the U.S. from Europe. However, we can not export to those European and Asian countries due to their protective tariffs and the current currency situation. Likewise, with the failing Asian economies, we can anticipate significant textile product "dumping" in the U.S. And we wonder what can be done about the U.S. foreign trade imbalance. The answer is obvious, *vote against* this bill.

If our Legislators fail to support our NAFTA commitments, and instead, finance the profit margins of those European/Asian markets which are effectively "closed" to the U.S. textile companies, then much of our gain in recent years will be lost. We ask for your careful review of this situation, and we ask you to support our textile industry and NAFTA partner countries in this matter.

Sincerely,

MICHAEL R. COBB
Director of Planning & Development

HIGHLAND INDUSTRIES, INC.
GREENSBORO, NC 27408
January 20, 1998

Mr. A. L. Singleton
Chief of Staff
Committee on Ways & Means
1102 Longworth House Building
United States House of Representatives
Washington, D.C. 20515

Re: House Resolutions H.R. 2148 & H.R. 2622

Dear Mr. Singleton:

We are writing in opposition to all of the above proposed legislation and any additional legislation that would seek to suspend or eliminate the duty on continuous filament rayon yarn.

Highland Industries produces a fabric from this yarn that is a vital component in the production of Defense Launch Vehicles. Highland is the sole approved weaver of this product. Our only current operating supplier is Rayon Yarn Corporation of Spartanburg, S. C., a subsidiary of CYDSA Corporation, Monterrey, Mexico. There is no supplier of continuous rayon that conforms to the present U. S. Military specifications.

The specialized yarn that we purchase from Rayon Yarn Corporation and their parent company, CYDSA, is only a small part of their total product mix. We have been informed that if any of the above referenced proposals are passed, Rayon Yarn Corporation and CYDSA will be forced to cease production of all rayon products, and this will leave the United States without a qualified production source for our critical product.

The foreign suppliers are currently enjoying a 25 to 30% price advantage over our NAFTA supplier due to the devaluation of the European currencies against the dollar. Giving an additional 10% advantage will force Rayon Yarn Corporation and CYDSA into an impossible market situation and they will be forced to cease production of all products. This will leave Highland and the United States without an ongoing supplier of a material critical to the defense of this country.

Sincerely,

RANDY LIPPARD
Director of Marketing

HOECHST CORPORATION
WASHINGTON, DC 20005
January 19, 1998

Mr. A.L. Singleton
Chief of Staff
Committee of the Ways & Means
1102 Longworth House Office Building
United States House of Representatives
Washington, DC 20515

Dear Mr. Singleton:

This correspondence is in response to the Ways and Means Committee's request for comment on various miscellaneous tariff bills. The Hoechst Corporation is strongly opposed to any legislative effort to suspend, reduce or eliminate tariffs on rayon filament yarns. This objection is designed to cover H.R. 2148, which is included on your most recent list of bills for comment, as well as the two rayon provisions that were included in the initial draft of H.R. 2622.

We base our objection on the fact that rayon filament yarn is a direct substitute for acetate filament and high tenacity polyester yarn, which are produced in the US by two of our divisions—Celanese Acetate and Trevira. We have found this to be true in several valuable export markets for our products. In Korea, Chinese rayon filament is currently displacing our exports of acetate, which is used in woven fabrics, circular knits and velvets. The Chinese certainly recognize that substitution of

rayon for acetate is possible in that they have an 18% import duty on acetate. This duty is specifically designed to protect their domestic production of rayon, since there is no acetate production in China. High tenacity rayon filament is also a substitute for high tenacity polyester filament which has several industrial uses such as tire cord and is a major competitor for our products in Europe.

Producers of acetate yarns, as well as manufacturers of fabrics that use these yarns, are already under enormous pressure from the sheer volume of imports of finished apparel containing fabrics made from rayon or acetate yarns. Acetate in the form of linings for garments has been particularly hard hit by these imports. Unfortunately, the market for rayon filament, acetate filament and high tenacity polyester yarns in the United States is stagnant. An increase in imports of rayon filament would occur at the expense of US producers of acetate and high tenacity polyester filament yarns. Moreover, it is inappropriate to grant a unilateral reduction or suspension to these important tariffs at a time when our domestic acetate and polyester industries are under pressure and our major trading partners continue to maintain high duties on our products.

Ultimately, the effect of suspending or reducing rayon tariffs could negatively impact US workers. Celanese Acetate currently is the world's largest producer of acetate, employing 2500 people in the United States. Its primary production facilities are in Rock Hill, South Carolina and Narrows, Virginia. Trevira produces high tenacity polyester filament in Salisbury, North Carolina employing 1600 workers.

For all these reasons, the Hoechst Corporation maintains its strong opposition to any legislation that either suspends, eliminates or reduces US tariffs on imports of rayon yarn. As a result we oppose H.R. 2148 and we request the House Ways and Means committee to strike all existing provisions in H.R. 2622 associated with rayon duties. We further request that the committee oppose any effort to move as an individual bill, legislation that eliminates, suspends or reduces duties on rayon yarns.

Thank you for your consideration of our concern in this area.

Sincerely,

H. NEWTON WILLIAMS
Vice President, Government Relations

HNW/clm

98NW31.DC2

Comments of ICF Industries, Inc. of New York, New York

in Support of H.R. 2148 (Proposed Duty Suspension Affecting Certain Viscose Rayon Yarn)

January 26, 1998

Chairman Archer and Members of the Committee:

ICF Industries, Inc. ("ICF") is a U.S. merchant distributor of filament yarn products headquartered at 111 West 40th Street, New York, New York 10018. This statement is submitted on behalf of ICF, its officers and employees. ICF very much appreciates the opportunity to comment in detail on H.R. 2148, a bill to reduce for one year the existing duty on two types of viscose rayon yarn (also known as "rayon filament yarn") described at HTS #5403.31.00.[1] This product is used in a wide range of textile applications. H.R. 2148 is vital to the interests of several important U.S. industries and many U.S. companies, and is directly related to legislation already approved by the Ways and Means Committee on October 8, 1997 and incorporated into H.R. 2622, the Trade and Technical Corrections Act of 1997.[2]

With the exception of a specialized category of yarn manufactured for "carbonizing" (by North American Corporation of Tennessee), rayon filament yarn is no longer manufactured in the United States. ICF endorses the exception to the pro-

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[1] H.R. 2148 provides duty relief through December 31, 1998; if approved, relief should extend to December 31, 1999.

[2] Section 221 of H.R. 2622 provides a two-year duty suspension for high tenacity single yarn of viscose rayon (for industrial end uses), as described at HTS #5403.10.30 and proposed in H.R. 1954; Section 241 of H.R. 2622 provides a three-year duty suspension for other single yarn of viscose rayon with a twist exceeding 120 turns/m (for textile end uses), as described at HTS #5403.32.00 and proposed in H.R. 1888.

posed duty reduction for carbonizable yarn provided in H.R. 2148, as set forth below.

This statement also notes a printing error in H.R. 2148 and provides the correct form.

THE PRODUCT

Rayon filament yarn is an artificial fiber extruded by what is known as the viscose process in which cellulose is liquefied via dilution in a caustic alkali solution, heated with carbon disulfide and then forced through tiny spinneret holes into a bath where it coagulates to form extremely fine jets of rayon filament yarn. The product has a wide variety of end uses ranging from delicate, silk-like fabrics made for apparel out of fine denier textile yarn; to lining, velvet and other more durable textile fabrics for apparel; to embroidery, monogramming tive stitching threads; to drapery, upholstery and other fabrics for home furnishings.

THE PROPOSED LEGISLATION

H.R. 2148 was introduced on July 10, 1997 by Representatives Floyd Spence (R–SC) and Norman Sisisky (D–VA), and affects two types of textile yarn as follows:

• HTS #5403.31.00 (Textile Yarn): Other yarn; single: of viscose rayon, untwisted or with a twist not exceeding 120 turns per meter;

monofilament; multifilament, untwisted or with twist of less than 5 turns per meter (#5403.31.00.20)

multifilament, with twist of 5 turns or more per meter (#5403.31.00.40)

The general duty rate applicable to these yarns is ten percent. The current duty rate for imports from Mexico is six percent.[3] The duty rate for imports from Canada is one percent. Imports from Israel are exempt from duty. H.R. 2148 would reduce the general duty to 7.5 percent for one year.

ABSENCE OF GENERAL DOMESTIC PRODUCTION

According to data compiled by the Textile Organon, a respected industry publication, 658 million pounds of rayon filament yarn were produced in the United States during the year 1953. Thereafter, a combination of environmental and economic constraints forced producers in this country to reduce capacity or to shut down altogether. By 1965 U.S. production had been reduced to 434 million pounds. By 1975 U.S. production had dropped to 65 million pounds. By 1984, production in the United States was down to 41 million pounds.

By the late 1980's there was only one remaining producer of rayon filament yarn in the United States. This company was the North American Rayon Corporation ("North American") of Elizabethton, Tennessee. In 1996 North American sold only 9.5 million pounds of rayon filament yarn and was being crushed by the massive financial burden of attempted compliance with the stringent federal and state environmental regulations applicable to the environmentally "dirty" rayon filament yarn extrusion process. In late 1996, North American decided to follow the lead of all other U.S. producers and er part of its rayon filament yarn manufacturing activities.

North American's termination of all but its carbonizable rayon filament yarn production means that there is no longer any producer in the United States of the type of rayon filament yarn that ICF distributes. Further, the high costs which would be associated with the construction in the United States of a new rayon filament yarn manufacturing facility that could meet this country's stringent environmental standards, coupled with the historically low margins for textile and apparel inputs, assure that domestic users of rayon filament yarn will not be able to obtain these yarns from U.S. producers during coming years.

EXCEPTION PROPOSED FOR CARBONIZABLE YARN

North American Rayon Corporation's successor company, North American Corporation, now produces only a small category of rayon filament yarn that is manufactured for a specialized process known as carbonizing. ICF endorses an exception to the proposed duty reduction that would allow any imported carbonizable yarn to remain subject to the existing ten percent duty. The following language in H.R. 2148 sets forth this exception with respect to products that fall within HTS #5403.31.00:

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[3] On October 21, 1997, the U.S. Trade Representative requested public comment on a list of articles produced in Mexico that the three NAFTA governments (Mexico, Canada and the U.S.) have agreed to consider for accelerating tariff elimination. Included in the list of articles produced in Mexico are those classified under HTS #5403.31.00 (62 F.R. 5467).

except for medium tenacity rayon filament yarn (2.8 to 4.1 grams per denier) manufactured solely for the purpose of carbonizing.[4]

THE U.S. MARKET FOR RAYON FILAMENT YARN

U.S. consumption of rayon filament yarn for textile and industrial end uses during the year 1995 amounted to approximately 29,380,000 pounds. North American supplied approximately 12,900,000 of these pounds, representing approximately 44 percent of combined U.S. demand. In dollars, North American's sales accounted for approximately $40 million, or 44 percent, of the combined $91.5 million 1995 United States market. U.S. consumption of rayon filament yarn for textile and industrial end uses during the year 1996 amounted to approximately 22,500,000 pounds. North American supplied approximately 9,500,000 of these pounds, representing apercent of combined U.S. demand. In dollars, North American's sales accounted for approximately $32 million, or 44.5 percent, of the combined $72 million 1996 United States market.

