

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. 2521; 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--

Anode presses for pressing tantalum powder into anodes

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)⁶</u>
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:

Anode presses are machines that compress powders into solid shapes. Tantalum metal powder is mixed with a binder or lubricant so that the particles will adhere to each other when pressed. The mixture is placed in the press and compressed around a tantalum wire to form a “slug.” (The wire acts as the electrical connection in the final product.) The slug is removed from the press and heated to drive off the binder or lubricant and then sintered to bond the particles together forming the anode. The anode is used in making tantalum capacitors.

Country of origin of the imported product: Japan, France, Germany, Switzerland

– 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.]

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

HTS Number in the Bill

Estimated value of **dutiable** imports during the duration of the duty suspension⁷:

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
\$10 million	\$10 million	\$10 million

HTS (8-digit) No. used in the bill: 8479.89.97

General rate of duty⁸ (AVE) currently in effect for this HTS No.: 2.5 percent ad valorem

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>
\$250,000	\$250,000	\$250,000

HTS Number Recommended by the Commission⁹

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

<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
\$10 million	\$10 million	\$10 million

HTS (8-digit) No. recommended by the Commission (where different): 8462.99.80

General rate of duty¹⁰ (AVE) currently in effect for this HTS No.: 4.4 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>
\$440,000	\$440,000	\$440,000

⁷ Dutiable imports were estimated with information from industry sources.

⁸ See appendix B for column 1-special and column 2 duty rates.

⁹ If a different HTS number is recommended, see technical comments.

¹⁰ 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)¹¹</u>
U.S. Customs	New York, NY	October 6, 7, 8, 21, 1999	N
Seteram Inc.	Southlake, TX	October 7, 1999	N
Montena America	Worcester, MA	October 7, 14, 19, 20, 21, 1999	N
H.C. Starck	Newton, MA	October 12, 1999	N
A. Barbuto Designs	Dalton, MA	October 12, 18, Nov. 16, 1999	Y
AVX	Bitterford, ME	October 20, 21, 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 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.]*

Information available to the Commission suggests that there is one firm making this type of product in the United States. This firm is A. Barbuto Design Co.; the submission indicated that Kemet, Inc. was making such presses after “reverse engineering” a press purchased from Barbuto. While another industry source contacted by the Commission suggested that Dorst America Inc. and Precise Engineering might make a press covered by the bill; no written submission verified that suggestion.

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>
tantalum press	A. Barbuto Design Co.	Dalton, MA	Nov. 17, 1999

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			

¹¹ Written responses received prior to approval of this report by the Commission, if any, will be included in appendix D.

– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill:

It is unclear (absent industry input) whether a particular press can be identified as being dedicated for use as an anode press and as one that is only or primarily for use in pressing tantalum powder. Thus, importers—who bear the legal burden for compliance under the Customs Modernization Act—may be unsure if they should enter goods under the proposed provision, at least until Customs has indicated its scope by means of rulings (when and if requested). This situation means that an attempt to narrow the scope of the bill and to reduce its cost may present other problems. One suggested alternative, which would need to be considered by Customs and the industry, might be an article description such as “presses of a type designed for working tantalum powder to produce anodes” or a somewhat broader description such as “presses suitable for working tantalum powder to produce anodes.” It may not be possible to discern if a given press is equally well suited for working other metal powders, however, so that the volume of goods admitted under such a description might be higher. At a minimum, it is suggested that the word “Anode” be dropped from the existing description, unless there is some distinct feature about the proponent’s machines that means they can be put to no use other than making anodes and they are commonly known as “anode presses.”

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 bill¹²:

According to the U.S. Customs National Import Specialist, this product is more accurately classified in the suggested HTS subheading (8462.99.80) and has previously been entered under that classification.¹³ We note that the general duty rate for that provision is bound at its present level and therefore not subject to staged reductions.

Other technical comments (if any):

We note that the proposed description is an “actual use” provision requiring that importers certify their shipments as being destined for the stated application and that Customs verify that use within 3 years. As such, the provision may present some administrative and compliance burdens. Customs should be consulted as to the need to impose such a standard for this product.

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.

¹³ A used tantalum anode press was previously imported under the HTS 8462.99.80.10 category.

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. 2521

To suspend temporarily the duty on anode presses.

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 anode presses.

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. ANODE PRESSES.**

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:

“	9902.84.20	Anode presses for pressing tantalum pow- der into anodes (provided for in subheading 8479.89.97)	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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