

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:** August 31, 2000]²

Bill No.: S. 2662; 106th Congress

Introduced by: Mr. COVERDELL

Similar and/or related³ bills: The tariff treatment of molds used in DVD production would be affected by S.2648 and S.2657, which would reclassify this machinery under HTS subheading 8477.10.40 (see technical comments and following table). See also H.R. 3794 (withdrawn).

Summary of the bill.⁴

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

Machines or mechanical appliances, whether imported separately or as an entirety, and parts thereof, for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8480.79.90).

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

Through: December 31, 2003.

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)

¹ International trade analyst: William Greene (202-205-3405); 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.

information about the domestic industry (if any); and (5) technical comments.]

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N) ⁶
Panasonic	Washington, DC	April 5, 2000	Y
International Electronics Manufacturers and Consumers of America, Inc.	Washington, DC	April 5, 2000	Y
JVC Disc America Co.	Elk Grove, CA	May 1, 2000	Y
Toolex representatives: Collier, Shannon, Rill & Scott	Washington, DC	April 5, 2000	Y
Optical Disc Corporation	Santa Fe Springs, CA	April 19, 2000	Y

Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N): No, Panasonic, IEMCA, Toolex and Optical Disc do not plan any further processing or handling.

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

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): n/a

The imported product	
Description and uses	Country(s) of origin


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.

The imported product	
The production of DVDs involves a series of machines and that can be condensed into two overall operations: mastering and replicating. In the replicating state, an injection molding machine, with a stamper (master disc) in the mold cavity, compresses plastic resin under high pressure and velocity into disc-shaped replicas of the stamper. Each single side replica is then sputter coated with a reflective coating of aluminum and bonded with adhesive onto a clear plastic disc. This bill covers the molds used in an injection molding machine. Molds used to produce DVDs are essentially the same technology used to produce CDs and VLDs.	United Kingdom, Holland, Japan, Germany, and Sweden.

– 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: 8480.79.90 ⁸					
	2001	2002	2003	2004	2005
General rate of duty ⁹ (AVE) ¹⁰	3.1	3.1	3.1	3.1	3.1
Estimated value <i>dutiable</i> imports	\$13,500,000	\$11,250,000	\$4,500,000	\$4,500,000	\$4,500,000
Customs revenue loss	\$418,500	\$348,750	\$139,500	\$139,500	\$139,500

Note: Estimated value of dutiable imports was calculated based upon estimated DVD players to be consumed in the U.S. market, estimated number of DVDs per player, estimated production of DVDs per replication line, estimated value of DVD I.D/O.D. in-line machines times the number of mastering lines. Customs revenue loss is estimated value of dutiable imports times the general rate of duty. See technical comments for further explanation of revenue loss estimates.

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. Staged rates may be found at: <http://dataweb.usitc.gov>

HTS number recommended by the Commission: n/a ¹¹					
	2001	2002	2003	2004	2005
General rate of duty (AVE)					
Estimated value <i>dutiable</i> imports					
Customs revenue loss					

Note: Estimated value of dutiable imports was calculated based upon estimated DVD players to be consumed in the U.S. market, estimated number of DVDs per player, estimated production of DVDs per replication line, estimated value of DVD I.D/O.D. in-line machines times the number of mastering lines. Customs revenue loss is estimated value of dutiable imports times the general rate of duty. See technical comments for further explanation.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than</i> the proponents			
Name of firm	Location contacted (city/state)	Date contacted	Response (Y/N) ¹²
Optical Storage Technology Association (OSTA)	Santa Barbara, CA	April 5, 2000	N
Multi Media Machinery, Inc. (4M)	Santa Clara, CA	April 7, 2000	N
Sumitomo–SHI Plastics Machinery Inc. of America	Norcross, GA	April 12, 2000	N
Marubeni Disc Systems	Southfield, Michigan	April 12, 2000	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*

¹¹ If a different HTS number is recommended, see technical comments.

¹² 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.

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:

Some problems are apparent with regard to the proposed description. First, it is helpful to Customs and to users of the tariff schedule if the article description of the chapter 99 provision tracks as much of the language from the permanent tariff provision covering the good as is possible and appropriate. Thus, the subject goods might be described as “Molds for injection molding machines, the foregoing machines for use in the manufacture...”. We note that it may not be possible to distinguish these molds from any other molds for injection molding machines; we also note that such molds enter under a residual or “basket” tariff provision in which many other molds and related products are classified. Consequently, there may be some administrative difficulties with the proposed heading, even with the use criterion in the article description.

The language suggested above would also eliminate language which could be confusing—namely, the phrase “whether imported separately or as an entirety.” When a chapter 99 provision refers only to one permanent tariff provision, the product scope of the latter sets the maximum possible coverage of the chapter 99 provision, which is itself further delineated by the words used there to describe the intended good. The language in the bill as drafted is not sufficiently related to that in the subheading description to permit easy interpretation. The permanent provision covers machines not used for the stated purpose, but at least the article description is more specific than that in the proposed heading. Also, because it can be difficult to classify goods that may be shipped and presented in different forms, we are uncomfortable with the broad nature of the proposed heading and with its inclusion of entireties. It is not easy to know whether the subject machine would always fall in the cited category if shipped as an entirety. That shipment would be examined in its condition as imported and, depending on the nomenclature and scope of competing provisions, could be classifiable elsewhere than subheading 8480.79.90. Moreover, it would not seem desirable to suggest that other machines or articles shipped along with the subject machines would automatically be eligible for a duty suspension.

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.

Recommended changes to any C.A.S. numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

*Basis for recommended changes to the HTS number used in the bill:*¹³

n/a

Other technical comments (if any):

It is important to note that several manufacturers (domestic and foreign) have indicated that much of the machinery is produced to be used in either CD or DVD production. While DVD-only production

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.

equipment is available, this machinery is not currently the majority of production equipment sold. Revenue loss estimates are based on equipment used only in DVD production and assuming inclusion of a use provision in the bill. 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. While it is virtually impossible for U.S. Customs to distinguish between machinery used in CD versus DVD production based on its physical characteristics, it is unlikely that these machines would be imported for CD production only based on machinery price differentials. For example, a CD/DVD replication line may cost at least three times as much as a CD replicating line.

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
2D SESSION

S. 2662

To suspend temporarily the duty on machines, and their parts, for use
in the manufacture of digital versatile discs (DVDs).

IN THE SENATE OF THE UNITED STATES

MAY 25, 2000

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

A BILL

To suspend temporarily the duty on machines, and their
parts, for use in the manufacture of digital versatile
discs (DVDs).

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. TEMPORARY SUSPENSION OF DUTY.**

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 numerical sequence the following
7 new heading:

“	9902.84.19	Machines or mechanical appliances, whether imported separately or as an entirety, and parts thereof, for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8480.79.90)	Free	No change	No change	On or before 12/31/03	”.
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1 (b) **EFFECTIVE DATE.**—The amendment made by
2 this section applies with respect to goods entered, or with-
3 drawn from warehouse for consumption, on or after the
4 15th day after the date of the enactment of this Act.

○