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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

MISCELLANEOUS TRADE PROPOSALS

SEPTEMBER 8, 1995

Printed for the use of the Committee on Ways and Means by its staff

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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
August 9, 1995
No. TR-15

CONTACT: (202) 225-6649

Crane Announces Request for Written Comments on Miscellaneous Trade Proposals

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written comments for the record from all parties interested in the miscellaneous trade proposals currently under consideration.

BACKGROUND:

On April 25, 1995, Chairman Crane requested written comments for the record from all parties interested in technical corrections to recent trade legislation. In response to this request, the Committee on Ways and Means received several comments and proposals from the business community and the Administration [*see* House Committee on Ways and Means, 104th Congress, 1st Session, Written Comments on Technical Corrections to Recent Trade Legislation (WMCP: 104-4)].

On June 14 and August 2, 1995, the Subcommittee ordered favorably reported draft legislation making technical corrections to certain trade legislation and other miscellaneous trade provisions (*see* Trade Subcommittee Action Releases numbered TR-3A and TR-4A, dated June 15 and August 3, 1995, respectively). However, a number of proposals suggested by the business community were not yet ready for Subcommittee consideration. These proposals remain under review by Subcommittee staff and the Administration and may be considered at a later date. Attached is a compilation of these miscellaneous trade proposals. Chairman Crane is interested in hearing from all parties concerned with these proposed changes to U.S. trade laws.

MISCELLANEOUS TRADE PROPOSALS

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

   (a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"; and

   (b) by inserting after "9404.90:" "(except for pillows, cushions, quilts, eiderdowns and comforters filled with feathers and/or down classified under HTS subheading 9404.90)."

2. Amend section 271 of the Uruguay Round Agreements Act of 1995 to provide for an injury test for countervailing duty orders issued under section 701(c) if a country later becomes a Subsidies Agreement country, as follows:

   (a) by inserting after "section 303", wherever it appears, the phrase "or section 701";

   (b) by deleting "under section 303(a)(2)" wherever it appears in new section 753(a)(2) of the Tariff Act of 1930, as amended; and

   (c) by deleting "made under section 303(a)(2)" wherever it appears in new section 753(c) of the Tariff Act of 1930, as amended. (WMCP: 104-4, pp. 14-15)

3. Amend section 219(c)(10) of the Uruguay Round Agreements Act by inserting the following language before the period: ", and by inserting after 'collected' wherever it appears the phrase ',or bond or other security posted,'". (WMCP: 104-4, pp. 49-50)

Tariff Act of 1930

1. Amend section 555 of the Tariff Act of 1930 to change the personal allowance exemption for returning U.S. residents.

   a. Amend section 555 in section 555(b)(6); insert after "customs territory": ", except that merchandise purchased by U.S. residents is eligible for exemption from duty under subheadings 9804.00.45, 9804.00.65. 9804.00.70 and 9804.00.72 of the Harmonized Tariff Schedule of the United States upon the U.S. resident's return to the customs territory of the United States, provided that the person meets the eligibility requirements for the exemption claimed. Notwithstanding any other provision of law, such merchandise shall be considered to be articles acquired abroad incident of the journey from which the person is returning for purposes of determining eligibility for exemptions."

2. Amend sections 411 and 413 of the Tariff Act of 1930 to permit implementation of automated bond filing system. (WMCP: 104-4, pp. 18-21)

3. Amend section 771(24)(B) of the Tariff Act of 1930, as amended, to provide that the numerical standard for negligibility in countervailing duty cases applicable to present material injury investigations is applicable in threat investigations as well, by replacing "subparagraph (A)(i) and by substituting '9 percent' for '7 percent' in subparagraph (A)(ii)" with "subparagraphs (A)(i) and (iv) and by substituting '9 percent' for '7 percent' in subparagraphs (A)(ii) and (iv)". (WMCP: 104-4, pp. 4-5)

Harmonized Tariff Schedule

1. Amend section XXII, Chapter 98 of HTS to include ovenbaking, enzyme-washing and enzyme-stonewashing as additional allowable finishing processes in subheading 9802.00.80. (WMCP: 104-4, pp. 11-13)