THE CONSUMERS

The consumers of rayon filament yarn for textile end uses fall into three general categories: weavers, knitters and processors. ICF customers who consume textile rayon filament yarn include the following companies:

WEAVERS
Bally Ribbon Mills, Inc.
Bloomsburg Mills, Inc.
Carthage Fabrics Corp.
CMI Industries Inc.
Doran Textiles, Inc.
Fabric Resources Ltd.
Hoffman Mills Inc.
Frank Ix & Sons, Inc.
JPS Converter & Industrial Corp.
Keystone Weaving Mills, Inc.
J.B. Martin Company, Inc.
McGinley Mills, Inc.
Meder Textile Company, Inc.
C.M. Offray & Sons, Inc.
Lawrence Schiff Silk Mills
Schneider Mills, Inc.
Stonecutter Mills Corporation
Trimtex Company Inc.
Wear Best Sil-Tex Mills
A. Wimpfheimer & Brothers, Inc.

KNITTERS
Allied Fabrics Inc.
Andrex Industries
H.H. Fessler Knitting Co., Inc.
Ge-Ray Fabrics
Guilford Mills
Hope Industries
I.G. Textile Mills Inc.
Johnson & Johnson (Ethicon Co. Inc. Division)
Jomac Inc.
Kentex Industries Inc.
Kronfli Spundale Mills Inc.
Liberty Fabrics
Lida Stretch Fabrics Inc.
Metritek Corporation
Mohawk Fabric Co., Inc.
Native Textiles
Richland Mills
Shara-Tex Inc.
Universal Connection Corp.

PROCESSORS
Barbour Threads
Clifton Yarn Mills
Danville Chenille Co., Inc.
Decorative Aides Inc.
Excel Elastic Corp.
Huntingdon Yarn Mills
Ideal Braid Corporation
Kent Manufacturing Co.
Lending Textile Co., Inc.
London Yarn Co.
Moki Yarns, Div. of Lacy Lace Co.
Novita Yarns (Division of St. John Knits)
Robison-Anton Textile Co.
Twistex Yarns Inc.
William Wright Co.

THE STATE OF THE INDUSTRY

Although unemployment in the U.S. declined in 1997 from 5.3 percent to 4.7 percent, conditions in the apparel and textile industries were far less favorable. According to the U.S. Department of Labor, the year 1997 witnessed the loss of 57,000 jobs in the U.S. apparel and textile industries.

The portions of these industries dependent upon the consumption of domestically produced fabrics and processed yarns containing filament rayon were no exception. On the contrary, the U.S. weaving, knitting and yarn processing industries have been hit hard by intense competition from overseas suppliers of fabrics and stitching threads containing rayon filament yarn, and by the importation of low priced apparel and home furnishings. Selling prices are down. Employment is down. Looms, knitting machines and twisting and other processing machines are standing idle.

For instance, according to industry sources, domestic weavers once controlled approximately 95 percent of the U.S. market for woven goods containing filament rayon. Today, domestic weavers control only approximately 25–30 percent of this do-

[4] H.R. 2148 as printed contains the wording, "grains" per denier. The correct term is "grams," which should be used in subsequent versions of this legislation.

mestic market, and they do so only by selling at very low prices. Industry sources also indicate that the converters who arrange for the dying and finishing of textile greige goods are now prone to look to U.S. weavers only for initial orders requiring innovation or for quick response, and that volume business is being given to overseas suppliers in China, Korea, India, Indonesia, Pakistan and Turkey whose quality generally does not match that of the U.S. weavers, but whose manufacturing costs and prices are considerably lower.

This has reduced U.S. employment at some weavers. Similarly, the rece priced velvet fabrics from Korea and elsewhere has caused the domestic weavers' share of the market for rayon velvet fabrics to decline over the last few years from approximately 70 percent of the market to less than 50 percent. Employment has declined and this decline has been attributable to the high price of rayon filament yarn.

Similarly, U.S. manufacturers of embroidery and other decorative yarns and threads have maintained market share in the face of intense Korean and other foreign competition only by slashing prices. Despite dramatic investment in new equipment to ensure that quality and productivity remain at the highest levels, average selling prices per unit today are significantly lower than they were some ten years ago.

INDUSTRY SUPPORTS THE PROPOSED DUTY SUSPENSION

Based on the initial industry reaction to proposals for duty suspensions for rayon filament yarn that were received by the Ways and Means Committee last year, ICF believes that there is significant support for H.R. 2148. The Committee opened a 45-day period for public comment on June 30, 1997 on a group of miscellaneous duty suspension bills affecting rayon filament yarn that included H.R. 1742, H.R. 1888 and H.R. 1954. During that time, the Committee received 50 comments in support of H.R. 1742 and one or more of the other bills, all of which comments were also applicable to tariff relief for imports of the rayon filament yarn described at HTS #5403.31.00. In addition to 47 supportive comments from weavers, knitters and processors of rayon filament yarn, comments in support were received from the American Textile Manufacturers Association, the National Knitwear and Sportswear Association, and the Textile Distributors Association. The names of the companies and associations supporting such tariff relief are listed in the attached Table 1 and, under separate cover, we are providing you with copies of their comments for review and use by the Committee.

OPPOSITION TO THE LEGISLATION

In 1997, the Commerce Department completed a changed circumstances antidumping duty administrative review and subsequently revoked the antidumping order on high-tenacity rayon filament yarn from Germany. According to the Federal Register notice dated May 30, 1997 (62 F.R. 29329), the Commerce Department's determination was based on the fact that North American, which had been the petitioner in the original underlying investigation, "states that it has no further interest in the order." The Commerce Department finding further stated: We are now revoking the order based on the fact that the order is no longer of interest to domestic interested parties.

There were no submissions to the Commerce Department, and thus no opposition from the public, in response to the notice of preliminary determination to revoke the antidumping order, which had included an opportunity for public comment.

Although there was no opposition to the revocation of the antidumping order, and although there was overwhelming support for the House tariff suspension legislation (H.R. 1742, H.R. 1888 and H.R. 1954), one company, Hoechst Corporation (hereinafter "Hoechst Celanese"), did state its opposition to the House legislation within the prior official comment period. In addition, Eastman Chemical Company also expressed opposition in a November 17, 1997 letter to the Committee. Celanese Acetate, a member of the Hoechst Group, and Eastman manufacture acetate, a cellulosic product which comprises over 90 percent of the overall cellulosic product market, and sells at a significantly lower price than the rayon filament yarn now being imported into the U.S. by ICF.

ICF has learned that current comments opposing H.R. 2148 have been sent to the Committee by Hoechst Celanese and by two other entities: Rayon Yarn Corporation of Spartanburg, South Carolina and Hickory Throwing Company of Hickory, North Carolina. In the balance of this statement, ICF provides evidence demonstrating that rayon does not compete with acetate and hence that Hoechst Celanese's opposition is not justified by the facts. With respect to Rayon Yarn Corporation and Hickory Throwing Company, ICF urges the Committee to give no weight to their opposition. Rayon Yarn Corporation is a distribution and warehousing subsidiary of

Cydsa, a Mexican manufacturer of rayon filament yarn. Cydsa does not manufacture any rayon filament yarn in the United States, and Rayon Yarn Corporation simply imports Mexican yarn for sale in the United States. Cydsa's opposition to H.R. 2148 is therefore apparently motivated solely by the self-interested desire to maintain the current duty advantage afforded to Mexican yarn, to the economic disadvantage of dozens of American consumers of non-Mexican yarn. Hickory Throwing Company is a commission processor of yarn. The address of Hickory Throwing's facility aacent to the warehousing facility of Rayon Yarn Corporation, which raises the question of whether there is a business affiliation or relationship between these two commenters such that Hickory Throwing may also be characterized as seeking to protect the current tariff advantage of rayon filament yarn produced in Mexico.

RAYON DOES NOT COMPETE WITH ACETATE

ICF believes and strongly asserts that acetate will not be competitively threatened by a tariff reduction on rayon filament yarn. On the contrary, rayon and acetate are two very different products.

On the basis of quantity alone, US. acetate capacity is over ten times the current volume of rayon imports. This enormous difference in volume is because rayon and acetate are different scientifically and technically, subject to different tariffs and customs treatment, priced differently, and have different end uses.

Rayon and Acetate Are Classified Differently Under the Harmonized Tariff System

Artificial filament yarn, single, of viscose rayon is classified at HTS headings #5403.10.30 (industrial yarn) and #5403.31.00 (textile yarn) and #5403.32.00 (textile yarn). Artificial filament yarn, single, of cellulose acetate is classified at HTS heading #5403.33.00.

Rayon and Acetate Are Subject to Different Duty Rates

The general duty rate on these categories of rayon is ten percent. The general duty rate on this category of acetate is 9.6 percent. The special duty rate for textile rayon imported from Canada under NAFTA is one percent. The special duty rate for acetate imported from Canada (where Hoechst Celanese has an affiliate) under NAFTA is 0. The special duty rate for rayon imported from Mexico under NAFTA is six percent. The special duty rate for acetate imported from Mexico (where Hoechst Celanese also has an affiliate) under NAFTA is 0. The significant rate differential between the duties on imports of acetate and rayon filament yarn from Mexico reflects the recognition on the part of U.S. and Mexican tariff negotiators, Congress and the U.Sers that there is a qualitative difference between the two products, despite current, inconsistent arguments to the contrary by Hoechst Celanese and Eastman Chemical.

Rayon and Acetate Are Different Chemically

Although both rayon and acetate derive from wood pulp, the chemicals and processes utilized to create rayon and acetate spinning dope (the chemical compound from which filaments are formed) are markedly different.

Rayon and Acetate Are Made Differently

Rayon is produced via a Wet Spinning process in which filaments emerge from spinnerets into a water based solution. Acetate is produced via a Solvent Spinning process in which filaments emerge into a vertical tube in which solvents evaporate into the air.

Rayon and Acetate Have Different Anti-Static Properties

Fabrics made of acetate have a strong tendency to cling. Fabrics made of rayon do not. This is significant to wearing comfort.

Rayon and Acetate Have Different Strengths

Rayon has considerably higher tenacity or breaking strength. This is significant to product lifespan and to ease of handling in garment manufacturing.

	Rayon	Acetate
cN/tex	17–21	10–15

Rayon and Acetate React Differently to Moisture

Rayon has approximately double the capacity to regain moisture from the atmosphere, meaning that it will hold a considerably higher percentage of its own bone dry weight of water than acetate without becoming wet. Likewise, if submerged in water rayon will absorb four to five times more water than acetate. These differences are significant to wearing comfort.

	Rayon	Acetate
Moisture regain at 70 F, 65 percent humidity:.	11–14 percent	6–7 percent
Moisture regain at 75 F, 95 percent humidity:.	26–28 percent	13–15 percent
Water Imbibition:	90–120 percent	20–28 percent

Rayon and Acetate React Differently to Heat

Rayon chars and decomposes; acetate softens and melts; and they do so at different temperatures. Rayon discolors at 284 degrees Fahrenheit and decomposes at 347–401 degrees Fahrenheit. Acetate softens at 356 degrees Fahrenheit and melts at 491 degrees Fahrenheit.

These differences are significant to dying, finishing and processing.

Rayon and Acetate Have Different Stretch Capacity

Acetate has considerably greater capacity to stretch. This is significant to wearing comfort, style and textile processing.

	Rayon	Acetate
Extension of break, dry percent.	16–21	20–30
Extension of break, wet percent.	20–26	30–40

Rayon and Acetate Must Be Dyed Differently

Rayon may be dyed by reactive, vat, direct, sulfur, or basic dyestuffs. Acetate may only be dyed by dispersed dyestuffs. This difference is significant to dying, finishing and processing and to environmental issues.

Rayon and Acetate Have Different Reactions to Flame

Burning rayon leaves a white-gray ash. Burning acetate leaves a dark lump.

Rayon and Acetate Have Different Densities

Rayon is a much denser fiber.

