

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION ¹

[**Date approved:** December 16, 1999]²

Bill No.: H.R. 2176; 106th Congress

Introduced by: Mr. THOMAS

Similar and/or related³ bills: None.

Summary of the bill:⁴

The bill would amend, on a permanent basis, the general rate of duty⁵ and tariff-rate quota structure applicable to--

certain categories of raw cotton.

Effective: The 15th day after the date of enactment.

Through: n/a

Retroactive effect: None.

[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]

¹ International trade analyst: Doug Newman (202-205-3328); attorney: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

⁴ The product nomenclature is as set forth in the bill. See technical comments for differences in recommended nomenclature.

⁵ See appendix A for definitions of tariff and trade agreement terms.

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)

<u>Name</u>	<u>Location contacted</u>	<u>Date Contacted</u>	<u>Written Response (Y/N)⁶</u>
National Cotton Council of America	Memphis, TN	9/21/99	Y

Location of the proponent's U.S. production facility (if different from above): None

The imported product

Physical description of the imported product:

The imported product is raw cotton, not carded or combed, which is covered by numerous tariff categories depending upon staple length. Cotton having a staple length of 1-1/8 inches or more but under 1-3/8 inches falls in subheadings 5201.00.22 through 5201.00.38, inclusive, of the Harmonized Tariff Schedule of the United States (HTS). This cotton is currently covered by two different tariff-rate quotas (TRQs), one covering harsh or rough cotton having a staple length of 1-5/32 inches or more but under 1-3/8 inches, and a second covering all other cotton in the above-cited subheadings. This bill would affect only the shorter staple length cotton (1-1/8 to 1-1/4 inches) covered by these TRQs, the terms of which are set forth in additional U.S. notes 6 and 7 to chapter 52. The within-quota quantities are not allocated by country but are reserved to member countries of the World Trade Organization; all non-WTO countries must enter all shipments of the subject goods under the over-quota, higher-duty categories at all times during the year.

Cotton is also subject to various safeguard measures, but only one such safeguard can apply to a particular shipment. Under subheadings 9903.52.00 through 9903.52.26, special import quotas can be imposed if the U.S. price for a particular type of cotton, having a staple length of 1-3/32 inches, exceeds that product's Northern Europe price. Such safeguards are announced by the Secretary of Agriculture in a *Federal Register* notice and can last for a 180-day period; new quotas can start each week, overlapping the prior ones, so if one week's quota fills the quantity may be shifted to the next week's quota. If a shipment is covered by such a safeguard, it can be imported under HTS subheading 5201.00.22, pursuant to HTS general note 15(e). If no such safeguard applies on the date of entry of a shipment, cotton of a type affected by the bill could be covered by either a value-based or a quantity-based safeguard measure under subheadings 9904.52.17 through 9904.52.23, inclusive. Under U.S. note 2 to subchapter IV of chapter 99 of the HTS, the value-based safeguards under subheadings 9904.52.17 through 9904.52.22 apply at all times except when the Secretary of Agriculture announces that quantity-based safeguards under 9904.52.23 are in effect. The additional duties set forth in these subchapter IV safeguard provisions are cumulative, imposed on top of the ordinary customs duties under chapter 52. Only cotton valued at \$1 per kilogram or more escapes additional value safeguards duties (subheading 9904.52.22); all of the cotton covered by the proposed duty-free provisions, regardless of value, would be subject to any quantity-based safeguard imposed. The bill's proponents have indicated that the subject product having the shorter staple

⁶ Written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

length has fallen in that higher value category and that safeguards have not been a problem, but this cannot be verified.

Country of origin of the imported product: Burkina Faso, Mexico, Egypt, Turkey, and Uzbekistan; while the first four are WTO members, the latter is not and has observer status as of the date of preparation of this memorandum.

– EFFECT ON CUSTOMS REVENUE –

[Note: This section is divided in two parts. The first part addresses the effect on customs revenue based on the duty rate for the HTS number(s) set out in the bill. The second part addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (where a different number has been recommended). Five year estimates are given for permanent amendments to the HTS. If the indicated duty rate is subject to “staging” during the five-year period, the rate for each period will be stated separately.]