2. Amend HTS, Chapter 98, to add an additional subheading 9801.00.30.10 to facilitate the return of used, previously imported aircraft parts, which are being returned either as repositioned inventory or having been removed from an aircraft overseas for repair in the United States. (WMCP: 104-4, pp. 9-10)

3. Amend HTS subheading 9804.00.40 to clarify that the duty-free allowance/limitation for non-resident persons in transit through the United States is not intended to apply to passengers making same day connection to a flight or conveyance departing for a third country. (WMCP: 104-4, pp. 9-10)

4. Amend HTS subheading to reinstate the definition for "reinforced or laminated plastics" that previously was in effect (this subheading would retain its present duty of 12.1 cents/kg plus 4.6 percent) and create a new tariff subheading for flat goods with not less than 20 percent surface leather (which would be subject to a duty of 8 percent). Other goods under this heading would enter at 20 percent. (WMCP: 104-4, pp. 59-63)

5. Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted.

6. Provide for the liquidation or reliquidation of duties on four entries of partially assembled lead fuel assemblies that were imported in 1990, and refund any duties paid with respect to such imports. In addition, partially assembled lead fuel assembly is defined as consisting of not more than 4 partially assembled fuel bundles, composed of nuclear fuel rods of zircaloy tubes filled with slightly enriched uranium dioxide pellets, arranged into bundles of 96 rods, including a channel and upper handles and lower tie plates

Customs and Trade Act of 1990

Amend section 484E(a) of the Customs and Trade Act of 1990 (19 U.S.C. 1466(h)) to provide a duty exemption for vessel repair parts, materials and equipment purchased by U.S.-flag vessels overseas. (WMCP: 104-4, pp. 29-37)

North American Free Trade Agreement (NAFTA)

1. Modify the tariff treatment of certain goods manufactured in a foreign trade zone in the United States, exported to another NAFTA country, and subsequently imported into the Customs territory of the United States. (WMCP: 104-4, pp. 42-43)

2. Amend section 631 of the NAFTA to request that the Secretary of the Treasury provide for the development of a plan by the Customs Service to create, test and evaluate the viability of paperless entry utilizing the Electronic Visa Verification System.

DETAILS FOR SUBMISSION OF WRITTEN COMMENT:

Persons submitting written comments should submit six (6) copies, with their address and date of request noted, by the close of business, **Friday, September 8, 1995**, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

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September 7, 1995

Mr. Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Miscellaneous Trade Proposals
Cast and Minted Gold & Silver Bullion Bars

Dear Mr. Moseley:

I am writing in response to the request by Representative Crane, Chairman of the Subcommittee on Trade of the Committee on Ways and Means, for comment for the record regarding miscellaneous trade proposals currently under consideration by the Subcommittee.

Specifically, we support the proposal to "Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted."

A-Mark Precious Metals, Inc. is a wholesale bullion dealer based in Santa Monica, California. We have been in business since 1965 and market and distribute bullion for many of the world's largest mints and refineries, including the United States Mint. Our customers are a cross-section of banks, brokerage houses, mines, and others dealing in physical precious metals, worldwide.

Gold and silver bars, regardless of size and manufacturing method (i.e., cast or minted), have always been duty-free. The proposal under consideration would clarify this duty-free status and correct what seems to be an unintentional drafting error that occurred in the conversion of the Tariff Schedules of the United States into the Harmonized Tariff Schedules of the United States.

The proposal would cover gold and silver bars having a purity of 99.5% or higher and only marked with weight, purity or other identifying information. "Identifying information" would include the manufacturer's name, registration numbers, and/ or security marks or devices.

A-Mark Precious Metals, Inc. urges the Subcommittee to favorably consider and adopt this legislative proposal which clarifies gold and silver bars proper duty-free status.