	Rayon	Acetate
Specific gravity (g/cm^3)	1.52	1.32

Rayon and Acetate Have Different Supply Levels

The capacity of the two U.S. acetate manufacturers, Hoechst Celanese and Eastman Chemical, is in excess of 200 million pounds per annum. Hoechst Celanese accounts for approximately 75 percent of this volume. By contrast, U.S. imports of rayon for textile end uses during the first eleven months of 1997 were less than 14 million pounds.

Rayon and Acetate Are Priced Differently

Rayon and acetate sell at considerably different price points, with rayon being the more expensive fiber by far. 75 to 150 denier acetate put up on cones or tubes (small packages containing single ends amounting to several pounds of yarn) sells in the United States at approximately $1.80 to $2.25 per pound. 75 to 150 denier acetate put up on beams (large cylinders containing multiple ends amounting to several hundred pounds of yarn) sells in this market at approximately $2.00 to $2.40 per pound. By contrast, the average import value (exclusive of duty) for all rayon for

textile end uses brought into the United States during the first eleven months of 1997 was $2.81 per pound. Adding marine freight and insurance and a dealer's or distributor's mark-up to this figure would bring the average U.S. market price for all rayon for textile end uses imported into the United States during the first eleven months of 1997 to above $3.00 per pound even without duty. The price of high quality rayon imported from Germany and Holland (which constituted over 37 percent of all textile rayon imports during the first eleven months of 1997) currently ranges from approximately $3.90 to $4.25 per pound for 100 to 150 denier bright yarn on cones or tubes and from approximately $4.10 to $4.45 for 100 to 150 denier bright yarn on beams. Although inexpensive rayon package yarn is also being shipped into the U.S. from Asia and Eastern Europe for textile end uses, this yarn is of poor quality and not suitable for linings, velvets or better apparel fabrications. Nor is the quantity of such yarn (several hundred thousand pounds per month) sufficient to affect the U.S. acetate market.

Rayon and Acetate Are Used Differently

Although Rayon and acetate are both consumed by the textile industry, the two fibers serve distinctly dis in the marketplace. For instance, rayon tends to be used for higher priced goods requiring greater abrasion resistance and tensile strength. Fabrics made of rayon tend to be more comfortable, to cling less, and to last longer. Likewise, in sharp contrast to rayon, acetate is not suitable for sewing or embroidery yarns or for high twist crepe yarns. Similarly, acetate is not used for industrial purposes. By contrast, approximately 13 percent of the total U.S. imports of rayon during the first eleven months of 1997 were applied to industrial end uses.

In sum, based on all comparative factors, including quality, price, and usage, it remains ICF's position, and that of dozens of purchasers of rayon filament yarn, that continuation of the existing duty serves no useful commercial or public policy purposes. The U.S. textile industry overwhelmingly supports this position. Nonetheless, ICF has entered into discussions with Hoechst Celanese to review the basis for its opposition and to determine whether an appropriate compromise would address Hoechst Celanese's concerns and still provide U.S. consumers with the tariff relief they need and support.

CONCLUSION

While not a complete panacea, a reduction of the ten percent duty on the types of rayon filament yarn affected by H.R. 2148 would lower the cost of these yarns to domestic producers no longer able to buy a U.S.-made, duty-free rayon filament yarn product. Such a duty reduction would thus go a long way toward enhancing the ability of U.S. companies manufacturing fabrics for apparel and home furnishings and embroidery and similar decorative yarns—and of their customers in the apparel and home furnishings industries—to compete more effectively in their U.S. home market against imported products and in the world market generally. It is also important to emphasize that if the tariff reduction on rayon filament yarn classified under HTS #5403.31.00 is accelerated pursuant to NAFTA, significant imports of this product will be duty-free by the end of 1998 or soon thereafter. This situation will create an unfair and discriminatory competitive imbalance between rayon filament yarn imports from Mexico and those from other countries. Unless necessary and reasonable tariff relief is granted to those non-Mexican imports, U.S. users of Mexican yarn will benefit at the expense of other U.S. users of non-Mexican yarn. The fact that the U.S. marketing subsidiary of a major Mexican yarn producer and another company apparently allied with it are opposing H.R. 2148 is clear evidence just how valuable, albeit unjustified, an advantage the Mexican producer has captured.

In short, ICF urges the Committee to include H.R. 2148 as part of any miscellaneous tariff legislation approved by the Committee.

Table 1

Supporter	Location(s)	Date of letter
Akzo Nobel Industrial Fibers, Inc.	Scottsboro, AL	8/14/97
Allied Fabrics, Inc.	Belmont, NC	7/30/97
Bally Ribbon Mills.	Bally, PA	7/31/97
Beaver Manufacturing	Mansfield, GA	8/4/97
The Bibb Company	Atlanta, GA	8/4/97
	Porterdale, GA	
Bloomsburg Mills, Inc.	New York, NY	7/24/97
	Bloomsburg, PA	
	Monroe, NC	
Carthage Fabrics Corp.	Carthage, NC	8/1/97
	New York, NY	
Clifton Yarn Mills	Clifton Heights, PA	7/24/97
CMI Industries Inc.	Greensboro, NC	8/5/97
	Clarkesville, GA	
	New York, NY	
	Columbia, SC	
	Clinton, SC	
	Elkin, NC	
	Geneva, AL	
	Stuart, VA	
Danville Chenille Co., Inc.	So. Danville, NH	8/8/97
Ethicon (Div. of Johnson & Johnson)	Somerville, NJ	8/4/97
	Coamo, PR	
	Caguas, PR	
Excel Elastic Corporation	Northvale, NJ	8/5/97
	Pawtucket, RI	
Fabric Resources Ltd.	Great Neck, NY	7/31/97
	Rock Hill, SC	
	Mullins, SC	
Frank Ix & Sons, Inc.	New York, NY	7/30/97
	Lexington, NC	
	Charlottesville, VA	
Ge-Ray Fabrics	Morganville, NJ	8/6/97
	Asheville, NC	
	Augusta, GA	
	New York, NY	
Hoffman Mills Inc.	New York, NY	7/25/97
	Shippensburg, PA	
Hope Industries	Nashua, NH	8/6/97
Huntingdon Yarn Mills, Inc.	Philadelphia, PA	7/30/97
I.G. Textile Mills, Inc.	New York, NY	8/1/97
Jomac Inc.	Warrington, PA	8/8/97
JPS Converter & Industrial Corp.	New York, NY	8/5/97
	Greenville, SC	
	South Boston, VA	
	Rocky Mount, VA	
	Lincolnton, NC	
	Kingsport, TN	
	Slater, SC	
	Stanley, NC	
	Laurens, SC	
Kent Manufacturing Co.	Pickens, SC	8/6/97
Kentex Industries, Inc.	Hudson, NH	7/31/97
Keystone Weaving Mills, Inc.	Lebanon, PA	8/5/97
	York, PA	
Lawrence Schiff Silk Mills, Inc.	Quakertown, PA	7/24/97
	Bethlehem, PA	
	Allentown, PA	
	Carlisle, PA	
	Newville, PA	
Lending Textile Co., Inc.	New York, NY	7/29/97
	Montgomery, PA	
Lida Stretch Fabrics, Inc.	New York, NY	8/14/97
	Charlotte, NC	

Table 1—Continued

Supporter	Location(s)	Date of letter
J.B. Martin Company, Inc.	New York, NY	7/29/97
	Leesville, SC	
McGinley Mills, Inc.	Easton, PA	7/23/97
	Phillipsburg, NJ	
Meder Textile Co., Inc.	Port Washington, NY	7/17/97
	Kings Mountain, NC	
Metritek Corp.	Boca Raton, FL	8/6/97
Mohawk Fabric Co., Inc.	Amsterdam, NY	7/17/97
Native Textiles	New York, NY	7/28/97
	Glens Falls, NY	
North American Corporation	Elizabethton, TN	8/12/97
C. M. Offray & Son, Inc.	Chester, NJ	7/24/97
	Hagerstown, MD	
	Anniston, AL	
	Leesville, SC	
	Watsontown, PA	
	Danville, VA	
Richland Mills	Hialeah, FL	7/31/97
Robison-Anton Textile Company	Fairview, NJ	7/23/97
	Clark Summit, PA	
Schneider Mills, Inc.	New York, NY	7/17/97
	Taylorsville, NC	
	Forest City, NC	
Shara-Tex Inc.	Vernon, CA	7/30/97
St. John Knits	Irvine, CA	8/6/97
Stonecutter Mills Corporation	Spindale, NC	8/4/97
	New York, NY	
Trimtex Company, Inc.	Williamsport, PA	8/12/97
Twistex Yarns	Oceanside, CA	7/22/97
Universal Connection	Los Angeles, CA	7/31/97
Wearbest Sil-Tex Mills Ltd.	Garfield, NJ	8/7/97
A. Wimpfheimer & Bro., Inc.	New York, NY	7/11/97
	Stonington, CT	
	Orange, VA	
	Blackstone, VA	
Wm. E. Wright L.P.	West Warren, MA	8/11/97
ASSOCIATIONS:		
American Textile Mfgrs. Institute	Washington, D.C.	8/13/97
Nat'l Knitwear & Sportswear Ass'n.	New York, NY	8/12/97
Textile Distributors Association	New York, NY	7/23/97

RAYON YARN CORP.
SPARTANBURG, SC 29307
January 17th, 1998

Mr. A. L. Singleton
Chief of Staff
Committee on Ways & Means
U.S. House of Representatives
Longworth House Office Building
Washington, DC 20515

I am writing for the official record to express strong opposition to tariff bill HR 2148, which concerns the reduction, suspension, or elimination of duties on rayon filament yarns (primarily from Europe and Asia). These specific yarns are also currently being manufactured by Celulosa y Derivados de Monterrey, SA de CV (CYDSA), in Monterrey, Mexico, and sold and distributed by Rayon Yarn Corporation, an eight year old U.S. subsidiary of CYDSA, based in Spartanburg, South Carolina. The basis of our objection is that the reduction, suspension, or elimination of such duties, would negate or minimize our trading preference afforded under the North American Free Trade Agreement.

Prior to NAFTA, CYDSA identified a segment of the textile manufacturing industry consisting of small to medium size companies (mostly family owned) which would benefit from an American source of rayon yarn. Subsequently, CYDSA invested over $5 million in inventory to support these U.S. textile manufacturers and now supply rayon yarn to a customer base of over 600 companies. By our calculations, this translates to over 40,000 U.S. textile workers who "benefit" from this product in some fashion. To further expand this U.S. industry, CYDSA through Rayon Yarn Corp. and two other North Carolina companies (Hickory Throwing Company and Diamante Group,LLC) is participating in a $3.5 million Industrial Revenue Bond project to substantially increase its employment base and customer service ability. The success of this development is directly dependent upon our continued support under the NAFTA trade agreement.

These European/Asian high-volume rayon filament producers are intent upon "dumping" their products in to the U.S. market while remaining protected by unfair (high) import duties in their own countries. The allowance of such a "dumping" of rayon would pose severe economic harm to our industry. Without proper tariff support, this unreasonable advantage would force the closure of both our production facility in Monterey, Mexico, and the U. S. subsidiary locations in Spartanburg, SC and Hickory, NC. This closure would also negatively effect the 600+ small to medium size companies who have come to rely and thrived on our rayon product. We are the only domestic source for these companies for small minimum orders. The overseas producers would likely require container load minimums only which would be unaffordable to many of our customers. Foreign monopolization of the rayon filament yarn market would only dim the future for the small to midsize textile industry base.

