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**: August 17, 2000][2]

Bill No.: H.R. 4026; 106th Congress

Introduced by: Mr. SHAW

Similar and/or related[3] bills: None.

Summary of the bill:[4]

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

> certain foodstuffs originating in NAFTA countries. These products also would not be subject to safeguard duties and would not be counted against the in-quota quantities in any otherwise-applicable tariff-rate quota (TRQ) provisions.

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

Through: No expiration date.

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 analysts: Devry Boughner (202-205-3313), Jonathan Coleman (202-205-3465), Karl Rich (202-205-3317); 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 suggested changes (if any).

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

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N)[6]
Grocery Manufacturers of America	Washington, DC	4/26/00	Y

*Does the proponent plan **any** further processing or handling[7] of the subject product after importation to its facilities in the United States (Y/N)*: not applicable

The imported product	
Description and uses	Country(s) of origin
The bill would cover agricultural products of chapters 4, 18, 19, and 21; heading 1704; and subheadings 1517.90.50, 1517.90.60, 1701.91.44, 1701.91.48, 1701.91.54, 1701.91.58, 2202.90.24, and 2202.90.28 of the Harmonized Tariff Schedule of the United States (HTS) that are made in Canada and/or Mexico using a good or material exported from the United States and are originating goods for purposes of the North American Free Trade Agreement (NAFTA). A number of conditions would relate to the use of dairy or sugar inputs in the affected imports. Under current law, these goods are not accorded NAFTA benefits, either because they are goods of Canada (which does not receive duty-free entry for goods falling in over-TRQ tariff categories), or because they are "goods of the United States" when the so-called marking rules are applied (and no special rate of duty applies to such goods). This wide range of tariff categories includes many processed products and prepared foods, as discussed below. Chapter 4 covers dairy products, birds' eggs, and natural honey. Dairy products comprise milk and cream, whether fluid, concentrated, or dried (HTS headings 0401 and 0402); buttermilk and curdled, fermented, or acidified milk and cream (e.g., yogurt) (0403); and, whey and whey protein concentrate (0404). Also included are butter and other fats and oils derived from milk (0405), and cheese and curd of all kinds (0406). Birds' eggs includes hatching eggs and table eggs (0407) as well as processed egg products (0408). Natural honey includes comb honey and processed honey (0409). Edible products of animal origin not elsewhere specified or included (0410) are also covered. Most imported dairy products are subject to TRQs, with a set quantity in each category receiving a lower rate of duty and remaining imports a higher rate; further discussion appears below.	Canada Mexico

[6] Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

[7] The phrase "further processing or handling" can include repackaging, storage or warehousing for resale, etc.