Respectfully,

Steven C. Markoff
Chairman
A-Mark Precious Metals, Inc.
100 Wilshire Blvd.
3rd Floor
Santa Monica, CA 90401

telephone: 310-587-1470
fax: 310-319-0279

TESTIMONY OF CARLOS MOORE
AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC.

My name is Carlos Moore. I am Executive Vice President of ATMI, the American textile Manufacturers Institute, the national association of the textile mill products industry. ATMI's members process eighty percent of all the textile fibers processed in the United States and produce and market the entire range of textile goods -- from bed sheets to parachute cloth, from towels to power transmission belts, from denim to surgical towels. Our members and their 670,000 employees are justifiably proud of their contribution to our nation's well - being

ATMI wishes to advise the Committee of its strong objection to the proposed changes to the rules of origin for HTS Headings 6307.90 and 9404.90 as set forth in the Uruguay Round Agreements Act (URAA). The rules of origin for the enumerated products as set forth in the Act are simple, straightforward, transparent and, most important, in accordance with commercial practice. They are, in short, all that rules of origin are supposed to be and are a great improvement over the rules currently in force (19 CFR 12.130). The changes proposed in the Committee's advisory TR - 15: Miscellaneous Trade Proposals of August 9, 1995 would be a regression back to 12.130 instead of the improvement embodied in the URAA.

The rule of origin for imported comforter, sleeping bag, etc. shells (HTS Heading 6307.90) contained in the URAA stipulates that the foreign country of origin of these products is the country in which the fabric from which they are made was formed. This is technically and economically correct. These shells are nothing more than pieces of stitching on three of their four outer edges. The time, labor and cost required to produce this fabric is greater than all of the subsequent steps required to produce the shell combined. No cogent argument can be made to support the proposal that the country of origin of such shells is the country in which this fabric is cut and sewn together.

Similarly, the URAA specifies that the foreign country of origin of a finished down (or feather) - filled comforter, quilt, eiderdown, etc (HTS Heading 9404.90) is the country in which the fabric was formed. Again, this conforms to commercial reality. Once the product shell is made through the simple sewing process noted above, the remaining steps necessary to produce the finished comforter, etc. is to blow down or feathers -- a non-textile product into the shell, sew the fourth edge together and insert quilting stitches through the finished comforter. These latter processes are very simple and are quickly accomplished.

The Uruguay Round Agreements mandate that all Parties (signatories) embark on joint efforts to produce internationally harmonized rules of origin. In this undertaking transparency, simplicity and predictability should serve as guiding principles. The United States, through Congressional ratification of the URAA, has already made great progress toward this goal. There is little doubt but that the rules of origin for textile and apparel products embodied in the URAA will serve as the model for all Parties. Little, if any, change to these rules should be contemplated. ATMI therefore earnestly requests that the Committee not undo the valuable work that has already been accomplished by changing the rules for HTS Headings 6307.90 and 9404.90.

AMMEX
TAX & DUTY FREE SHOPS

63 Copps Hill Road
Ridgefield, CT 06877
(203) 431-6057
FAX (203) 438-1356

August 28, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D. C. 20515

Dear Chairman Crane:

I would like to take this opportunity to express our support for a proposed technical change in the trade laws relating to the duty free allowance. We are a U.S. retailer of duty free merchandise and operate 35 duty free shops along the U.S. Canadian border.

Under current law, U.S. residents who travel outside the country for more than 48 hours are allowed to bring back up to $400 of merchandise purchased on their trip without paying duties or taxes when they return to the U. S. The duty free allowance is well recognized as an important element of tourism.

The change proposed in your August 9 request for comments corrects an anomaly in the current law which prevents purchases from U.S. duty free stores from being included in the $400 personal allowance. Many times, U.S. travelers purchase gifts or other small items from a U.S. duty free store at the beginning of the trip, prior to leaving the country. Under current law, when the traveler returns to the U.S., the merchandise is subject to duty and tax.

It is indeed ironic that our laws should grant duty free status to items purchased in foreign countries, but deny that status to those items purchased in the United States!

We urge you to give early consideration to the change proposed in the August 9 press release. It is minor, technical and revenue-neutral, but would be a big help to U.S. duty free stores.