Finally, in the age of world-wide economies, it is clearly the responsibility of the United States to insist upon "level playing fields" for its domestic manufacturers. We never shy away from fair competition in the international markets. But, we ask that you insure equal market access to the European/Asian markets. Under NAFTA, Mexico (and Canada) have committed to this. As a result, Mexico is one or the only countries that we currently enjoy a positive trade balance. Interestingly, CYDSA purchases 100% of its largest rayon raw material (wood pulp) from the United Sates, in US$. If HR 2148 or any similar legislation passes, the spirit of free trade (NAFTA) will be undermined. The subsequent economic crisis in our industry will force the closures of our operations. This will eliminate the production of all rayon filament yarn from North American soil.

We thank you in advance for your attention to this serious matter.

Sincerely,

STEVE LATHAN
President, Rayon Yarn Corporation

H.R. 2151

To amend the Harmonized Tariff Schedule of the United States to correct the tariff treatment of costumes.

Statement of Disguise, Inc.

In response to Chairman Crane's request for public comments on miscellaneous tariff proposals, we want to state strong opposition to H.R. 2151, a bill which would apply an enormous duty on Halloween costumes and would primarily benefit one company which is already dominant in the market.

THE CONTENT AND EFFECT OF H.R. 2151

H.R. 2151 would amend the notes to chapters 61 and 62 of the Harmonized Tariff Schedule (HTS) by adding a new note covering costumes and pieces or components thereof and amending note 1(e) of HTS chapter 95 by inserting a provision for costumes, and pieces or components thereof.

The effect of this change to the HTS would be to adopt a strict policy that costumes are to be classified as apparel that are subject to high rates of duty and are subject to quotas, rather than to allow the Customs Service in some cases to classify them as "festive, carnival or other entertainment articles." In practical terms, the

question presented is whether these lightweight, inexpensive costumes are "toys" or are they "clothing." If H.R. 2151 were enacted, the effect would be to apply a 30% tax on American children who go "trick or treating" and who attend Halloween parties.

THE ISSUE IS ALREADY BEING ADDRESSED BY THE CUSTOMS SERVICE AND NO CONGRESSIONAL ACTION IS NEEDED

The Customs Service right now has under consideration a ruling request to reclassify these products in the same manner sought in the legislation. Customs published a notice in the Federal Register of December 22, 1997, (copy attached) a notice of this petition which requests comments by February 20, 1998. We believe that the request should be rejected by Customs and we are opposing it. We also believe, however, that Customs—not the Congress—is the appropriate place to address this question. Serious consideration of the treatment of festive articles has been given over the years both by Customs and by the courts. In November of 1997, Customs issued guidance to the field in an advanced level informed compliance publication called, "What Every Member of the Trade Community Should Know About: Classification of Festive Articles." This document resulted from the decision of the U.S. Court of Appeals for the Federal Circuit in *Midwest of Cannon Falls v. United States*, 1997 U.S. App. LEXIS 21617. We believe that Congress should allow Customs to do its job and not step into this situation with special legislation.

H.R. 2151 IS ESSENTIALLY PRIVATE LEGISLATION

It is our belief that one company, headquartered on Long Island, New York, would be the overwhelming beneficiary of this legislation. We understand that this company already is by far the dominant company in the industry, with over half of the U.S. market. According to data from Piers Imports, this company has imported substantial quantities from China, as well as product from Hong Kong, Taiwan and India. According to industry sources, this company has built a production operation in Mexico to make products there. The costumes from Mexico will not suffer the 30% duty because of the North American Free Trade Agreement. Congress should not provide what is, in effect, private relief through legislation that fits the circumstances of one company, indeed the largest company in the industry.

H.R. 2151 ADDRESSES NO PUBLIC NEED

Producers of Halloween products are doing very well as the popularity of the holiday has increased in recent years. According to a survey cited in the *New York Times*, Halloween is second only to Christmas in production of total retail revenue. This is not part of a depressed apparel and textile industry which Congress historically has tried to help though quotas and high tariffs.

DISGUISE, INC., AND OTHER COMPETITORS SHOULD NOT BE HARMED

Disguise, Inc., is located in San Diego, California. It has manufactured and distributed Halloween costumes since 1986. The company employs approximately 80 permanent employees and up to 500 seasonal employees in California. In 1997, Disguise was acquired by Cesar, a French company dating back to 1842 as a maker of masks and costumes. Seventy-five percent (75%) of costumes sold by Disguise in the United States are produced in this country.

Of the imported products distributed by Disguise, a portion is produced in developing countries, such as Madagascar. These imports would not benefit from the Generalized System of Preferences if they are reclassified as clothing. Of course, they also would not benefit from duty-free treatment under NAFTA, like the imports of the dominant company which seeks this legislation. Madagascar is a poor country where jobs of the kind involved here are badly needed. The Ways and Means Committee has indicated its intention to consider trade legislation this year to assist southern Africa. Avoiding the passage of legislation that would hurt these small island countries off east Africa would be consistent with that larger goals.

Disguise plans to continue manufacturing in California. However, the flexibility of Disguise and other companies in the industry should not be taken away by legislation that is designed to help one company—a company that is already the dominant player and a company that is also an importer. Given what is happening in the marketplace, the effect of H.R. 2141, if enacted, would be to pressure companies in our industry to import all of the costumes they sell from Mexico or some other country that would still enjoy duty-free status. This would occur because the market

leader is already moving toward use of the benefits of NAFTA and the balance of the industry would have to compete with its price.

CONCLUSION

Congress should not help one company raise its prices by taxing American children and their families who want to enjoy Halloween. The provisions of H.R. 2151 should not be included by the committee in a miscellaneous tariff bill. There is no economic justification for making such a change. The Customs Service can and is addressing the issue, and should be allowed to finish that job.

Federal Register / Vol. 62, No. 245 / Monday, December 22, 1997 / Notices 66891

FISCAL YEAR 97 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	Recall No.
TOYOTA	CAMRY	1997	97V156000

[FR Doc. 97–33251 Filed 12–19–97; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33515]

Connecticut Central Railroad Company, Inc.—Modified Rail Certificate

On November 14, 1997, Connecticut Central Railroad Company, Inc. (CCCL), a class III shortline railroad, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C—*Modified Certificate of Public Convenience and Necessity* to operate approximately 4.0 miles of abandoned rail line between milepost 3.0 in Hartford, CT, and milepost 7.0 in Wethersfield, CT (the Wethersfield Secondary Track), owned by the Connecticut Department of Transportation (C–DOT).

The involved rail line was abandoned by Boston and Maine Corporation pursuant to Board authorization granted in *Boston and Maine Corporation—Abandonment Exemption—in Hartford County, CT*, STB Docket No. AB–32 (Sub-No. 80X) (STB served Sept. 17, 1997). C–DOT acquired the rail line on October 28, 1997.

Pursuant to a supplement to the agreement dated March 28, 1996, between C–DOT and CCCL,[1] which is scheduled to terminate on May 17, 2017, operations over the 4-mile segment of the Wethersfield Secondary Track were scheduled to commence no sooner than November 17, 1997.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

No subsidy is involved. There may be preconditions for shippers to meet in order to receive rail service. CCCL indicates that in order for potential shippers to receive service, they may be required to enter into a contractual agreement with it, and may be subject to a special train charge as set forth in CCCL's tariff.

[1] The original notice of lease/operating agreement, dated June 24, 1987, governs CCCL's operations over other rail lines owned by C–DOT.

The segment represents a connecting piece of trackage linking lines over which CCCL has already obtained a modified rail certificate. Northerly, the line will form a link with other CCCL-operated trackage, and will connect with Consolidated Rail Corporation (Conrail) at Hartford, at or near milepost 2.6. Southerly, the line will connect with other CCCL-operated trackage and with a larger portion of CCCL's system. By this southerly connection, the line will enjoy interline connections already established by CCCL with the Providence and Worcester Railroad Company at Middlefield, CT, and with Conrail at Cedar Hill Yard in New Haven, CT.

This notice must be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F St., NW, Washington, DC 20001; and on the American Short Line Railroad Association: American Short Line Railroad Association, 1120 G St., NW, Suite 520, Washington, DC 20005.

Decided: December 15, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–33337 Filed 12–19–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Textile Costumes

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party requesting the reclassification of certain imported textile costumes. The petitioner contends that Customs is incorrect in classifying textile costumes which are flimsy, not durable, and not normal articles of wearing apparel, under subheading 9505.90.6090, Harmonized Tariff Schedule of the United States (HTSUS), as "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Other: Other: Other." The provision is duty free under the general column one rate and costumes classifiable under this provision are not subject to quota or visa restraints. The petitioner contends that all imported textile costumes should be classified in Chapters 61 or 62, HTSUS, asserting that textile costumes are excluded from classification under subheading 9505.90.6090, HTSUS, pursuant to Note 1(e), Chapter 95, which states that the chapter does not cover sports clothing or fancy dress, of textiles, of chapter 61 or 62. If classified under Chapter 61 or 62 of the HTSUS, the costumes would be dutiable and may be subject to quota and visa restraints. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before February 20, 1998.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Comments submitted may be inspected at the Commercial Rulings Division, Office of Regulations and Rulings, located at 1300 Pennsylvania Avenue., NW., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Textiles Branch, (202–927–1368).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of an American manufacturer of textile costumes. The petitioner contends that virtually identical costumes to those manufactured by petitioner are being imported into the U.S. and some of these textile costumes are being erroneously classified by Customs under subheading 9505.90.6090, Harmonized Tariff Schedule of the United States (HTSUS), as "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Other: Other: Other." The provision is duty free under the general column one rate and costumes classified under this provision are not subject to quota or visa

restraints. The petitioner claims that all imported textile costumes should be classified in Chapters 61 or 62, HTSUS, asserting that textile costumes are excluded from classification under subheading 9505.90.6090, HTSUS, pursuant to Note 1(e), Chapter 95. If classified under Chapters 61 or 62, the costumes would be dutiable and may be subject to quota and visa restraints.

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the harmonized system is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. The Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and GRIs.

Heading 9505, HTSUS, includes articles which are for "Festive, carnival, or other entertainment." However, Note 1(e), chapter 95, HTSUS, excludes articles of "fancy dress, of textiles, of chapter 61 or 62" from chapter 95. The ENs to 9505, state, among other things, that the heading covers:

(A) Festive, carnival or other entertainment articles, which in view of their intended use are generally made of non-durable material. They include:

* * * * *

(3) Articles of fancy dress, e.g., masks, false ears and noses, wigs, false beards and moustaches (not being articles of postiche-heading 67.04), and paper hats. However, the heading excludes fancy dress of textile materials, of chapter 61 or 62.

In interpreting the phrase "fancy dress, of textiles, of chapter 61 or 62," Customs initially took the view that fancy dress included "all" costumes regardless of quality, durability, or nature of the item. However, Customs has reexamined its view regarding the scope of the term "fancy dress" as it relates to costumes. On November 15, 1994, Customs issued Headquarters Ruling Letter (HQ) 957318, which referred to the settlement agreement of October 18, 1994, reached by the United States and Traveler Trading in the case of *Traveler Trading Co.* v. *United States*, Civil Action, #91–02–00084. In HQ 957318, Customs stated that it had agreed to classify as festive articles in subheading 9505.90.6090, HTSUS, costumes of a flimsy nature and construction, lacking in durability, and generally recognized as not being normal articles of apparel.

Description of Merchandise

The imported costumes which are the subject of HQ 957318 are of the same class or kind of merchandise as the costumes manufactured by petitioner. Costumes, whether imported or domestically manufactured, are traditionally worn in conjunction with the celebration of the Halloween festival or to costume parties. The costumes at issue are constructed of fabric comprised of man-made or natural fibers, but not of paper. The costumes usually depict a character, creature, or professional person, and often include accessories.