Subheadings 1517.90.50 and 1517.90.60 cover edible mixtures or preparations of animal or vegetable fats or oils that contain dairy inputs; such goods are subject to a TRQ. Subheadings 1701.91.44, 1701.91.48, 1701.91.54, and 1701.91.58 provide for cane or beet sugar and chemically pure fructose, in solid form. This group includes refined sugar, articles with added flavoring whether or not containing added coloring, articles over 10 percent by dry weight sugar in bulk and retail, and articles over 65 percent dry weight of sugar in bulk (e.g., flavored sugars and drink mixes). These imports are also subject to TRQs. Heading 1704 provides for sugar confectionery (including white chocolate) that does not contain cocoa. This heading covers most of the sugar preparations marketed in solid or semi-solid form, generally suitable for immediate consumption and collectively referred to as sweetmeats, confectionery, or candies. The heading includes gums containing sugar, boiled sweets, caramels, cachous, candies, nougats, fondants, sugared almonds, Turkish delight, and marzipan. TRQs apply to many imports.	
Chapter 18 covers cocoa (including cocoa beans) in all forms, cocoa butter, fat and oil, and preparations containing cocoa (in any proportion). These products include cocoa beans whether whole or broken, raw or roasted (heading 1801); wastes from the manufacture of cocoa powder or cocoa butter (1802); cocoa paste, whether or not defatted (1803); cocoa butter, fat, and oil (1804); cocoa powder, not containing added sugar or other sweetening matter (1805); and chocolate and other food preparations containing cocoa such as cocoa powder with added sugar, milk, coffee, hazelnuts, almonds, orange peel, etc., cocoa preparations in blocks, slabs or bars, filled with creams, fruits, and liqueurs, etc., and unfilled chocolates (1806). TRQs apply to many goods of heading 1806. Chapter 19 includes preparations of cereal, flour, starch, or milk and assorted bakers' wares. These include food preparations such as infant formulas, mixes and doughs, malt extracts, and other food preparations of flour, meal, starch, or malt extracts (heading 1901); pasta products (1902); tapioca and substitutes prepared from starch (1903); roasted and unroasted cereal products (1904); and bread, pastries, cakes, biscuits, and other bakers' wares (1905). Many imports containing dairy products or sugar are covered by TRQs. Chapter 21 includes miscellaneous edible preparations. These include extracts, essences, and concentrates of tea, coffee, or mate, such as instant coffee and chicory (heading 2101); yeasts (2102); sauces, such as soy sauce and ketchup, mustard flour and meal, and mixed condiments and seasonings (2103); soups and broths (2104); ice cream (2105); and other food preparations, including butter substitutes, fruit and vegetable juices, syrups, gelatin, preparations for beverage manufacture, and milk and cream substitutes (2106). TRQs cover many imports containing dairy products or sugar.	

Subheadings 2202.90.24 and 2202.90.28 provide for milk-based beverages, other than chocolate milk. A TRQ applies to such goods. TRQs were adopted in the Uruguay Round of multilateral trade negotiations to replace former absolute global or country quantitative restraints. They are intended to limit the total quantity of imports in a given time period by imposing a lower duty rate until a stated trigger level of imports is attained, and thereafter invoking a higher (often economically prohibitive) duty rate. In the case of sugar, dairy, and sugar- and dairy-containing products, the U.S. administers global TRQs for WTO countries under the URAA, and preferential TRQs for Mexico under NAFTA.	
A number of dairy products covered in chapters 4, 15, 18, 19, 21, and 22 of the HTS are subject to TRQs, including milk and cream, butter, milk powder, and certain types of cheese. NAFTA provisions affect dairy trade only between the United States and Mexico and are scheduled to be phased out completely by January 1, 2003. Five TRQs were established under NAFTA for imports from Mexico into the United States (covering milk, cream, and cheese). Because Canada excluded its dairy sector from the Agreement and did not negotiate on these restrictions during the Uruguay Round, originating dairy products from Canada face a duty rate of "Free" under in-quota tariff provisions and normal trade relations (NTR) duty rates on over-quota imports. Mexico's imports are eligible for preferential treatment under the over-quota provisions and are not counted toward TRQ trigger levels. Three TRQs provided for in chapter 17 of the HTS cover a number of sugar-containing products in chapters 17, 18, 19, and 21 of the HTS. The TRQs for sugar-containing products were initially instituted to deter imports of products containing significant amounts of refined sugar (e.g., sweetened cocoa with a 90 percent sugar content) from undermining the refined sugar import quota. That is, the TRQs limit imports of intermediate good sugar-containing products which are used as inputs in food processing and displace refined sugar. The proposed bill would provide duty-free access to eligible imports that originate in Canada and Mexico and are made using a good or material exported from the United States, including imports of specified dairy- and sugar-containing products from Canada and Mexico that are currently subject to TRQs . These products, however, are subject to certain conditions in the bill, which have different implications with respect to dairy- and sugar-containing products. In the case of dairy products, the bill would provide duty- and quota-free treatment for certain dairy products processed/manufactured in Canada or in Mexico, provided 100 percent of the dairy inputs are of U.S. origin. In addition, the bill covers products that undergo minimal processing that does not affect their tariff classifications. Moreover, it covers goods that are not now eligible for duty-free entry under the NAFTA, either because they are goods of Canada or because the goods are not considered to be Canadian or Mexican products under the so-called NAFTA marking rules and fall in over-TRQ HTS categories. For instance, under the bill, U.S.-produced block cheese	