Thanks for your consideration of our views.

Sincerely yours,

Steven D. Zarcher
Executive Vice President

SDZ:aml

AIAM
The World's Leading Automakers™

September 8, 1995

Mr. Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Moseley:

The Association of International Automobile Manufacturers, Inc. ("AIAM"), wishes to endorse Proposal 3 under the heading Uruguay Round Agreements Act of 1995" in the August 9, 1995, release (No. TR-15) of the Subcommittee on Trade.

AIAM is a trade association representing the U.S. subsidiaries of international automobile companies doing business in the United States. Our association represents multinational companies which employ thousands of Americans in manufacturing, research and development, transportation, and distribution operations. Member companies distribute passenger cars, light trucks, and multipurpose passenger vehicles in the United States. Nearly half of these vehicles are manufactured in the new American plants established by AIAM companies in the past decade. International automakers support over 550,000 American jobs in manufacturing, supplier industries, ports, distribution centers, headquarters, research and development centers, and automobile dealerships. AIAM also represents manufacturers of tires and other original equipment with production facilities in the United States and abroad.

Proposal 3 concerns the application for antidumping duty purposes of what is called the "cap," which is provided for in section 737(a) of the antidumping duty law (19 U.S.C. 1673f(a)). The cap is imposed with respect to entries that are made on or after the date of publication of the affirmative preliminary determination of dumping by the Department of Commerce to the date of publication of the affirmative final determination of injury by the International Trade Commission.

During that period, Section 733(d)(1)(B) of the antidumping duty law (19 U.S.C. 1673b(d)(1)(B)) authorizes provisional antidumping measures in the form of "a cash deposit, bond, or other security." Section 737(a) of the antidumping duty law, in turn, provides that, if the definitive antidumping duty that is ultimately determined by the Department of Commerce is different from the amount of the cash deposit that was made as a provisional antidumping measure, whichever is the lower shall apply.

ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS, INC.
1001 19TH ST. NORTH ■ SUITE 1200 ■ ARLINGTON, VA 22209 ■ TELEPHONE 703.525.7788 ■ FAX 703.525.8817

This provision is inexplicably inconsistent with section 733(d)(1)(B). As noted above, the latter authorizes bonds, as well as cash deposits. But the former applies the cap only in the case of cash deposits - and not bonds.

The antidumping duty regulations of the Department of Commerce have always applied the cap in the case of bonds, as well as cash deposits. See 19 CFR 353.23. Moreover, the Court of Appeals for the Federal Circuit recently upheld this long-standing interpretation of the antidumping duty law. *Daewoo Electronics Co., Ltd. v. United States,* Slip ops. 92-1558 through 92-1562 (Fed. Cir., September 30, 1993).

The proposal would eliminate the inconsistency between sections 733(d)(1)(B) and 737(a) and make clear that the cap applies in the case of bonds or other securities, as well as cash deposits.

To give effect to this proposal, section 219(c)(10) of the Uruguay Round Agreements Act, which already amends section 737(a), should be amended as follows:

> Section 219(c)(10) is amended by inserting before the period ", by inserting after 'collected' wherever it appears the phrase ', or bond or other security posted,'; by inserting in paragraph (2) after 'refunded' the words 'or cancelled', and by inserting in paragraph (2) after 'cash deposit' the phrase 'or bond or other security posted'".

Thank you for the opportunity to comment on this proposed legislation.

Sincerely yours,

Philip A. Hutchinson, Jr.
President and CEO

ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS, INC.
1001 19TH ST. NORTH ■ SUITE 1200 ■ ARLINGTON, VA 22209 ■ TELEPHONE 703.525.7788 ■ FAX 703.525.8817

BATTLE MOUNTAIN GOLD COMPANY

JOSEPH L. MAZUR
VICE PRESIDENT
ADMINISTRATION AND COMMUNICATIONS

BATTLE MOUNTAIN GOLD COMPANY

September 5, 1995

Congressman Philip M. Crane
Chairman
Subcommittee on Trade of the
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Crane:

This letter is written in reference to a proposed bill by the Department of Treasury/U.S. Customs to "Amend subchapter II of Chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted."