Issues Raised

Petitioner asserts that Customs interpretation of the term "fancy dress" is incorrect since the term "fancy dress" is synonymous with the word "costume." In support of this assertion, petitioner cites the "Cambridge International Dictionary of English" (1995) as stating that the word "costume" is American for the British and Australian term "fancy dress." In addition, petitioner cites the "Oxford English Dictionary" (2d ed. 1989) as stating that the definition of the term "fancy dress" is "[a] costume arranged according to the wearer's fancy, usually representing some fictitious or historical character."

The petitioner states that the Nomenclature Committee of the Customs Cooperation Council (predecessor to the World Customs Organization) considered the scope of the term "fancy dress" and determined that the proper classification for costumes was in Section XI. Further, a recent decision by the Canadian International Trade Tribunal held that the language of Note 1(e) regarding "fancy dress, of textiles" included the inexpensive costumes before the Tribunal because the costumes were "arranged or made to suit the wearer's fancy to represent fictitious characters" and that subheading 9505, HTSUS, covered "goods [that] are more indicative of face disguises than of actual clothing."

In citing the ENs to Chapter 95, petitioner argues that the examples set forth as "articles of fancy dress" in the ENs include only items that act as accessories to the fancy dress but are not themselves "fancy dress" because they do not clothe the body. Further, petitioner claims that the phrase in the ENs, "articles of fancy dress", does not include those articles made of textile material and that an item of "fancy dress" is the actual costume, not the accessories.

Petitioner states that the durability of the costume is irrelevant to the determination of whether a costume is an item of apparel. Petitioner cites the case of *Admiral Craft Equip Corp.* v. *United States*, 82 Cust. Ct. 162, 164, C.D. 4796 (1979), in support of their position that Customs should apply a "use" test in classifying textile costumes and the case of *Dynamics Classics, Ltd.* v. *United States*, 10 CIT 666 (1986), as setting forth factors to be considered in applying the "use" test. In the *Dynamics* case the court cited *United States* v. *Carborundum Co.*, 63 CCPA 98, 102, C.A.D. 1172, 536 F.2d 373 (1976), for stating the elements used to establish the chief use of a class or kind of merchandise: "(1) the general physical characteristics of the merchandise; (2) the expectations of the ultimate purchaser, (3) the channels of trade, and (4) how it is advertised and used." According to the petitioner, application of these factors would require that a Halloween costume be classified as an article of apparel in Chapter 61 or 62.

Finally , petitioner states that Court of International Trade (CIT) decisions interpreting the Tariff Schedules of the United States (TSUS), are inapplicable when classifying costumes under the HTSUS. Petitioner argues that Customs should not consider the CIT's decisions in *Traveler Trading Co.* v. *United States*, 713 F.Supp. 409 (CIT 1989), and *I.C.I. Worldwide, Inc.* v. *United States*, 14 CIT 201 (1990), because both were decided under the TSUS. Specifically, it is petitioner's contention that the courts' decisions in those cases rested on the " * * * very broad and preclusive nature of the TSUS's definition of 'toys'." Petitioner further asserts that the classification of costumes under the HTSUS is very different from the TSUS because costumes are never classifiable as toys under the HTSUS and costumes are specifically excluded from classification as articles of fancy dress of textiles pursuant to Note 1(e) to Chapter 95.

Comments

Pursuant to Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on the matter, Customs invites written comments on the petition from interested parties.

The domestic party petition, as well as all comments received in response to this notice will be available for public inspection in accordance with the

Freedom of Information Act (5 U.S.C. 552), 1.4, Treasury Department Regulations (31 CFR 1.4), and Section 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. to 4:30 p.m. on regular business days, at the: U.S. Customs Service, Office of Regulations and Rulings, Commercial Rulings Division, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Authority

This notice is published in accordance with Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), 19 U.S.C. 1516.

Drafting information: The principal author of this document was Ann Segura Minardi, Textiles Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: December 5, 1997.

William F. Riley,

Acting Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–33291 Filed 12–19–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2758

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2758, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns.

DATES: Written comments should be received on or before February 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns.

OMB Number: 1545–0148.

Form Number: 2758.

Abstract: Internal Revenue Code section 6081 allows a reasonable extension of time for filing any return, declaration, statement, or other document. Form 2758 is used by fiduciaries, trustees, and certain tax-exempt organizations to request an extension of time to file their returns. The information is used to determine whether the extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 300,000.

Estimated Time Per Respondent: 3 hr., 51 min.

Estimated Total Annual Burden Hours: 1,155,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 16, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33358 Filed 12–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8038–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8038–T, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.

DATES: Written comments should be received on or before February 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.

OMB Number: 1545–1219.

Form Number: 8038–T.

Abstract: Form 8038–T is used by issuers of tax exempt bonds to report and pay the arbitrage rebate and to elect and/or pay various penalties associated with arbitrage bonds. These issuers include state and local governments.

MATTEL, INC.
CUSTOMS ADMINISTRATION
EL SEGUNDO, CA 90245–5012
January 24, 1998

Mr. A.L. Singleton
Chief of Staff,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Subcommittee on Trade Release No. TR–19 dated Dec. 22, 1997. Comments in Opposition to Passage of H.R. 2151

Dear Mr. Singleton:

In Release No. TR–19 dated December 22, 1997, the Subcommittee on Trade requested comments on numerous Bills, including H.R. 2151, "To amend the Harmonized Tariff Schedule of the United States to correct the tariff treatment of costumes." Mattel, Inc. submits that the current tariff treatment of costumes, dress-up sets, playsuits and parts and accessories thereof is correct, and, therefore, opposes H.R. 2151 for the reasons stated below:

I. IF ENACTED, H.R. 2151 WOULD CAUSE THOSE COSTUMES, DRESS-UP SETS, PLAYSUITS AND PARTS AND ACCESSORIES THEREFOR, NOW CLASSIFIED IN CHAPTER 95 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTSUS), TO BE EXCLUDED FROM CHAPTER 95 AND CLASSIFIED AS WEARING APPAREL IN CHAPTERS 61 AND 62, HTSUS.

If enacted, H.R. 2151 would add new notes in Chapters 61 and 62, HTSUS, stating that those chapters cover "costumes and pieces or components thereof." Additionally, current Note 1(e) to Chapter 95, HTSUS, would be amended to exclude from classification in that chapter "fancy dress, or costumes and pieces or components thereof." Since the particular "costumes and pieces or components thereof" which are intended to be affected by this legislation are not defined, it is apparent that the intent of this legislation is to change the classification of any and all articles which might be a type of costume, and any and all articles which might be a "piece" or "component" of a costume, from Chapter 95, HTSUS, which covers toys and festive articles, to Chapters 61 and 62, HTSUS, which cover wearing apparel.

As explained more fully below, for many years the toy industry has been manufacturing products exclusively for use by children in play, commonly referred to in the toy industry as dress-up sets and playsuits. These products routinely contain many types of components, including textile components which imitate wearing apparel (shirts, skirts, blouses, dresses, etc.), textile components which are apparel accessories or which are classified outside of Chapters 61 and 62, HTSUS (i.e., headwear, belts, sweat bands, lanyards, etc.), and non-textile components (i.e., shoes, jewelry, ribbons, barrettes, combs, purses, magic wands, spurs, badges, etc.). Whether called costumes, dress-up sets or playsuits, these articles, including their constituent parts and accessories, have routinely been classified by the Customs Service in Chapter 95, HTSUS, provided they meet certain criteria with respect to construction, essential character, how they are marketed and the expectations of ultimate consumers.

Since it is apparent that the intent of H.R. 2151 is to have all "costumes," and "pieces" and "components" thereof classified in Chapter 61 or 62, HTSUS, adoption of this legislation would result in the wholesale reclassification of many components currently classifiable outside of Chapter 61 and 62, into those chapters, which were intended only to cover wearing apparel. Equally important, any attempt to clarify this legislation to specifically distinguish which components are not to be classified in Chapter 61 and 62, would likely result in a reversal of the Customs Service practice of classifying these articles together, as a unit or set, under a single tariff heading. Reversal of this practice would require importers to split up each unit or set into its separate parts or components for separate classification. This would impose an administrative burden on toy companies, and would impose an even larger burden on the Customs Service, which currently has only a limited capacity to handle separate classifications for numerous parts when entry documents are transmitted to it electronically, and which is currently experiencing a severe shortage of resources in many areas.

II. COSTUMES, DRESS-UP SETS, PLAYSUITS AND PARTS AND ACCESSORIES THEREOF WHICH ARE PRINCIPALLY DESIGNED FOR THE AMUSEMENT OF CHILDREN IN ROLE-PLAYING, HAVE TRADITIONALLY BEEN VIEWED BY THE RELEVANT INDUSTRY AS A CLASS OR KIND OF TOYS.

Almost everyone is familiar with the fact that many toys are modeled on objects which are used in real life for utilitarian purposes. These types of toys include toy musical instruments, toy tool, doctor and nurse sets, toy typewriters, flashlights, radios, etc. Almost everyone is also familiar with the fact that one form of play in which children engage is role-playing. This form of play includes dressing up or outfitting oneself to imitate adult behavior or professions (movie stars/actresses, mothers, ballerinas, doctors and nurses, etc.). Boys and girls use costumes, dress-up sets, playsuits, old clothing, clothing accessories, such as hats and gloves, etc., in combination with the accoutrements of the profession (doctor and nurse instruments, cowboy spurs, holsters and guns, etc.) to reenact adult behavior. Enclosed as *Exhibit 1* is a portion of an internal Mattel study compiled in 1988, entitled "CHILDREN'S PLAY PATTERNS—A Collective Review of What We Know About How Kids Play," which specifically discusses this type of play among 3 to 12 year old girls.

For at least 50 years the toy industry has been manufacturing and marketing *as toys*, costumes, dress-up sets, playsuits and parts and accessories therefor, which are clearly not a form of wearing apparel; which are not durable, or even washable; which, generally, are either worn in conjunction with regular clothing, or which are made to be worn only during play and not during an extended period; which are sold primarily in toy stores or the toy departments of mass-merchandisers; and, which enable children to imitate adult behavior in role-playing. These articles are generally distinguishable from the real articles which they imitate, by, among other things, their relatively inexpensive construction and price, their limited ability to be used for an extended period of time, their fanciful themes, and differences in sizing (often "one size fits all") from real apparel; the companies which manufacture them; and the manner in which they are marketed.

Enclosed as *Exhibit 2* are pages from various issues of "Playthings," the largest trade publication serving the toy industry. These excerpts, which date from 1970 to the present, illustrate the types of products described above, and clearly indicate that numerous toy companies have been manufacturing and marketing these products for an extended period. Even the company which is the chief proponent of H.R. 2151 is listed in these materials, placed a full-page advertisement in "Playthings," and maintains its sales office in the Toy Building, at 200 Fifth Avenue in New York.

Enclosed as *Exhibit 3* are pages from the 1997 catalogs of Mattel's subsidiary, Arco, illustrating the types of dress-up sets and accessories therefor which Mattel markets. Even a cursory examination of the articles in Exhibit 3 indicates that they are a type of product which is manufactured exclusively for use by children during role-playing, are sold in toy stores and toy departments of mass-merchandisers, and are not a type of wearing apparel.

III. ENACTMENT OF H.R. 2151 WOULD RESULT IN HIGHER PRICES FOR RETAILERS AND CONSUMERS, WHICH WOULD DISCOURAGE IF NOT PRECLUDE CONTINUED PRODUCTION, IMPORTATION AND SALE OF DRESS-UP SETS, COSTUMES AND PLAYSUITS WHICH THE INDUSTRY REGARDS AS A CLASS OR KIND OF TOY.

