

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION ¹

[**Date approved:** June 12, 2000]²

Bill No.: S. 1219; 106th Congress

Introduced by: Mr. Reed

Similar and/or related³ bills: H.R. 2191, 106th Congress

Summary of the bill:⁴

The bill would require that jewelry imported under heading 7117 of the HTS (imitation jewelry, commonly known as costume jewelry and toy jewelry) be indelibly marked with the country of origin, with no exceptions allowed.

Effective: Upon enactment; regulations to be issued by no later than one year after the date of the enactment of this Act.

Through: n/a

Retroactive effect: None.

[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]

¹ International trade analyst: Jennifer Rorke (202-205-3489); 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).

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N) ⁵
Manufacturers Jewelers & Silversmiths of America (MJSA)	Providence, RI 02908	4/13/00	N

Does the proponent plan **any** further processing or handling⁶ of the subject product after importation to its facilities in the United States (Y/N):

If “Yes,” provide location of this facility if different from above (city/state):

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): The principal manufacturing facilities of MJSA’s members are located in Rhode Island, Connecticut, Massachusetts, and New York.

The imported product		
Description and uses	Country(s) of origin	
Costume jewelry is made from a variety of non-precious materials including: (1) base metals, whether or not plated with precious metal; (2) plastics; (3) non-precious stones and beads of turquoise, lapis, or jade; and (4) animal material such as ivory, antler, and bone. The principal product categories for these articles of personal adornment are necklaces, bracelets, rings, cuff links and studs, earrings, and religious articles (rosaries, chaplets, etc.). Heading 7117 also covers toy jewelry, which can have very low unit values and be made from plastics or other materials. Toy jewelry includes the small items sold in plastic “bubbles” in vending machines for as little as 5 cents per unit at retail. The customs value of such items can be less than 1 cent per unit.	U.S. imports in 1999 <u>Millions of dollars</u>	
	China	247
	Korea	142
	Taiwan	27
	Thailand	19
	India	18
	<u>Other</u>	<u>94</u>
Total	546	

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

⁶ The phrase “further processing or handling” can include repackaging, storage or warehousing for resale, etc.

– 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 numbers used in the bill: 7117.11.00 thru 7117.90.90, inclusive ⁷					
	2001	2002	2003	2004	2005
General rate of duty ⁸ (AVE) ⁹	Free thru 11 percent	Free thru 11 percent	Free thru 11 percent	Free thru 11 percent	Free thru 11 percent
Estimated value <i>dutiable</i> imports	\$396,000,000	\$396,000,000	\$396,000,000	\$396,000,000	\$396,000,000
Customs revenue loss	See below.	See below.	See below.	See below.	See below.

It is impossible to predict the magnitude of any potential decline in imports or resulting revenue loss due to the proposed marking requirement for several reasons. First, the cost of indelibly marking some individual pieces of inexpensive costume and toy jewelry might be economically impractical and may result in a slight decline in U.S. imports and customs revenue. Second, for certain pieces of jewelry, the proposed country-of-origin markings may reduce the visual appeal of the jewelry, making it harder to sell and, once again, possibly leading to lower import levels. It is important to note that most articles of fine jewelry, especially those made of gold, are already indelibly marked with the karats and sometimes even the manufacturer’s logo.

HTS number recommended by the Commission: n/a ¹⁰					
	2001	2002	2003	2004	2005

⁷ The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

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

⁹ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹⁰ If a different HTS number is recommended, see technical comments.

HTS number recommended by the Commission: n/a¹⁰					
General rate of duty (AVE)	n/a	n/a	n/a	n/a	n/a
Estimated value <i>dutiable</i> imports	n/a	n/a	n/a	n/a	n/a
Customs revenue loss	n/a	n/a	n/a	n/a	n/a

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than the proponents</i>			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N) ¹¹
Joanne Tesoriero, NIS JFK Intl Airport	New York, NY	4/11/00	N
Larry Muchinske, NIS U.S. Customs headquarters	New York, NY	4/11/00	N
Dave Ruderger Jewelers of America	New York, NY	4/11/00	N
Gerald Sampson Neiman Marcus	Dallas, TX	4/11/00	N
Michael Stansfield Boutiques Creations, Inc. Fashion Jewelry Mart	Providence, R.I.	4/12/00	N
Peter Waterman	Providence, R.I.	4/12/00	N
Mike Tumolo Toys R' Us	Paramus, NJ	4/11/00	N
Amy Tu Walmart	Bentonville, AR	4/12/00	N
Peter Fuller Fuller Box	Attleboro, R.I.	4/14/00	N

¹¹ 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.