Battle Mountain Gold Company is a precious metals mining company engaged in the business of exploration, development and production of gold and silver in the United States and elsewhere. As such, we are interested in the promotion of free trade and are opposed to such barriers that may distort and disrupt all legitimate forms of trade and investment. We are thus in support of the proposed legislation that would maintain the duty free status on imported investment bars regardless of whether those bars be fabricated by casting or by minting. They are essentially the same thing, differing not in content but only in the form of manufacture, and then only at the very final step in the refining process. They are commercially identical.

Should Custom Officials be allowed to tax investment bars of gold and silver at rates of 7.8% and 5.4%, respectively, such action would distort the free market in bullion and interrupt the free flow of such investments across our borders, at the expense of U.S. investors vis-a-vis their counterparts abroad. Beyond these negative issues lie the potential for criticism from our trading partners as fairness issues are debated.

We strongly support enactment of the bill.

Very truly yours,

333 CLAY STREET 42ND FLOOR HOUSTON, TEXAS 77002-4103 (713) 653-7218 FAX (713) 650-3636 TELEX 763604

The BON MARCHÉ

IRA S. PICKELL
PRESIDENT

September 7, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

This letter is being written to express our opposition to H.R. 1779 relating to the tariff classification of certain flat goods characterized as "plastic". Many of the products, so characterized, are in fact manufactured of textiles/fabrics with only an outer surface of plastic sheeting.

The increase in tariff from an effective rate of 5.8% to 20% will drastically increase the duty on many of the flat goods sold by us, and as a result be detrimental to our customers and our company.

We urge your subcommittee to reject this legislation. Thank you in advance for your consideration.

Sincerely,

Ira S. Pickell
President

ISP:nj
enc.

THE BON·TON

September 6, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House of Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane,

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Robert W. Bennet
Divisional Merchandise Manager

The Bon • Ton Stores, Inc.
P.O. Box 2821, York, PA 17405 717-757-7660

THE BON·TON

John Godfrey
Senior Vice President
General Merchandise Manager

S. Grumbacher & Son
Founded 1898

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

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We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

John E. Godfrey

2801 East Market Street, P.O. Box 2821, York, PA 17405
TEL: 717-751-3165 FAX: 717-751-3238

Boscov's

4500 PERKIOMEN AVENUE • P.O. BOX 4116 • READING, PA 19606-0516 • 610/779-2000

August 30, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%. This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Edwin A. Lakin
President

EAL/lcl

95-0069/bos

BOSCOV'S DEPARTMENT STORES, INC.
P.O. BOX 4116 • 4500 PERKIOMEN AVENUE
READING, PENNSYLVANIA 19606
215—779-2000

September 6, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

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We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Michael Tepper
Merchandise Manager,
Accessories/Jewelry/Handbags

MBT/dk

TESTIMONY OF BERNARD A. LEVENTHAL
BURLINGTON INDUSTRIES, INC.

Burlington Industries is a diversified manufacturer of textile mill products. We are a company that employs 24,000 workers and we have manufacturing facilities in 7 states. We also have operations in Mexico and have had for many years.

The new Rules of Origin for textile and apparel products contained in the Uruguay Round implementing legislation should be finalized into U.S. law as written. The new Rules are consistent, transparent and closely parallel Rules already in existence in many other countries. The old Rules were not clear, were very inconsistent and were left open to special rulings by customs on a wide range of products and situations.

The new Rules specify that the country of origin for fabric is were the fabric is formed, for apparel is where the apparel product is assembled, and for made ups where the fabric is formed. This is clear, clean and straight foreword.

A number of foreign countries are intentionally using the current rules to circumvent existing quotas due to confusion, lack of understanding, or just plain fraud. While monitoring and implementing the new Rules will still take effort and vigilance, it will be much easier than before.