Enactment of H.R. 2151 would subject dress-up sets, costumes and playsuits which the industry regards as a class or kind of toy, now classified in Chapter 95, free of duty, to classification in Chapters 61 and 62, in the same tariff headings with regular wearing apparel, subjecting them to significant duty assessments.

In addition, classification of these products as wearing apparel in Chapters 61 and 62, HTSUS, instead of in Chapter 95, would also subject them to quantitative restrictions (quotas), requiring the acquisition of visas in order to ship them to the United States. However, inquiries by doll fashions manufacturers abroad, who also produce dress-up sets, playsuits and costumes, have established that they would be unable to acquire visas for the exportation of their products to the United States, because their governments have advised them that such quotas are available only to textile and apparel companies and not to toy companies.

Even if quota allotments and visas were available, there is usually a substantial charge associated with obtaining them, which would have to be added to the landed cost of the products, increasing the prices which retailers would have to pay for these articles.

Most toy retailers work on narrow profit margins. Adding duty and quota charges to the landed cost of these products would in all likelihood result in retailers being unable to market dress-up sets, playsuits and costumes at a reasonable profit. Increases in the prices of these products to consumers would also be unacceptable. As

a consequence, continued production of most dress-up sets and playsuits now marketed year-round for role-playing purposes, might have to be dropped, if they are reclassified in Chapters 61 and 62 and subjected to the duties applicable to regular wearing apparel.

IV. THE ENACTMENT OF H.R. 2151 IS CONTRARY TO THE AGREEMENT ON TEXTILES AND CLOTHING ADOPTED BY THE UNITED STATES AS PART OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS.

As part of the Uruguay Round of Multilateral Trade Negotiations, the United States adopted several multilateral agreements. One of these agreements is the Agreement on Textiles and Clothing [the Agreement]. Article 4 of the Agreement, a copy of which is enclosed as *Exhibit 4*, contains the following provision in Paragraph 2:

2. Members agree that the introduction of changes, such as *changes in practices*, rules, procedures and *categorization of textile and clothing products, including those changes relating to the Harmonized System*, in the implementation or administration of those restrictions notified or applied under this Agreement should not upset the balance of rights and obligations between the Members concerned under this Agreement; adversely affect the access available to a Member; impede the full utilization of such access; or disrupt trade under this Agreement. (Emphasis added)

Clearly, changing the classification of merchandise (costumes, dress-up sets and playsuits) which is currently not subject to quota to insure that it is subject thereto is a change in practice, a change in the categorization of products and a change relating to the Harmonized System. Additionally, as demonstrated above, such a change will clearly disrupt trade in this merchandise. Accordingly, such a change in classification is contrary to the Agreement, and, if enacted, would probably result in the United States being the subject of complaints filed with the appropriate body of the World Trade Organization by countries which export this merchandise.

V. IT IS PREMATURE AT THIS TIME, WHILE THE ISSUE IS PENDING BEFORE CUSTOMS HEADQUARTERS, FOR CONGRESS TO CONSIDER LEGISLATION WHICH WOULD MANDATE THE CLASSIFICATION OF ALL COSTUMES, DRESS-UP SETS AND PLAYSUITS IN CHAPTERS 61 AND 62 , HTSUS.

On December 22, 1997, the United States Customs Service had a notice published in the Federal Register, a copy of which is enclosed as *Exhibit 5*, advising the public that a domestic interested party had filed a Petition pursuant to 19 U.S.C. 1516, contesting the current tariff classification of certain costumes, and requesting comments from the public concerning the proper classification of this merchandise. A copy of the Petition filed in this matter with the Customs Service is enclosed as *Exhibit 6*. The Petition, dated July 7, 1997, was filed on behalf of Rubie's Costume Co., Inc. of Richmond Hill, New York, which is also believed to be the party which requested H.R. 2151.

Notably, in arguing that all costumes are classifiable in Chapters 61 and 62, HTSUS, the Petition concerns itself only with merchandise which the Petitioner refers to as "costumes," and does not discuss or refer to the items manufactured by the toy industry which are commonly referred to as "dress-up sets" or "playsuits," and which are principally designed for the amusement of children and marketed exclusively as toys. Rather, by omitting any discussion of dress-up sets and playsuits, and by concentrating on the similarities between costumes and regular wearing apparel, the Petition implies that there is little or no basis for classifying, in Chapter 95, those particular dress-up sets and playsuits which constitute a class or kind of toys. For example, in claiming that the current tariff classification of certain costumes is erroneous, the Petition claims on Page 13, in pertinent part, as follows:

It is *clear* that costumes should be classified as "fancy dress of textiles" that fall within Chapters 61 and 62, [HTSUS] and are expressly excluded from Chapter 95. (Emphasis added)

If, as asserted in the Petition, it is "clear" that the proper tariff classification of all costumes, dress-up sets and playsuits is in Chapters 61 and 62, HTSUS, it is also *clearly* unnecessary and superfluous to request legislation requiring such a result. Rather, the Petitioner should await a decision from the Customs Service and/or the Courts before taking up the valuable time and resources of the Congress on such a matter.

While a full discussion of this matter is beyond the scope of these comments, Mattel is of the opinion that, at a minimum, the types of dress-up sets and playsuits which are manufactured specifically for sale in toy stores and toy departments of mass-merchandisers clearly constitute a class or kind of toy, and are properly classifiable in Chapter 95, HTSUS. Comments concerning this assertion will be submitted

to the Customs Service in response to the Domestic Interested Party Petition. Once the Customs Service, and, if litigated, the Courts, issue determinations concerning the scope of the various HTSUS provisions involved, it may well be the case that this matter will have been clarified to the satisfaction of all parties involved. If not, Congress may *then* wish to examine this issue in more detail.

VI. CONCLUSION.

For at least 50 years, the toy industry has been manufacturing and marketing articles specifically for the amusement of children during play, which are commonly known as dress-up sets and playsuits, and which are clearly a class or kind of toy. The intent of H.R. 2151 is to have all costumes, as well as dress-up sets, playsuits and parts and accessories thereof, classified in Chapters 61 or 62, HTSUS. The reclassification of these articles in Chapters 61 and 62 would undeniably increase the cost of such products to toy companies, retailers and consumers, to a point where the articles would no longer be marketed or purchased. If enacted, H.R. 2151 is likely to result in toy manufacturers being unable to obtain the necessary textile visas for products which the industry regards as toys. Moreover, enactment of H.R. 2151 would be clearly contrary to the Agreement on Textiles and Clothing to which the United States is a party. Finally, because the proponents of H.R. 2151 have claimed in a Petition filed with the Customs Service that it is "clear" that all costumes are classifiable in Chapters 61 and 62, HTSUS, consideration of this legislation at this time is premature.

For the reasons discussed hereinabove, it is apparent that H.R. 2151 is a highly controversial piece of legislation which should not be enacted or included in any omnibus tariff Bill being considered by the Ways and Means Trade Subcommittee.

Sincerely yours,

KELLY BUNDY
Manager, Customs Administration

[Attachments are being held in the Committee's files.]

H.R. 2236

To suspend until January 1, 2000, the duty on Irganox 1520.

No comments submitted.

H.R. 2237

To suspend until January 1, 2000, the duty on Irganox 1425.

No comments submitted.

H.R. 2238

To suspend until January 1, 2000, the duty on Irganox 565.

No comments submitted.

H.R. 2239

To suspend until January 1, 2000, the duty on Irganox 1520LR.

No comments submitted.

H.R. 2240

To suspend until January 1, 2000, the duty on Irgacure 184.

No comments submitted.

H.R. 2241

To suspend until January 1, 2000, the duty on Darocure 1173.

No comments submitted.

H.R. 2242

To suspend until January 1, 2000, the duty on Irgacure 819.

No comments submitted.

H.R. 2243

To suspend until January 1, 2000, the duty on Irgacure 369.

No comments submitted.

H.R. 2244

To suspend until January 1, 2000, the duty on Irgacure 1700.

No comments submitted.

H.R. 2245

To suspend until January 1, 2000, the duty on Irgacor 252LD.

No comments submitted.

H.R. 2246

To suspend until January 1, 2000, the duty on Irgacor 1405.

No comments submitted.

H.R. 2268

To suspend temporarily the duty on a certain chemical.

No comments submitted.

H.R. 2269

To suspend temporarily the duty on a certain chemical.

No comments submitted.

H.R. 2270

To suspend temporarily the duty on a certain chemical.

No comments submitted.

H.R. 2271

To suspend temporarily the duty on a certain chemical.

H.R. 2287

To apply the rates of duty effective after December 31, 1994, to certain water resistant wool trousers that were entered, or withdrawn from warehouse for consumption, after December 31, 1988, and before January 1, 1995.

No comments submitted.

H.R. 2322

To suspend the duty on the organo-phosphorus compound ACM until January 1, 2000.

No comments submitted.

H.R. 2324

To suspend the duty on the synthetic organic coloring matter C.I. Pigment Yellow 109 until January 1, 2000.

No comments submitted.

H.R. 2325

To suspend the duty on the synthetic organic coloring matter C.I. Pigment Yellow 110 until January 1, 2000.

No comments submitted.

H.R. 2326

To suspend the duty on the organic chemical parachlorobenzonitrile until January 1, 2000.

No comments submitted.

H.R. 2334

To suspend temporarily the duty on ferroboron.

Statement of AlliedSignal Inc. on H.R. 2334

Legislation to Temporarily Suspend the U.S. Duty on Ferroboron As Provided for in 7202.99.50 of the Harmonized Tariff Schedule of the United States

January 26, 1998

AlliedSignal Inc. appreciates the opportunity to comment on H.R. 2334, introduced by Representative Rodney P. Frelinghuysen of New Jersey. This measure provides for the temporary suspension of the U.S. import duty on ferroboron, which comes under 7202.99.50 of the Harmonized Tariff Schedule of the United States.

Granting a suspension of the duty on ferroboron is justified and appropriate. To our knowledge there are no domestic producers of ferroboron capable of manufacturing to our product specifications. For this reason passage of H.R. 2334 would not have a detrimental impact on the domestic ferroalloy industry. Furthermore, the key end product into which this most expensive, yet essential, raw material is incorporated would be able to be priced more competitively in important export markets like China and India. This is vital to the success of that product, which saves energy and reduces harmful greenhouse gas emissions, and to the livelihoods of those Americans who produce it and who are heavily dependent on its ability to succeed as an export.

This statement is intended to describe: the product proposed for duty suspension; the end products into which ferroboron is incorporated, and some of their uses; the importance of the duty suspension to the export competitiveness of one of the principal U.S.-manufactured products into which ferroboron is incorporated; and, the merits of and justification for granting the duty suspension as proposed.

DESCRIPTION OF ALLIEDSIGNAL INC.

AlliedSignal manufactures advanced technology products for the aerospace, automotive and other markets. Some of our main aerospace products are jet propulsion engines, commercial avionics such as the enhanced ground proximity warning collision-avoidance system, and small-scale power systems. Our automotive product names include Fram® filters, Autolite® sparkplugs, Prestone® car care products, and Garrett® turbochargers for passenger cars, light trucks and heavy equipment. We also are a leading producer of nylon and industrial fibers, specialty chemicals, and advanced materials for the electronics and electric power distribution sectors.

AlliedSignal has some 70,500 employees worldwide, approximately 50,000 of whom are in the United States. The company has manufacturing operations throughout the United States, with principal facilities located in Arizona, California, Missouri, Maryland, Ohio, Virginia, New Jersey, Kansas and South Carolina.