could be shipped to Canada for slicing, shredding, and packaging, and then returned to the United States free of duty (without changing its tariff classification). In contrast, U.S. milk fat exported to Canadian plants to be used as an ingredient in the manufacture of processed cheese would be ineligible for the new tariff benefit.	
With respect to sugar, the proposed bill would allow specified articles that contain U.S. sugar and not more than 10 percent by dry weight of foreign sugar, but that have an overall content of greater than 10 percent by dry weight of sugar, to enter free of duty and without quotas/TRQs. This change is intended to give preferential treatment to imports of the specified articles containing over 10 percent by dry weight of sugar from Canada and Mexico, and it would exempt these articles from the TRQ. Currently in the HTS, all specified articles imported with greater than 10 percent by dry weight of sugar are subject to TRQs under either additional U.S. note 7, 8, or 9 to chapter 17. In addition, the proposed bill would allow quota-free, tariff-free imports of bulk sugar-containing products and syrups from Canada and Mexico. These goods can displace domestic sugar as ingredients in food processing, and there is a possibility that sugar can be extracted from them. The TRQ for articles containing over 65 percent by dry weight of sugar shipped in bulk form (see additional U.S. note 7) as well as the TRQ for blended syrups containing sugar derived from sugarcane or sugar beets shipped in bulk form (see additional U.S. note 9) is none (zero imports) for all countries except Mexico. Mexico's TRQ was 1,791 metric tons for both TRQs in 1999, and will be phased out by 2003. Currently, any bulk products entering from Canada with a sugar content greater than 65 percent (e.g., drink mixes, flavored sugars, and sweetened cocoa powder) and any bulk sugar syrups are assessed the over-quota tariff rate, which is generally prohibitive and which results in a minimal amount of over-quota imports. The proposed bill would also allow the importation of bulk and retail goods for any article that contains over 10 percent by dry weight of U.S.-origin sugar and not more than 10 percent foreign sugar. Presently, there is a TRQ for articles that contain over 10 percent by dry weight of sugar (see additional U.S. note 8) applies to articles greater than 65 percent sugar imported in retail form (e.g., packaged drink mixes) and articles between 10 and 65 percent sugar imported in bulk or retail form. The TRQ level on these articles is 64,709 metric tons, of which Canada is allocated 90 percent (59,250 metric tons). Mexico has a separate TRQ of 15,273 metric tons for these products, which will cease to exist in 2003. The provisions of the proposed bill effectively mean that the bulk/retail restrictions would not apply.	

– EFFECT ON CUSTOMS REVENUE –

[*Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office "scoring" guidelines. If the indicated duty rate is subject to "staging" during the duty suspension period, the rate for each period is stated separately.*]

HTS number *used in the bill*: Various [8] (Canada)					
	2001	2002	2003	2004	2005
General rate of duty[9] (AVE)[10]	23.48%	23.48%	23.48%	23.48%	23.48%
Estimated value ***dutiable*** imports	$35,000,000	$35,000,000	$35,000,000	$35,000,000	$35,000,000
Customs revenue loss[11]	$8,218,000	$8,218,000	$8,218,000	$8,218,000	$8,218,000

[8] The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

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

[10] AVE is ad valorem equivalent expressed as percent. The AVE rates expressed are those for Canada for the HTS numbers specified in the bill. Staged rates may be found at: *http://dataweb.usitc.gov*