HTS Number in the Bill

Estimated value of dutiable imports:

<u>First year</u>	<u>Second year</u>	<u>Third year</u>	<u>Fourth year</u>	<u>Fifth year</u>
\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000

HTS (8-digit) No. used in the bill: 5201.00.22 and 5201.00.34; some of the subject cotton may also enter under 5201.00.24.

General rate of duty⁷ (AVE) currently in effect for this HTS No.: 3.4 percent ad valorem equivalent (based on HTS subheadings 5201.00.22, 5201.00.24 and 5201.00.34 and using 1999 year-to-date data (duties collected/dutiable value)). The bound specific rate of duty of 4.4 cents per kilogram applies under all three HTS subheadings.

Calculated customs revenue loss (based on rate for the HTS number in the bill):

<u>First year</u>	<u>Second year</u>	<u>Third year</u>	<u>Fourth year</u>	<u>Fifth year</u>
\$106,000	\$106,000	\$106,000	\$106,000	\$106,000

⁷ See appendix B for column 1-special and column 2 duty rates.

HTS Number Recommended by the Commission⁸

Estimated value of dutiable imports:

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
n/a	n/a	n/a

HTS (8-digit) No. recommended by the Commission (where different): The proposed bill would re-use HTS subheading numbers in chapter 52 which are currently in effect to cover different products. This situation would result in confusion for importers and for Customs, and would mean that trade data series would not be maintained with comparable classes of data. See technical comments.

General rate of duty⁹ (AVE) currently in effect for this HTS No.: n/a

Calculated customs revenue loss (based on rate for the Commission's HTS number):

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
n/a	n/a	n/a

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Following is a list of contacts by the Commission in connection with this memorandum with firms or organizations **other than** the proponents.

<u>Name</u>	<u>Location</u>	<u>Date Contacted</u>	<u>Written Response (Y/N)¹⁰</u>
U.S. Dept. of Agriculture	Washington, D.C.	9/20/99	N

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission prior to approval of this report will be included in appendix D.*

⁸ If a different HTS number is recommended, see technical comments.

⁹ See appendix B for column 1-special and column 2 duty rates.

¹⁰ Written responses received prior to approval of this report by the Commission, if any, will be included in appendix D.

The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]

Statements concerning current U.S. production

<u>Name of Product</u>	<u>Name of Firm</u>	<u>Location of U.S. Production Facility</u>	<u>Date Received</u>
Raw cotton	National Cotton Council of America	Seventeen states, from the Carolinas to California	8/12/99

Statements concerning “future” or “competitive” U.S. production

<u>Name of Product</u>	<u>Name of Firm</u>	<u>Location of U.S. Production Facility</u>	<u>Date Received</u>
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n/a

– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill:

To clarify the indentation levels of new provisions, it is suggested that the language in section 1(a)(1) starting with “with the article” and ending in “5201.00.24” be deleted and the following inserted: “with the new superior text at the same indentation level as the article description of subheading 5201.00.05”. It is customary to have this sort of reference apply to the first new matter being added to the HTS, given the way bills are printed. We suggest using 5201.00.19 and 5201.00.21 to designate the first pair of new tariff provisions; even if these numbers have been used before, it is preferable to re-use “out of service” previous subheading numbers than to use current, newly deleted numbers to designate provisions with different product content. Also, the proposed article description of the second new rate line should read “Other” to be consistent with the prevailing usage for residual categories; it can be confusing to readers where an attempt is made to write narrative language that attempts to exhaust the coverage of the superior provision, and “other” means “everything not already named, subordinate to the superior provision.”

