

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:** November 23, 1999]²

Bill No.: H.R. 2192; 106th Congress

Introduced by: Mr. McGOVERN

Similar and/or related³ bills: S. 1385

Summary of the bill:⁴

The bill would amend, on a permanent basis, the country of origin marking requirements applicable to jewelry boxes provided for in subheadings 4202.92.60, 4202.92.90, and 4202.99.10 of the HTS to require indelible marking, with no exceptions allowed.

Effective: Effective upon enactment; regulations must be issued by no later than the date that is 1 year after the date of the enactment of this Act.

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: Carl Seastrum (202-205-3493); 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.

– 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)⁵</u>
Manufacturing Jewelers & Suppliers of America (MJSA)	Providence, RI	10/19/99	N

Location of the proponent’s U.S. facility (if different from above): Rhode Island.

The imported product

Description and uses of the imported product:

This legislation covers jewelry boxes and similar containers not used during travel, when such goods have an outer surface of plastic sheeting or of textile materials, or are made of other materials (excluding leather, plastics, and textiles) covered with paper. (Jewelry containers used as travel cases are classified with traditional-type luggage, mainly under heading 4202.12.) The types of jewelry boxes entered under HTS subheadings 4202.92.60, 4202.92.90, and 4202.99.10, identified in the legislation, consist primarily of “jewelry boxes, and similar containers of a kind normally sold at retail with their contents;” traditional-type jewelry boxes used by consumers to store pieces of jewelry at home; and any similar container used to store jewelry, such as folders and rolls made of the named materials. However, it should immediately be noted that the three HTS provisions are not limited in scope to jewelry boxes and similar containers or to those normally sold at retail with the jewelry, but instead cover all boxes of the named materials. The primary functions of these three types of jewelry boxes are storage and display. The first type, which is specifically named in two statistical reporting categories under HTS subheadings 4202.92.60 and 4202.92.90 (4202.92.6010 and 4202.92.9015, respectively), may be used to display and store jewelry in retail establishments. To qualify for entry under heading 4202, this type, “normally sold at retail with their contents,” must be specially designed, shaped, or fitted to contain a specific type of jewelry and be suitable for long-term use. Boxes that do not meet both of these criteria are classified in other tariff provisions depending on the material of which they are made and on the material comprising the outer surface. It should be noted that these provisions cover only the boxes themselves if separately imported; if they are imported with their contents, they are likely to be treated as entreties and classified with the contents.

Country of origin of the imported product:

China, Canada, Hong Kong, Thailand, and El Salvador. China was by far the largest supplier.

⁵ Written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

– 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:⁶

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

HTS (8-digit) No. used in the bill: 4202.92.60, 4202.92.90, and 4202.99.10

General rate of duty⁷ (AVE) currently in effect for this HTS No.:

6.8 percent ad valorem, 18.8 percent ad valorem, and 3.4 percent ad valorem, respectively

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>
n/a	n/a	n/a	n/a	n/a

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): None.

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

⁶ It is not possible to ascertain separate import data and consequent revenue losses for the subject goods alone, given the broader scope of the tariff categories concerned. See also technical comments section.

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

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

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

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)</u> ¹⁰
Rio Grande Display & Packaging	Albuquerque, NM	10/21/99	N
Stone Pigman on behalf of Kalencom Corp.	New Orleans, LA	10/19/99	N
Luggage and Leather Goods Manufacturers of America	New York, NY	10/21/99	Y
Fitch, King and Caffentzis on behalf of several importers	New York, NY	10/20/99	N
Fuller Box Co., Inc.	Central Falls, RI	10/20/99	N
U.S. Customs Service	New York, NY	10/20/99	N
Powell, Goldstein, Frazer, Murphy on behalf of Kalencom Corp.	Washington, DC	10/20/99	N
Rocket Jewelry Box, Inc.	Bronx, NY	10/22/99	N
International Packaging	Pawtucket, RI	10/21/99	N
The Kalencom Corporation	New Orleans, LA Buffalo, NY	10/21/99	Y ¹¹
Barnes, Richardson, & Colburn On behalf of U.S. importer	New York, NY	10/20/99	N
Economic Consulting Services, Inc. on behalf of the Luggage & Leather Goods Mfrs of America	Washington, DC	9/22/99	N
Jewel Case Corporation	Providence, RI	10/21/99	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

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

¹¹ The submission comments on S. 1385, which is virtually identical with H.R. 2192.

*offered for sale under standard commercial terms. The second part lists written submissions received by the Commission which assert 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. 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>
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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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– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill:

It is suggested that the words “, and similar containers normally sold at retail with their contents” be added after “jewelry boxes”--parallel to the HTS language--to simplify administration and reduce confusion, as discussed below.