[11] The figures for dutiable imports and Customs revenue losses are calculated for all HTS provisions specified in the bill based on 1999 figures; however, the trade data do not distinguish between imports that contain U.S.-origin inputs, such as dairy and sugar products covered by the bill, and those that do not contain U.S.-origin inputs. Thus, an exact estimate for both dutiable imports and customs revenue losses for products that meet the criteria of this bill is impossible to calculate. The given figures on dutiable imports and customs revenue losses represent upper bounds. It is likely, however, that the quantity of dutiable imports that contain U.S.-origin inputs that meet the criteria of the bill is quite small, given the high over-quota tariffs on a number of the products covered by the bill. As a result, the customs revenue loss for products that meet the criteria of the bill is likely much smaller than the customs revenue loss estimate provided and may be near zero.

HTS number *used in the bill*: Various [12] (Mexico)					
	2001	2002	2003	2004	2005
General rate of duty[13] (AVE)[14]	47.20%	47.20%	47.20%	47.20%	47.20%
Estimated value ***dutiable*** imports	$14,000,000	$14,000,000	$14,000,000	$14,000,000	$14,000,000
Customs revenue loss[15]	$6,608,000	$6,608,000	$6,608,000	$6,608,000	$6,608,000

HTS number *recommended by the Commission*: n/a [16]					
	2001	2002	2003	2004	2005
General rate of duty (AVE)	n/a				
Estimated value ***dutiable*** imports					
Customs revenue loss					

[12] The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).
[13] See appendix B for column 1-special and column 2 duty rates.
[14] AVE is ad valorem equivalent expressed as percent. The AVE rates expressed are those for Mexico for the HTS provisions specified in the bill. Staged rates may be found at: *http://dataweb.usitc.gov*
[15] The figures for dutiable imports and customs revenue losses are calculated for all HTS provisions specified in the bill based on 1999 figures; however, the trade data do not distinguish between imports that contain U.S.-origin inputs, such as dairy and sugar products provided for in the bill, and those that do not contain U.S.-origin inputs. Thus, an exact estimate for both dutiable imports and customs revenue losses for products that meet the criteria of this bill is impossible to calculate. The given figures on dutiable imports and customs revenue losses represent upper bounds. It is likely, however, that the quantity of dutiable imports that contain U.S.-origin inputs that meet the criteria of the bill is quite small, given the high over-quota tariffs on a number of the products covered by the bill. As a result, the customs revenue loss for products that meet the criteria of the bill is likely much smaller than the customs revenue loss estimate provided and may be near zero.
[16] If a different HTS number is recommended, see technical comments.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations *other than* the proponents			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N)[17]
International Dairy Foods Association	Washington, D.C.	5/19/00	Y
National Milk Producers Federation	Washington, D.C.	5/31/00	Y
U.S. Sugar Industry	Washington, D.C.	5/31/00	Y
National Confectioners Association/Chocolate Manufacturers of America	McLean, VA	5/31/00	N
United States Cane Sugar Refiners Association	Washington, D.C.	5/31/00	Y
USDA	Washington, D.C.	6/1/00	N
U.S. Customs Service	Washington, D.C.	6/1/00	N

– THE DOMESTIC INDUSTRY –

[*Note: This section is divided in two parts. The first part lists non-confidential 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 non-confidential 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 in connection with this bill prior to approval of the 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			
Name of product	Name of firm	Location of U.S. production facility	Date received
N/A			

[17] Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

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 –

*[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to **eight** rather than ten digits. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

Several problems are raised by the proposed HTS changes. First, the proposed new U.S. note to subchapter II of chapter 98 of the HTS begins with the words "Food preparations," but many of the goods described in the proposed tariff provision are not preparations in the term of art sense for purposes of the tariff schedule. Thus, the words "Food preparations that are the product" should be deleted and "Agricultural products" should be inserted in lieu thereof, letting the enumerated tariff provisions indicate the nature of the goods affected. It is also suggested that "consisting of" be deleted and the word "containing" be used instead. As another change of language, it is suggested that, in the new tariff heading, the word "and" immediately before "(4)" be changed to "or" in recognition of the fact that any single shipment may not be described by all 4 specified factors.