A new second pair of subheadings is needed to subdivide existing subheading 5201.00.24, the TRQ defined by additional U.S. note 6 to chapter 52. The language would look something like the following:

(2) Such chapter is amended by striking subheading 5201.00.24 and by inserting the following, with the new superior text at the same level of indentation as the article description in subheading 5201.00.14:

	“Described in additional U.S. note 6 to this chapter and entered pursuant to its provisions:		
5201.00.23	Having a staple length of 1-1/8 inches or more but under 1-1/4 inches.....Free	Free (CA,E, IL,J)	15.4¢/kg
5201.00.25	Other.....4.4¢/ kg	Free (CA,E, IL,J)	15.4¢/kg”

In section 1(a)(2) [which should be redesignated as (a)(3)], the phrase “with the article...5202.99.05” should be deleted, for the same type of reason, and the phrase “with the new superior text at the same level of indentation as the article description of subheading 5201.00.24”. In the superior description, the correct reference to the additional U.S. note that defines the quota pertaining to existing subheading 5201.00.34 is additional U.S. note 7, so “6” should be changed to “7” in that text. For the new tariff provisions, we suggest using 5201.00.33 and 5201.00.35 to designate the subheadings, instead of reusing existing 5201.00.34, and the second provision’s article description should read only “Other”.

Recommended changes to any C.A.S. numbers in the bill (if given): None.

Recommended changes to any Color Index names in the bill (if given): None.

Basis for recommended changes to the HTS number used in the bill¹¹: New permanent provisions should not, if at all possible, reuse existing numbers to designate provisions with different product content.

Other technical comments (if any):

HTS subheading 5201.00.24, which was not specified in the bill, includes in part the subject shorter staple length cotton, and (as shown above) should probably be included in the bill.

We note that subdividing existing TRQs to grant duty-free entry to a portion of the goods presently counted toward the trigger figure may present problems to importers of the dutiable goods, in that a duty-free provision often tends to invite more shipments and there may be little in-quota quantity left for imports of the dutiable product. This situation may give rise to complaints from our trading partners.

¹¹ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee’s consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (now referred to as normal trade relations) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated general-rate countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1999. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act (APTA)** (general note 5) and the **Agreement on Trade in Civil Aircraft (ATCA)** (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX. Pursuant to the **Agreement on Textiles and Clothing (ATC)** of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement (MFA)**). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 10/26/98

APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

106TH CONGRESS
1ST SESSION

H. R. 2176

To amend the Harmonized Tariff Schedule of the United States to modify the tariff treatment of certain categories of raw cotton.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1999

Mr. THOMAS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Harmonized Tariff Schedule of the United States to modify the tariff treatment of certain categories of raw cotton.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TARIFF TREATMENT OF RAW COTTON.**

4 Chapter 52 of the Harmonized Tariff Schedule of the
5 United States is amended as follows:

6 (a) RAW COTTON SUBJECT TO QUOTAS.—

7 (1) Such chapter is amended by striking sub-
8 heading 5201.00.22 and inserting the following, with
9 the article description for subheading 5201.00.22

1 having the same degree of indentation as the article
 2 description for subheading 5201.00.24:

“	5201.00.22	Described in general note 15 of the tariff schedule and entered pursuant to its provisions... Having a staple length of 1½ inches or more but under 1¼ inches	kg	Free	Free (CA, E, IL, J, MX)	15.4¢/kg	
	5201.00.23	Having a staple length of 1¼ inches or more but under 1⅜ inches	kg	4.4¢/kg	Free (CA, E, IL, J, MX)	15.4¢/kg	”.

3 (2) Such chapter is amended by striking sub-
 4 heading 5201.00.34 and inserting the following, with
 5 the article description for subheading 5201.00.34
 6 having the same degree of indentation as the article
 7 description for subheading 5202.99.05:

“	5201.00.34	Described in additional U.S. note 6 of this chapter and entered pursuant to its provisions... Having a staple length of 1½ inches or more but under 1¼ inches ..	kg	Free	Free (CA, E, IL, J)	15.4¢/kg	
	5201.00.35	Having a staple length of 1¼ inches or more but under 1⅜ inches ..	kg	4.4¢/kg	Free (CA, E, IL, J)	15.4¢/kg	”.

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section apply to goods entered, or withdrawn from
 10 warehouse for consumption, on or after the 15th day after
 11 the date of the enactment of this Act.

○