

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. 2517; 106th Congress

Introduced by: Mr. WELDON

Similar and/or related³ bills: None.

Summary of the bill:⁴

The bill would suspend the general rate of duty⁵ on--

Ceramic coater for laying down and drying ceramic

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.]

¹ International trade analyst: Melani Schultz (202-205-3436); 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</u>	<u>Date Contacted</u>	<u>Written Response (Y/N)</u> ⁶
Porter, Wright, Morris,&Arthur, LLP, for Kemet Electronics Corp. Greenville, SC, and Vishay Intertechnology, Inc., Malvern, PA	Washington, DC	9/15/99	N

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

Kemet Electronics Corporation:

Shelby, NC; Brownsville, TX; and Fountain Inn, Greenwood, Mauldin, and Simpsonville, SC.

Vishay Intertechnology, Inc.:

Tempe, AZ; Bridgeport, CT; West Palm Beach, FL; Sanford, ME; Hagerstown, MD; Statesville, NC; Columbus, NE; Norfolk, NE; Concord, NH; Niagara Falls, NY; Bradford, PA; Yankton, SD; El Paso, TX; and Roanoke, VA.

The imported product

Description and uses of the imported product:

Ceramic coaters are machines that apply ceramic liquid material to a substrate.⁷ There are two types of ceramic coating machines. One type applies a very thin layer (from 2 to 25 microns in thickness) of ceramic material onto a substrate using a die coater and then dries the ceramic material through a continuous process. These machines are almost exclusively used to make multilayer ceramic capacitors for the electronics industry. The other type of coater applies liquid ceramic material using a knife or blade coater, and leaves a much thicker layer of ceramic measured in inches rather than in microns. The drying process if this type is used takes much longer than for the die coater, although the drying process may be accelerated using thermal dryers.

Country of origin of the imported product: Japan and Canada

– 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

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

⁷ The substrate is typically silicone coated Mylar (thin strong polyester film), polypropylene, or silicone coated paper.

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 suspension⁸:

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
\$5 million	\$5 million	\$5 million

HTS (8-digit) No. used in the bill: 8479.90.85

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

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>
0	0	0

HTS Number Recommended by the Commission¹⁰

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

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
\$5 million	\$5 million	\$5 million

HTS (8-digit) No. recommended by the Commission (where different): 8479.89.97

General rate of duty¹¹ (AVE) currently in effect for this HTS No.: 2.5 percent ad valorem

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>
\$125,000	\$125,000	\$125,000

⁸ Dutiable imports were estimated with information from industry sources.

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 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)¹²</u>
Unique/Pereny	Ringoes, NJ	September 5, 13, 1999	N
Yasui/Seiki	Bloomington, IN	September 5, 6, 1999	N
U.S. Customs	New York, NY	September 5, 6, 7, 8, 1999	N
The Type Casting Warehouse	Moorisville, PA	September 6, 7, 1999	N
Dreitek	San Marcos, CA	September 6, 1999	N
EPH Engineering	Orem, UT	September 7, 1999	N
AEM	San Diego, CA	September 7, 1999	N
Kanematsu	Arlington Heights, IL	September 7, 8, 1999	N
Texmac	Santa Clara, CA	September 13, 1999	N
Harrop Industries	Columbus, OH	September 14, 1999	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 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>
ceramic coater	Electro Scientific Industries, Inc.	Escondido, CA	10/19/99

¹² Written responses received prior to approval of this report by the Commission, if any, will be included in appendix D.

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>
n/a			

– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill: It might be clearer to describe the subject products as “Coating machines” rather than as a “Ceramic coater” in the proposed article description; these machines are not made from ceramic, and the initial adjective does not refer to the machines’ function as clearly as the “use” language that also appears in the description.

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 bill¹³:

The HTS provision cited in the bill covers parts of trash compactors, rather than the subject coating machines. According to the U.S. Customs import specialist, such machines are more accurately classified in the suggested HTS number (subheading 8479.89.97). Contact with an importer has confirmed the machines’ classification under the suggested HTS number.¹⁴

Other technical comments (if any):

Industry sources indicate that it could be difficult for Customs officials to identify this machinery according to use as a ceramic (rather than any other substance) coater based on physical characteristics. Additionally, these types of machines are easily adapted to using different types of coating substances. We note that the draft description “for laying down and drying ceramic” constitutes an “actual use provision” that commits the importer to showing that each machine is put to the stated purpose and requiring post-entry Customs verification. Although this is somewhat burdensome, specifying the product’s use is likely to be the only way that the scope of the duty suspension can be restricted to the subject machines. This type of use criterion is narrower than is a “suitable for use” limitation, but because the latter is easier for Customs to enforce that agency may suggest it as an alternative. Changing to a “suitable for use” standard would likely mean that more machines could qualify for entry under this new provision, with a consequent increase in revenue loss.

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.

¹⁴ Kanematsu representative, contacted Oct. 8, 1999.

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. 2517

To suspend temporarily the duty on ceramic coater.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1999

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

A BILL

To suspend temporarily the duty on ceramic coater.

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. CERAMIC COATER.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in the numerical sequence the fol-
7 lowing new heading:

“	9902.84.00	Ceramic coater for laying down and drying ce- ramic (provided for in sub- heading 8479.90.85)	Free	No change	No change	On or before 12/31/2002	”.
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1 (b) **EFFECTIVE DATE.**—The amendment made by
2 this section shall apply with respect to goods entered, or
3 withdrawn from warehouse for consumption, on or after
4 the 15th day after the date of enactment of this Act.

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