Second, while the new note would exempt the bill's imports from safeguard measures under subchapter IV of chapter 99 of the HTS, the bill does not include a corresponding provision in that subchapter or its legal notes. This omission will make administration of the safeguard measures more confusing than now is the case. Similarly, while the new provision attempts to provide that these goods would not be counted toward TRQ triggers in the "permanent" HTS provisions applicable to the subject goods, it does not modify those provisions or the additional U.S. notes that establish the various TRQs in corresponding fashion. This inconsistency poses significant problems in the scope of the enumerated tariff provisions and in the administration of the automated entry system by Customs.

Third, NAFTA made it necessary to distinguish carefully the various terms of art relating to the source of each product in North American trade. The HTS, in general note 12, sets forth the actual rules of preference that determine if a good is eligible for a tariff preference under the NAFTA as a good of the North American region. Because Canadian and Mexican goods may have different NAFTA rates of duty during the staging period applicable to Mexican imports, Customs has issued the so-called "marking rules" (although the NAFTA itself and the HTS do not require that the goods actually be so marked) to determine if a shipment gets the Canadian or the Mexican duty rate. (There may be situations–some of which may relate to goods the subject of this bill–where a shipment is a "product of the United States" under the marking rules, but which originates in North America and thus is supposed to receive a tariff preference. Any such situations are dealt with by Customs and Treasury on a case-by-case basis.) There is already considerable confusion in the usage of the terms "rules of origin," "rules of preference," "marking rules,"

and related language; added confusion arises when domestic instruments such as the HTS are amended to contain references to provisions of the NAFTA itself, instead of the domestic laws with which importers are familiar and to which they have access. Accordingly, it is suggested that this bill be carefully reviewed to make sure that it uses the right term in each case and specifies the applicable legal rules, preferably in terms of U.S. law (such as the HTS, if applicable) or Customs regulations (such as 19 CFR part 102). Thus, for example, it might clarify the language of new subdivision (b)(i) of the legal note if "rules of origin" were replaced by "marking rules"–the term commonly used by the trade and by Customs itself. The new tariff heading already creates some possible confusion in its first and third criteria. The only way that an article might meet the first one as an originating good but not meet the third one, and thus had undergone processing that did not change the tariff category for the good, would appear to be that the good must be 100 percent North American in its materials and processing, with no third-country content whatever. To someone examining this provision in an attempt to find out if his own shipments might qualify, this conclusion might not be readily apparent, and simplification might be helpful. We note that the problem of originating goods being found under the marking rules to be other than a product of Canada or Mexico was anticipated during NAFTA implementation but not fully addressed in the negotiation of the marking rules; these goods are either products of the United States or products of some other country, but there remains a NAFTA obligation to give all originating products (under HTS general note 12) duty-free entry. A broader solution to this issue might be possible after the close of the Mexican duty staging period, when there is no need to distinguish between goods of Canada and goods of Mexico and the marking rules could be dropped (or turned into NTR origin rules).

Last, the end of the article description refers to "any foreign country or countries"–by which it is assumed the reference is to "any country or countries not parties to the NAFTA." It is suggested that such a change be made.

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:[18]

n/a

Other technical comments (if any):

It is suggested that the extremely lengthy and complex article description should be simplified and much of the detail shifted to the new legal note, with the reference to new U.S. note 7 inserted in the shortened

[18] 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.

description. Given the different treatment proposed for dairy-containing products, it might be easier for Customs to administer if a separate provision were created therefor, so that the bill might enact two headings. Also, if these are goods that are eligible for NAFTA tariff preferences (as stated in the article description), then the new tariff provision should have "Free (CA,MX)" inserted in the special rates of duty subcolumn, rather than the NTR duty rate as written in the bill. Customs gears much of its NAFTA administrative and enforcement provisions to importer claims for special duty rates, and absent that designator the good might encounter other problems, such as being subject to the merchandise processing fee (which for NAFTA-eligible goods has been eliminated).