Recommended changes to any C.A.S. numbers in the bill (if given): n/a

Recommended changes to any Color Index names in the bill (if given): n/a

Basis for recommended changes to the HTS number used in the bill¹²: n/a

Other technical comments (if any):

The Customs National Import Specialist (NIS) in New York indicated that classification and marking of jewelry boxes have been the subject of much dispute for many years. Classification of jewelry

¹² 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.

boxes is currently the subject of litigation in the Court of International Trade. Several issues appear to be unclear in the wording of the proposed legislation; however, only the U.S. Customs Service may provide an authoritative classification and interpretation regarding the subject products. Because only three HTS subheadings (4202.92.60, 4202.92.90, and 4202.99.10) are listed in section 1(b) of the proposed legislation to which the new marking requirements would apply, the scope of the term “jewelry boxes” appears to be limited to those types specifically identified in statistical breakouts under subheadings 4202.92.60 and 4202.92.90. These are “jewelry boxes, and similar containers of a kind normally sold at retail with their contents.” If the sponsor wants to limit the scope of the legislation to these jewel boxes, this wording should be used in section 1(b) of the legislation in place of “jewelry boxes” after reference to subsection (a). Such modification of the language of the bill would narrow the coverage of the bill while accomplishing the intent of the proposed legislation.

With the current wording, a broader scope of “jewelry boxes” would be classified under the three subheadings enumerated in the legislation, including also both traditional-type jewelry boxes used to store multiple items of jewelry on a dresser and any container with a similar use, such as jewel folders and rolls (relatively unimportant articles). The NIS noted that besides the three subheadings in the proposed legislation, these three kinds of “jewelry boxes” could also be classified under subheadings 4202.99.20, 4202.99.30, 4202.99.50, and 4202.99.90, depending on the material of which the shell of the box is made and the outer surface material with which it is covered. He also said travel case-type “jewelry boxes” normally fall under heading 4202.12.

With regard to the marking issues in the proposed legislation, the NIS noted that current Customs Regulations under section 134.14(a) require that imported articles should be as permanently marked as the article allows, and it should be done preferably at the time of manufacturing. This section requires that the marking show that the country of origin of the container is different from that of the jewelry sold or combined with it. This marking requirement may be satisfied by language such as “Box made in” He indicated that imported jewelry boxes may be stamped with such brand names as Christian Dior so the boxes should be capable of being marked with the country of origin, which might require one-time costs of retooling to incorporate the marking into the manufacturing process. The NIS said that stickers currently allowed should have adhesive sufficiently strong that removal would leave a permanent mark on the box. Customs would not approve pressure-sensitive tape. We note also that consumers may be confused or misled if a box is marked merely as “made in xxx” but the contents (assuming the presence of hang tags or the passage of pending H.R. 2191) may have other specified countries of origin. Customs’ jurisdiction regarding marking is intended to allow the “ultimate purchaser”—which may be a domestic firm that packages U.S.-origin jewelry for sale in the imported boxes—to know the origin of a foreign article, not necessarily to allow a retail consumer to know the origin of such a box. This factor, which is commonly a problem regarding 19 U.S.C. 1304, might explain why some imported boxes are not marked when the jewelry is displayed at retail.

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. 2192

To require that jewelry boxes imported from another country be indelibly marked with the country of origin.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 1999

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

A BILL

To require that jewelry boxes imported from another country be indelibly marked with the country of origin.

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. MARKING OF IMPORTED JEWELRY BOXES.**

4 (a) **MARKING REQUIREMENT.**—By no later than the
5 date that is 1 year after the date of enactment of this
6 Act, the Secretary of the Treasury shall prescribe and im-
7 plement regulations that require that all jewelry boxes de-
8 scribed in subsection (b) that enter, or are withdrawn from
9 warehouse for consumption, into the customs territory of
10 the United States have the English name of the country

1 of origin indelibly marked in a conspicuous place on such
2 jewelry boxes by cutting, die-sinking, engraving, stamping,
3 or some other permanent method. The exceptions from
4 marking requirements provided for in section 304 of the
5 Tariff Act of 1930 (19 U.S.C. 1304) shall not apply to
6 jewelry boxes subject to this section.

7 (b) JEWELRY.—The jewelry boxes referred to in sub-
8 section (a) are jewelry boxes provided for in headings
9 4202.92.60, 4202.92.90, and 4202.99.10 of the Har-
10 monized Tariff Schedule of the United States.

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