Contacts with firms or organizations <i>other than</i> the proponents			
Peter Manickas P-Craft Jewelry	Attleboro, MA	4/13/00	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
None.			

Statements concerning “future” or “competitive” U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
None.			

– 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:

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:¹²

n/a

Other technical comments (if any):

According to section 304 of the Tariff Act of 1930, imported goods or their containers must be marked in English in a conspicuous, clear and permanent way with their country of origin so that the ultimate purchaser in the United States can be informed of their source. Goods incapable of being marked (or of being marked without damage) can be made exempt from the requirement by petition to the Secretary of the Treasury for inclusion on the so-called "J list."

The courts have interpreted the statute as imposing a substantial transformation standard, so that a good originates in (and is accordingly marked as being from) the country where it was created as a new and different article of commerce, as a result of manufacturing or processing, with a different name, character or use from its inputs. In applying the statute, Customs distinguishes goods that are imported in the form and condition in which they will reach the ultimate U.S. consumer from those that are imported (usually in bulk) for further manufacturing. Recently, it has also allowed such markings as "assembled in the U.S.A. from imported components" or "includes materials from countries A, B, C, and D" (the latter a type of formulation allowing commingling of inputs from various sources).

Customs has promulgated regulations relating to the origin of goods both for preferential tariff treatment programs such as NAFTA and for normal trade relations purposes, and issues rulings on a product- and importer-specific basis, making generalizations about origin standards difficult. In the case of the NAFTA, the "change of tariff heading" principle was adopted as a way of making these often subjective substantial transformation determinations more consistent and predictable. That method of

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.

codifying substantial transformation is given further status by the 1994 WTO Agreement on Rules of Origin, which has as its ultimate objective a set of negotiated, harmonized global origin rules.¹³

A significant portion of imported jewelry entering the U.S. market uses string tags to indicate the country of origin. The MJSA is concerned that string tags are often removed at retail, denying the consumer the opportunity to make a fully informed choice when shopping for jewelry.¹⁴

One way of reducing the physical and cost impact of the measure might be to cover the higher-unit-value jewelry items, rather than all of the goods of heading 7117. For example, subheadings 7117.19.05, 7117.19.60, 7117.90.10, 7117.90.45, and 7117.90.60 might be excluded, as these provisions cover toy and vending machine items and low-value necklaces. However, any such exclusion might complicate Customs administration and encourage the misclassification of goods. Nonetheless, it is difficult to see how certain small items could be physically marked, as opposed to being marked by hang tags, because the required formulation “Made in xxxx” would be so small (if present) that consumers would likely not be able to read it in any event.

Our trading partners may view the mandatory marking requirement as a nontariff barrier to trade, given that some tiny or fragile items cannot be marked in the way the bill prescribes and that some jewelry might be rendered unsalable by the mandated physical marking.

¹³ Please contact Jan Summers, Attorney Advisor, USITC, (ph) (202) 205-2605 for further information on the legal aspects of country of origin marking. For more background on the history of marking rules, and an evaluation of the problems that country-of-origin marking rules create for industry as well as their benefit to consumers, see also, USITC, *Country-of-Origin Marking: Review of Laws, Regulations, and Practices*, publication 2975, July 1996.

¹⁴ “Challenges, Progress, Prospects, 1998 Update to the White Paper,” Manufacturing Jewelers and Suppliers of America, Inc. (Providence, RI), p. 6.

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.]

106TH CONGRESS
1ST SESSION

S. 1219

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

IN THE SENATE OF THE UNITED STATES

JUNE 14, 1999

Mr. REED introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MARKING OF IMPORTED JEWELRY.**

4 (a) MARKING REQUIREMENT.—By no later than the
5 date that is 1 year after the date of enactment of this
6 Act, the Secretary of the Treasury shall prescribe and im-
7 plement regulations that require that all jewelry described
8 in subsection (b) that enters the customs territory of the
9 United States have the English name of the country of
10 origin indelibly marked in a conspicuous place on such

1 jewelry by cutting, die-sinking, engraving, stamping, or
2 some other permanent method. The exceptions from mark-
3 ing requirements provided for in section 304 of the Tariff
4 Act of 1930 (19 U.S.C. 1304) shall not apply to jewelry
5 described in subsection (b).

6 (b) JEWELRY.—The jewelry described in this sub-
7 section means any article described in heading 7117 of
8 the Harmonized Tariff Schedule of the United States.

9 (c) DEFINITION.—As used in this section, the term
10 “enters the customs territory of the United States” means
11 enters, or is withdrawn from warehouse for consumption,
12 in the customs territory of the United States.

○