DESCRIPTION OF THE PRODUCT AND ITS USES

Ferroboron is a boron-containing ferroalloy used by AlliedSignal as a major raw material in the production of amorphous metal. It is the single most expensive component of the amorphous metal manufacturing process. Boron-containing amorphous metals, among other purposes, are used by the electric utilities industry to enhance the efficiency of electric power distribution transformers. Distribution transformers equipped with boron-containing amorphous metal cores are significantly more energy-efficient and less environmentally-degrading than transformers employing silicon steel cores. Boron-containing amorphous metals also have applications in computer and laser power supplies, retail security systems, and high frequency transformers and switches.

In addition to the manufacture of amorphous metal, ferroboron is also used as a hardening agent in the production of certain types of steel.

DESCRIPTION OF ALLIEDSIGNAL AMORPHOUS METAL

AlliedSignal pioneered the development and commercialization of amorphous metal ribbon. This material exhibits a structure in which the metallic atoms occur in a random pattern. As opposed to the rigid grain structure of silicon steel, this unique "amorphous" structure enables much easier magnetization and de-magnetization. The extent of the energy losses that occur in a transformer core is determined by how easily the core can switch magnetization: improved switching capability translates into lower core loss. This is the key to the Amorphous Metal Distribution Transformer's (AMDT) effectiveness in sharply reducing the no-load losses that occur in transformers' magnetic cores, and the greenhouse gas emissions associated with the production of the wasted energy. Ferroboron is the key raw material enabling both the production and the superior performance of amorphous metal ribbon.

AMDTs constructed with boron-containing amorphous metal cores yield 60–80% lower no-load loss than transformers employing silicon steel cores. Further, the corollary benefit of AMDT use is to reduce greenhouse gas emissions associated with electric power production. As AMDTs would reduce core energy losses by 60–80%, CO2 and SO2 emissions associated with these losses are reduced similarly because fuel consumption (typically coal) is reduced.

(Note: A transformer's "core" is its "engine" or "heart." Accordingly, it determines the energy-efficiency and environmental performance characteristics of the transformer into which it is integrated. The core's composition or "material"—either boron-containing amorphous metal or silicon steel—is the heart of the core.)

EXPORT POTENTIAL AND COMPETITIVENESS ISSUES OF AMORPHOUS METAL-CORE TRANSFORMERS

The benefits and performance of AMDTs are unquestioned, having been conclusively demonstrated in the US, Japan and many other countries. Vital growing U.S. export markets—e.g. China and India—are also the most logical target markets for AMDTs. Two of the primary areas of focus for such countries, in terms of their power/energy infrastructure development, are enhancing energy conservation efforts and reducing greenhouse gas emissions. Companies with leading-edge technologies designed to positively address these two areas will be well situated to seize export opportunities in these markets.

For example, in May 1996 the Chinese State Planning Commission, State Economic and Trade Commission, and State Science and Technology Commission issued a joint energy conservation policy outline for China, something AlliedSignal had strongly encouraged. This outline stated the obvious need to save energy in China,

and noted some means to that end. It specifically recommended AMDTs as a way to achieve these goals.

While the benefits of AMDT use are tangible and significant, they and the extensive research and development that has yielded them come at a cost. An amorphous metal transformer has an initial cost 20–30% higher than the relatively energy-wasting and environmentally-unfriendly transformers it seeks to replace. Fortunately, because of its many benefits, the total owning cost of an amorphous metal transformer over its 20–30 year life is far lower than the initially-cheaper competing product.

Regrettably, notwithstanding the fact that the overall economics are attractive and favor AMDTs, the initial higher cost can deter the purchase of the more efficient and environmentally-beneficial transformers. This is especially true in countries where, while the benefits of AMDTs are most direly needed, potential customers are most negatively impacted by the "initial cost" issue. Suspending the import duty on the raw material bearing much responsibility for this initial cost disadvantage would reap a significant impact on the cost-competitiveness of the very beneficial end product.

SUSPENDING THE DUTY ON FERROBORON IS WARRANTED AND VITAL

To the best of AlliedSignal's knowledge—and we are by far the single largest U.S. customer/consumer of the ferroboron subject to H.R. 2334—there is no known U.S. manufacture of ferroboron capable of satisfying AlliedSignal's demands for this product.

To date AlliedSignal has not been able to demonstrate a substitute for ferroboron in the manufacture of amorphous metal. Ferroboron is a required component allowing the production of amorphous metals and allowing AMDTs their energy-saving and greenhouse gas-reducing qualities. The ferroboron on which the duty suspension is sought is not merely incidental to the production of amorphous metal and the superior performance of an AMDT; it is integral. Because there is no substitute domestically-manufactured product currently benefiting from the present five percent duty rate on ferroboron, no adverse impact on the domestic ferroalloy industry is anticipated by granting this suspension.

SUMMARY

Reducing the cost of an amorphous metal transformer's most important and costly raw material, by suspending the import duty paid on it, would go a long way toward enhancing the export competitiveness of the end product. It would further encourage prospective customers to procure the most advanced and beneficial transformer technology available, and not merely repeat the mistakes of the past by continuing to use inferior technologies, with all attendant negative repercussions.

This would yield positive results both in terms of increasing energy conservation and decreasing environmental degradation in the developing nations that represent the most promising market opportunities for an important product made by American workers.

Thank you again for the opportunity to comment.

H.R. 2336

To temporarily decrease the duty on certain industrial nylon fabrics.

Statement of the American Textile Manufacturers Institute

On Miscellaneous Trade and Tariff Legislation—H.R. 2336

This is in response to Ways and Means Committee Release TR–19, dated December 22, 1997, requesting comments on certain miscellaneous trade and tariff proposals. The American Textile Manufacturers Institute (ATMI) is the trade association for the domestic textile industry. Our members operate in more than 30 states and account for more than 80 percent of all textile fibers consumed in the United States.

ATMI would like to express our opposition to H.R. 2336, which is item #24 in the list of bills contained in TR–19. This legislation would reduce the duty from 15.6 percent to 6.7 percent on imports of certain filament nylon woven fabrics currently classified under tariff schedule heading 5407.41.00, which generally includes woven fabrics containing 85 percent or more by weight of filaments of nylon or other polyamides.

An ATMI member company is in the process of preparing to produce the fabric defined in H.R. 2336 for use in commercial quantities following customer evaluation of sample quantities. This domestic manufacturer believes that this highly specialized fabric represents an opportunity for increased sales and domestic production. Therefore, ATMI is opposed to congressional passage of H.R. 2336.

CARLOS MOORE
Executive Vice President
January 26, 1998

H.R. 2339

Relating to the tariff treatment of nuclear fuel assemblies.

Statement of Robert S. Bell, Jr., Vice President & General Manager, ABB CENO, Windsor, Connecticut and Dr. Bruce J. Kaiser, Vice President, ABB CENO, Hematite, Missouri

In Support of H.R. 2339, to Correct the Tariff Treatment of Nuclear Fuel Assemblies

SUMMARY:

The Harmonized Tariff Classification System inadvertently increased the duty more than five-fold on pelletized uranium oxide contained in zirconium tubing, from the rate that had been in place since 1970. The purpose of H.R. 2339 is to restore the 1970 rate and refund the unintended duty that has been paid.

TARIFF CLASSIFICATION HISTORY FOR PELLETIZED URANIUM OXIDE/ZIRCONIUM TUBING

In 1970 the U.S. Customs Service decided to distinguish between: (1) reactor-ready nuclear fuel assemblies; and (2) pelletized uranium oxide contained in zirconium tubing that is not reactor-ready. The Tariff Schedules of the United States (TSUS) then in use had no specific classification for nuclear reactors or fuel assemblies. The Customs Service applied the following TSUS classifications:

—Nuclear Fuel Assemblies: 660.10 TSUS ("steam and other vapor generating boilers . . . and parts thereof")

—Pelletized Uranium Oxide: 422.50 TSUS

—Zirconium Tubing: 658.00 TSUS

According to research by the Customs Service, the 1970 decision governed importation of nuclear fuel assemblies and pelletized uranium oxide in zirconium tubing

without change until the Harmonized Tariff Classification System (HTS) went into effect in 1989.

HTS was intended to standardize tariff classifications worldwide, without increasing duty on any item. Understandably, however, HTS created a U.S. heading for nuclear reactors and a subheading for "nuclear fuel elements." Inadvertently the subheading includes not only reactor-ready nuclear fuel assemblies, but also pelletized uranium oxide in zirconium tubing that would have been classified pre-HTS under 422.50/658.00 TSUS.

Pre-HTS, pelletized uranium 422.50 TSUS was free of duty; zirconium tubing 658.00 TSUS was dutiable at 5.5 percent. These classification numbers were simply converted to HTS numbers at the same rates:

Item	TSUS Number	TSUS Rate	HTS Number	HTS Rate*
Pelletized Uranium Oxide	422.50	0	2844.20.0010	0
Zirconium Tubing	658.00	5.5%	8109.90.0000	5.5%

*The GATT Agreement which became effective on January 1, 1995 reduces tariff rates on thousands of items in equal annual increments over five years. The rate for 8109.90.000 HTS will be 3.7 percent in 1999 and is thus 4.8 percent in 1996 and 4.4 percent in 1997. The rate for 8401.30.0000 HTS is scheduled to be 3.3 percent in 1999. However, annual reductions under 8401 HTS and other Chapter 84 headings were made contingent upon an international accord on government procurement rules; the rate for 8401.30.0000 is 5.9 percent in 1996 and 5.2 percent in 1997.

The rate for the new HTS subheading for nuclear fuel elements was 6.5 percent. Since the uranium oxide is about 80 percent of the value, *the new HTS classification for nuclear fuel elements increased the duty on pelletized uranium oxide in zirconium tubing by more than five-fold.*

Item	HTS Number	HTS Rate*
Nuclear Reactors/Fuel Elements	8401.30.0000	6.5%

*The GATT Agreement which became effective on January 1, 1995 reduces tariff rates on thousands of items in equal annual increments over five years. The rate for 8109.90.000 HTS will be 3.7 percent in 1999 and is thus 4.8 percent in 1996 and 4.4 percent in 1997. The rate for 8401.30.0000 HTS is scheduled to be 3.3 percent in 1999. However, annual reductions under 8401 HTS and other Chapter 84 headings were made contingent upon an international accord on government procurement rules; the rate for 8401.30.0000 is 5.9 percent in 1996 and 5.2 percent in 1997.

ABB CENO, headquartered in Windsor, Connecticut, with a plant in Hematite, Missouri, has paid $1.8 million in unintended duty as a result of the inadvertent HTS reclassification. Five entries occurred for contract delivery dates in 1996 and 1997:

Entry Date	Entry Number
January 16, 1996	062–230014–5
February 13, 1996	062–230085–5
November 25, 1996	839–4030989–7
December 2, 1996	839–4031053–1
January 21, 1997	839–4031591–0

These will be the only such entries for ABB CENO because product for all subsequent orders will be manufactured in the U.S.

OPERATIONS OF ABB CENO

In the 1980s, ABB Atom Inc. was established in the United States to market a type of nuclear fuel assemblies for use in reactors at U.S. utilities. These nuclear fuel assemblies were being produced very successfully for use in Europe by ABB Atom Inc.'s parent in Vasteras, Sweden.

The first step in ABB Atom Inc.'s business plan was to reach agreements with several utilities to test the nuclear fuel assemblies. If the testing programs succeeded, ABB Atom Inc. would establish manufacturing facilities in the U.S. to produce commercial quantities. Subsequently, ABB Atom Inc.'s business was taken over by ABB Combustion Engineering Nuclear Operations (ABB CENO), headquartered in Windsor, Connecticut.