Last, there should be a comma after "consumption" in subdivision (c) 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 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) plus Serbia and Montenegro, 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 September 30, 2001. 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. 1/4/00

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.*]

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106TH CONGRESS
2D SESSION

H. R. 4026

To amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain foodstuffs originating in NAFTA countries.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2000

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

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A BILL

To amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain foodstuffs originating in NAFTA countries.

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

SECTION 1. DUTY-FREE TREATMENT OF CERTAIN FOODSTUFFS ORIGINATING IN NAFTA COUNTRIES.

(a) AMENDMENTS TO U.S. NOTES.—Subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by adding after U.S. note 6 the following new note:

''7. Food preparations that are the product of Canada or Mexico consisting of, or processed using, a material

exported from the United States.—The following provisions apply only to subheading 9802.00.95:

''(a) Entry of any product described by subheading 9802.00.95:

''(i) shall not be subject to duty under the provisions of subchapter IV of chapter 99; and

''(ii) if a tariff-rate quota provision would have applied to such product but for subheading 9802.00.95, the quantity of the product entered under that subheading shall not be counted against the quantity specified as the in-quota quantity for any such product.

''(b) The term 'product of Canada or Mexico' means a good:

''(i) that is determined to be a product of Canada or of Mexico under rules of origin promulgated by the Secretary of the Treasury pursuant to Annex 311 of the North American Free Trade Agreement, as implemented under the North American Free Trade Agreement Implementation Act; or

''(ii) that is processed, packaged, or otherwise advanced in value or improved in condition in Canada or Mexico (or both) and that is

determined to be a product of the United States under such rules of origin.

''(c) The term 'products of the United States' means goods or materials that are determined to be products of the United States under rules of origin promulgated by the Secretary of the Treasury pursuant to Annex 311 of the North American Free Trade Agreement, as implemented under the North American Free Trade Agreement Implementation Act.

''(d) The term 'manufactured or processed in Canada or Mexico (or both) using a good or material that was exported from the United States' includes, but is not limited to:

''(i) processing in Canada or Mexico using a good or material that previously was imported into the United States; and

''(ii) processing in Canada or Mexico using a good or material that was processed in a country or countries other than Canada or Mexico after exportation from the United States, if such processing did not effect a change in the country of origin of the good as exported from the United States.''.

(b) DUTY-FREE TREATMENT.—Subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9802.00.95	Any good of chapter 4, 18, 19, or 21, of heading 1704, or of subheading 1517.90.50, 1517.90.60, 1701.91.44, 1701.91.48, 1701.91.54, 1701.91.58, 2202.90.24, or 2202.90.28, that is a product of Canada or Mexico and that was manufactured or processed in Canada or Mexico (or both) using a good or material exported from the United States, if the following conditions are met: (1) the good as imported into the United States is an originating good satisfying the requirements of General Note 12 of the tariff schedule; (2) any goods or materials of heading 0401, 0402, 0403, 0404, 0405, or 0406 and any goods or materials described in additional U.S. note 1 to chapter 4 that were used in the processing of the good in Canada or Mexico were products of the United States; (3) if the good as imported into the United States is described in any of headings 0401 through 0406, any good or material classified within any such heading that was used in the processing in Canada or in Mexico (or both) was a product of the United States, and such processing did not effect a change in the tariff classification of such good or material to another such heading; and (4) if the good as imported into the United States is described in additional U.S. note 2, 3, or 4 to chapter 17 or additional note 2 to chapter 19, such good does not contain more than 10 percent by dry weight of sugar derived from sugar cane or sugar beets grown in any foreign country or countries	Free (see U.S. note 7 of this subchapter)			".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to goods entered, or withdrawn from warehouse for consumption on or after the 15th day after the date of the enactment of this Act.

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