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**: January 14, 2000][2]

Bill No.: H.R. 2297; 106th Congress

Introduced by: Mr. ENGLISH

Similar and/or related[3] bills: S.1578

Summary of the bill:[4]

The bill would suspend the general rate of duty[5] on--

Ferroniobium

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

Through: December 31, 2002.

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.*]

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[1] International trade analyst: Charles Yost (202-205-3432); 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)

Name	Location contacted	Date Contacted	Written Response (Y/N)[6]
Reference Metals Company, Inc.	Bridgeville, PA	9/16/99 9/20/99 9/27/99	Y

Location of the proponent's U.S. facility (if different from above): n/a

The imported product

Description and uses of the imported product:

The imported ferroniobium, like most grades of domestically obtained ferroniobium, contains by weight from 60 to 70 percent niobium, more than 4 percent iron, and certain other elements (including tantalum, manganese, silicon, and aluminum) within specified percentage ranges.[7] The subject ferroniobium generally conforms to the ASTM standard for low alloy steel grades. It is typically used as a microalloying agent, added in small amounts to molten steel in order to enhance the steel's strength, abrasion-resistance, and processing characteristics. Ferroniobium is typically priced and sold on the basis of its contained niobium; the product is shipped in standard crushed sizes or to customer specifications and is packed in sealed containers.

Countries of origin of the imported product: Brazil, Canada, France, Belgium, United Kingdom, Germany.

Although the bill would apply to all dutiable shipments, there are few significant suppliers of U.S. imports of ferroniobium. Imports of ferroniobium from Brazil accounted for 80 to 85 percent by value of total U.S. imports during the past 2 years and during January-July 1999. The U.S. sales agent for Cia. Brasileira de Metalurgia e Mineracao (CBMM), the world's largest producer of niobium ore and ferroniobium, is the bill's proponent.[8] Imports from Canada, already eligible for duty-free entry under the NAFTA, accounted for 10 to 18 percent by value of total U.S. imports during the same periods. Smaller dutiable quantities were imported from France, Belgium, the United Kingdom, and Germany. Because imports from Canada have been entering free of duty, the overall trade-weighted average tariff rate is somewhat reduced and is estimated at 4.4 percent ad valorem for 1998.

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[6] Written responses received prior to approval of this report by the Commission are included in appendix C.

[7] The American Society for Testing and Materials (ASTM) has established standards for three grades of ferroniobium. See, ASTM, *Standard Specification for Ferrocolumbium*, A 550-78 (Reapproved 1994), in app. D. Many consumers of ferroniobium use these standards as minimum standards, but modify the specifications according to their production technology and product mix.

[8] The CBMM niobium ore deposit in Brazil represents more than 70 percent of the world's economically extractable known ore deposits. (Niobium enters the United States free of duty.) See http://www.molycorp.com/niobium.htm, retrieved on Aug. 30, 1999; also, see Larry D. Cunningham, Columbium (Niobium) and Tantalum, U.S. Geological Survey–Minerals Information Yearbook, 1997, found at http://minerals.usgs.gov/minerals/pubs/commodity/niobium/index.html#myb. The terms "columbium" and "niobium" often are used interchangeably. They both are used for the same element, number 41, in the periodic table of elements.

– 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 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). Three year estimates (or four year estimates, etc.) are given based on the duration of the proposed duty suspension. If the indicated duty rate is subject to "staging" during the duty suspension period, the rate for each period will be stated separately.*]

HTS Number in the Bill

Estimated value of **dutiable** imports during the duration of the duty suspension:

First year	Second year	Third year
$40 to $50 million	$40 to $50 million	$40 to $50 million

These estimates are conservatively based on actual dutiable imports of ferroniobium during 1995-98.

HTS (8-digit) No. used in the bill: 7202.93.00

General rate of duty[9] (AVE) currently in effect for this HTS No.: 5 percent ad valorem (a "bound" duty rate not scheduled for further reduction).

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

First year	Second year	Third year
$2 to $2.5 million	$2 to $2.5 million	$2 to $2.5 million

HTS Number Recommended by the Commission[10]

Estimated value of **dutiable** imports during the duration of the duty suspension:

First year	Second year	Third year
n/a	n/a	n/a

HTS (8-digit) No. recommended by the Commission (where different): None.

General rate of duty[11] (AVE) currently in effect for this HTS No.: n/a

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

First year	Second year	Third year
n/a	n/a	n/a

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[9]See appendix B for column 1-special and column 2 duty rates.
[10]If a different HTS number is recommended, see technical comments.
[11]See appendix B for column 1-special and column 2 duty rates.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

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

Name	Location	Date Contacted	Written Response (Y/N)[12]
Cabot Performance Materials	Boyertown, PA	9/17/99 10/1/99	Y
Oremet Wah Chang	Albany, OR	9/27/99	N
Reading Alloys	Robesonia, PA	9/17/99 9/27/99 10/1/99	Y
Shieldalloy Metallurgical Corp.	Newfield, NJ	9/17/99 9/27/99	Y

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

The U.S. industry reportedly produces ferroniobium grades of higher purity (i.e., lower levels of impurities) by further refining imported ferroniobium or by melting niobium ores in a vacuum. These vacuum grades of ferroniobium are used in the production of stainless steels and superalloys, and they cost significantly more than the standard (nonvacuum) grade. The Brazilian product, a standard grade of ferroniobium, is used in the processing of carbon steels. However, vacuum grade ferroniobium also may be used in the processing of low alloy steels, and in that application it competes with the imported product.

At least one U.S. producer processes niobium ore imported from Brazil (the location of the world's largest deposits of ferroniobium) , and two U.S. companies further refine Brazilian ferroniobium. All three companies produce vacuum grade ferroniobium.

According to industry sources, the proposed bill may present a choice for U.S. firms–namely, on the one hand its passage would reduce the cost of their inputs, but on the other it might reduce the availability of those inputs by encouraging the Brazilian importer to increase direct sales of its ferroniobium. Additionally, because the proposed tariff provision would not be limited to any specified grade or grades of ferroniobium, a duty suspension might provide an incentive to the Brazilian producer to

[12]Written responses received prior to approval of this report by the Commission are included in appendix D.

shift production to the higher value-added and more costly grades of ferroniobium than it presently supplies. Such a change would mean these imports would compete directly with output from U.S. producers, which sell the higher value-added grades of ferroniobium.

Statements concerning current U.S. production

Name of Product	Name of Firm	Location of U.S. Production Facility	Date Received
Ferroniobium	Cabot Performance Materials	Boyertown, PA	9/30/99
Ferroniobium	Reading Alloys	Robesonia, PA	9/29/99

Statements concerning "future" or "competitive" U.S. production

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

– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill: None.

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 bill[13]: n/a

Other technical comments (if any): None.

[13]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

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

106TH CONGRESS
1ST SESSION

H. R. 2297

To suspend temporarily the duty on ferroniobium.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1999

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

A BILL

To suspend temporarily the duty on ferroniobium.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON FERRONIOBIUM.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.72.02	Ferroniobium (provided for in subheading 7202.93.00)	Free	No change	No change	On or before 12/31/2002	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.