The early stages of the testing program were so successful that the number of testing agreements was reduced. ABB CENO planned to invest in the upgrade of

its nuclear fuel manufacturing plant in Hematite, Missouri to pelletize uranium oxide for that type of nuclear fuel assemblies, and was awarded a contract to supply the Washington Public Power Supply Stem (WPPSS).

Unfortunately the capacity of ABB CENO's Missouri plant to pelletize uranium oxide for the WPPSS type of nuclear fuel assemblies could not be established for the first deliveries due under that contract in 1996 and 1997.

ABB CENO was able to pelletize the uranium oxide at the Missouri plant for the February, 1998 delivery under the WPPSS contract. ABB CENO has received a contract to supply the Public Service Electric and Gas Company (PSE&G) at Hope Creek, New Jersey and is a strong contender for other contract awards.

The February, 1997 contract delivery to WPPSS will be the last to involve pelletization of enriched uranium in Sweden. Assembly will continue to be done here, with the welding process Hematite uses for other nuclear fuel assemblies being phased into use for the WPPSS deliveries over the next three years.

CONCLUSION

From 1970 until the creation of a new heading and subheadings under the Harmonized Tariff Classification System (HTS) in 1989, the U.S. Customs Service classified shipments of bundles of nuclear fuel rods distinctly from nuclear fuel assemblies, applying the duty-free rate to the uranium oxide and the rate of 5.5 percent to the zirconium tubing. The new HTS classification has had the effect of increasing the duty on ABB CENO's bundles by more than five-fold—despite the intent of HTS not to increase duty on any item.

The unintended duty increase imposed on the 1996 and 1997 WPPSS deliveries of ABB CENO's nuclear fuel bundles amounts to $1.8 million. Legislation to restore the 1970 rate and refund the unintended duty is a matter of equity.

The unintended duty has been a significant financial burden to the start-up of the ABB CENO business. Legislation to refund the unintended duty is necessary to clarify that the U.S. is hospitable to the creation of U.S. jobs and manufacturing plants to make goods here that would otherwise be imported. Refusal to enact the legislation would send the wrong signal worldwide.

If the HTS is not corrected and the unintended duty increase refunded, there could be U.S. job losses, with profound significance. ABB CENO's business plan, including the testing agreements and the WPPSS and PSE&G contracts, is based on the use of uranium which has been enriched in the U.S. However, the Swedish affiliate company could be competitive in the U.S. market if it used enriched uranium from the former Soviet States. Refunding the unintended duty would put ABB CENO in a better position with respect to that company.

For the sake of equity and U.S. jobs, legislation to correct the HTS and refund the unintended duty of $1.8 million on pelletized uranium oxide/zirconium tubing should be enacted into law as soon as possible.

H.R. 2498

To amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States.

No comments submitted.

H.R. 2520

To suspend the duty on halofenozide until January 1, 2001.

No comments submitted.

H.R. 2521

To suspend the duty on modified secondary and modified secondary-tertiary amine phenol/formaldehyde copolymers until January 1, 2001.

No comments submitted.

H.R. 2576

To suspend the duty on β-Bromo-β-nitrostyrene until January 1, 2001.

No comments submitted.

H.R. 2583

To amend the Tariff Act of 1930 with respect to the marking of finished golf clubs and golf club components.

No comments submitted.

H.R. 2686

To suspend temporarily the duty on beta hydroxyalkylamide.

No comments submitted.

H.R. 2770

To amend the Tariff Act of 1930 to provide for a deferral of the duty on large yachts imported for sale at boat shows in the United States.

No comments submitted.

H.R. 2771

To amend the Harmonized Tariff Schedule of the United States relating to the definition of raw value for purposes of raw sugar import tariff rate quota.

MALONEY COMMODITY SERVICES, INC.
STAMFORD, CONNECTICUT 06902
January 8, 1998

Mr. A. L. Pete Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Subject: *H.R. 2771*

We refer to the "Advisory" from Chairman Crane dated December 22, 1997, No. TR–19 announcing Requests for Written Comments on Additional Miscellaneous Trade and Tariff Legislation.

Included in the "Advisory" is Paragraph 33:

"*H.R. 2771* would amend Additional U.S. Note 5 to Chapter 17 of the HTS relating to the definition of raw value for purposes of the raw sugar import tariff-rate quota."

We support H.R. 2771 in the language in which it is now written which was based on our original preparation of same and its sponsorship by Congressman Christopher Shays at our request. We respectfully and formally request, therefore, the inclusion of this provision in the Miscellaneous Trade and Tariff Bill to be introduced by Chairman Crane in the Second Session of the 105th Congress.

This letter is also being submitted with an accompanying 3.5-inch diskette, as instructed in the "Advisory."

This bill is non-controversial and revenue neutral to revenue positive. It is either supported or not objected to by all facets of the sugar industry both domestic and foreign. It technically corrects an inequity in the manner by which the U.S. Customs Service measures, calculates and records the polarization (or sweetness) conversion factor in the imported raw cane sugar tariff rate quota, TRQ, so that it conforms to the same commercial method by which "raw value" is treated, calculated, recorded and indeed "paid for," by U.S. sugar refineries.

Further, this bill conforms to the U.S. sugar refineries' commercial contracts and the No. 14 rules of the Coffee, Sugar and Cocoa Exchange, Inc., New York, with respect to sugars with polarity of 99.0 degrees or less. Since the HTSUS defines raw sugar as sugar having polarity of 99.5 degrees or less, the bill would extend the raw value conversion factor to the additional one-half degree, but would not affect the No. 14 rules or the refiners' obligations to make payments for this one-half degree under their contracts.

Simply stated, it is the conversion factor rate from MTRV (Metric Tons Raw Value) (the higher nominal quantity figure) to the actual shipped quantity MTCW (Metric Tons Commercial Weight) for which the foreign country quota holder is being unjustly penalized. U.S. sugar refiners universally pay 2.75 percent premium for raw sugar which polarizes at 98 degrees. Yet U.S. Customs requires that the raw value be assessed 3.50 percent for the same level of polarization (MTRV). In other words U.S. Customs' charge against a country's quota comprehends a higher polarization or sweetness factor for the same cargo than all U.S. refineries commercially pay. As such, the Customs formula does not reflect economic reality and therefore unjustly penalizes foreign shippers for the differences.

Since this conversion factor for "commercial raw value" is included in the HTSUS headnote authority (Chapter 17), it has the effect of law, and only a change in legislation can rectify this inequity in the U.S. raw cane sugar tariff rate quota (TRQ).

Rather than delve into all the details of this suggested change—please consider the following:

On an estimated fiscal year quota of 2,000,000 MTRV using 1.035 percent as the conversion factor, basis 98 degrees (which is presently in effect), the shipment quantity would be 1,932,367 MTCW. Using the more correct and realistic 1.0275 percent method as the conversion factor, the shipment quantity would be 1,946,472 MTCW. Using an approximate U.S. quota price of $.20 per pound, FOBST country of origin, or about $440 per MTCW, the difference is only 14,105 metric tons. Hence as far as the domestic sugar producers are concerned this quota quantity increase is infinitesimal, whereas to the quota holding foreign sugar producers as a whole their 14,105 metric tons at $440.00 per MT equals and represents $6,206,200, and it does

not cost the U.S. government one penny. It may even produce revenue to the extent that these sugars could be dutiable—depending on origin.

Naturally, we are seeking the earliest possible date for this bill to become effective.

For your information and guidance, all the individuals at USDA and USTR who review, draft and operate this TRQ are familiar with this bill, as are their respective legal counsels at USDA and USTR.

In conclusion, we repeat and reiterate our support for H.R. 2771.

Thank you in advance for your prompt consideration and action to our request.

Sincerely,

ROBERT F. MALONEY
President

RFM:jlm

cc: The Honorable Christopher Shays, Attn: Mr. Joel White

H.R. 2857

To suspend the duty on 2,6-Dimethyl-m-Dioxan-4-ol Acetate until January 1, 2001.

No comments submitted.

H.R. 2899

To amend the Harmonized Tariff Schedule of the United States to provide for reduced duty treatment for certain fully assembled bicycle wheels.

HED CYCLING PRODUCTS
WHITE BEAR LAKE, MN 55110
January 23, 1998 (3:30 PM)

A.L. Singleton
Chief of Staff
Committee on Ways and Means, U.S. House of Representatives

Dear Mr. A.L. Singleton

I was just informed today (January 23, 1998 3:30 PM) of the proposed amendment of H.R. 2899 This would amend Chapter 87 of the HTS by inserting a new subheading with the article description for subheading 8714.97.00 for bicycle wheel assemblies consisting of rim, carbon-fiber spokes, and hub flange assembled in one piece, or the above plus a rear freewheel/free hub, to provide an MFN duty trate of 1.5 percent. The currant rate is 5 percent and I feel the lowered rate would create a problem for my company. It appears this bill is written for a single company who has recently moved their manufacturing facilities to Mexico.

I have been manufacturing bicycle wheels for 12 years and if you lower the duty rate it will create unfair trade for my company. I am a small wheel manufacturer in Minnesota and by allowing less duty instead of more hurts my business. I was only informed today about this proposed bill and I am very much against it. Please contact me if you have anymore questions.

Sincerely,

ANNE HED
Owner Hed Cycling Products

INNOVATIONS IN COMPOSITES, INC.
VISTA, CA 92083
January 28, 1998

A.L. Singleton
Chief of Staff, House Ways and Means Committee
U.S. House of Representatives
1102 Longsworth House Office Building
Washington, DC 20515

Dear Mr. Singleton:

We take strong issue with H.R. Bill 2899, by Congressmen Shays and Maloney of Connecticut proposing a reduction in tariff for the importation of carbon fiber bicycle wheels. As a company that produces such wheels in the United States, we feel strongly that this amendment bill gives unfair advantage to only one specific company.

Our company, Innovations in Composites, produces a carbon-fiber wheel brand called Spin wheels in the United States of America. Mr. Maloney and Shays' bill gives unfair competitive advantage to Spinergy, the only other carbon-fiber wheel company with market share in the US who moved their manufacturing to Mexico. This company, of course, maintains an office in Congressman Maloney and Shays' district.

Innovations in Composites had the opportunity to close up shop in the United States and move operations to Mexico just like Spinergy. We chose to stay and keep our American workers. Spinergy did not, as they became part of "that giant sucking sound" and moved to Mexico. Now that they have chosen to leave the US worker behind, they are asking through H.R. Bill 2899 to cheat that same worker from across the border. This is having their cake and eating it too and is just plain wrong no matter how you cut it.

Briefly: 1) We are a competing company who manufactures one piece carbon fiber bicycle wheels in the USA, and provide jobs for Americans in manufacturing and sales.

It should be noted that Mr. Maloney's aide who wrote H.R. 2899 was not informed of our company's existence or of our Spin wheels. We are Spinergy's #1 competitor.

2) Spinergy operates a manufacturing facility in Mexico. A successful attempt at passing this bill simply bolsters their company's profitability, by lowering import tariffs by 8.5%.

3) If the amendment does pass, it benefits one company and one company only. It hurts other American players in the marketplace, who comply with stringent OSHA regulations, higher wage requirements, and face unfair competition if the tariffs are lowered. In this way, American manufacturing jobs face a serious threat, but not in the way that Mr. Maloney is trying to aide his flailing constituent company.

While it's in the interest of the Connecticut congressmen to keep the pork in their district, we feel an act of Congress should benefit all sections of the USA, not one particular company in one voting district. The North American Free Trade Agreement has a phase in period that should not be adjusted to suit a single constituent of a wealthy district.

Please feel free to contact me.

Best regards,

KIRK JONES
President

H.R. 3083

To suspend temporarily the duty on Grilamid TR90.

No comments submitted.