The U.S. textile, apparel, cotton, man made fiber industries, and related unions and trade associations support this position.
For these and many other reasons, we strongly recommend against any amendments to the proposed rules.

C. A. Shea & Company, Inc.

SYLVAN CORPORATE CENTER
910 SYLVAN AVENUE
ENGLEWOOD CLIFFS, N.J. 07632-3301

CORNELIUS A. SHEA
JOHN J. SHEPPARD
JAMES M. GORMAN
JOHN K. DAILY
BRUCE S. HASKELL
LEE V. BARTHER

(201) 568-2810
FAX: (201) 568-0333

August 31, 1995

Committee on Ways and Means
Longworth House Office Building
Washington, D.C. 20505

Attn: Mr. Philip D. Moseley, Staff Director
Trade Subcommittee

Re: Miscellaneous Trade Proposals

Dear Sir,

This is in response to the request for comments, dated August 9, 1995, with respect to Miscellaneous Trade Proposals. Specifically, we wish to address the proposed amendments to sections 411 and 413 of the Tariff Act of 1930, dealing with the implementation of the "automated bond filing system"(ASI). Our Company represents over thirty sureties (see attached listing), which annually file the majority of bonds, by value, with the Customs Service on behalf of importers.

We believe there is no necessity for this legislation. For the past several years, we, as well as other members of our industry and representatives of other segments of the importing community, have worked on various proposals for the implementation of ASI. Working with the U.S. Customs Service this group can, and will, make ASI a reality. Therefore, we believe there is no need for Congressional involvement at this time.

The Association which proposed these amendments, (The American Surety Association) represents just a few of the sureties providing bonds to importers. The majority of the industry is <u>not</u> represented by them. Our company, C.A. Shea & Company, Inc., represents the largest number of sureties and continues to handle Customs matters on their behalf.

We would be pleased to provide any additional information the Committee might require in connection with this matter.

Regards,

C.A. Shea & Company, Inc.

James M. Gorman
Vice President

JMG/mtg

cc: Mr. John Durant, USCS
NCBFAA
NASBP

via Federal Express
Next Day Delivery tracking #854 4205 196

These are just a few of the companies we represent.

	U.S.C.#
The Aetna Casualty and Surety Company	001
American Casualty Company of Reading, Pa.	037
American Fidelity Company	049
American Home Assurance Company	069
American Manufacturers Mutual Ins. Co.	085
American Motorists Insurance Company	089
Boston Old Colony Insurance Company	145
The Buckeye Union Insurance Company	149
Commercial Insurance Company of Newark, N.J.	189
Continental Casualty Company	213
The Continental Insurance Company	217
Continental Reinsurance Corporation	341
Federal Insurance Company	269
The Fidelity and Casualty Company of New York	277
Firemen's Insurance Company of Newark, New Jersey	289
First Insurance Company of Hawaii, Ltd.	293
The Glens Falls Insurance Company	313
Hartford Fire Insurance Company	365
Home Insurance Company	381
Illinois National Insurance Company	393
Insurance Company of the State of Pa.	417
Kansas City Fire and Marine Insurance Company	449
Lumbermens Mutual Casualty Company	461
National-Ben Franklin Insurance Company of Illinois	533
National Fire Ins. Co. of Hartford	541
National Union Fire Ins. Co. of Pitt. Pa.	565
New Hampshire Insurance Company	577
Phoenix Assurance Company of New York	681
Reliance National Insurance Company	689
Reliance Insurance Company	725
Reliance Insurance Company of New York	726
Seaboard Surety Company	753
United Pacific Insurance Company	865
United Pacific Insurance Co. of N.Y.	866

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BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF CALIFORNIA FEATHER & DOWN CORP.
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

California Feather & Down Corp. appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

California Feather & Down Corp. is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

*1. **Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:***

(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"

California Feather & Down Corp.

California Feather & Down Corp., a United States corporation, has been headquartered and manufacturing in Lynwood, California for 4 ½ years. We manufacture down comforters and a variety of other products, including featherbeds, down pillows and feather pillows. Both our Lynwood, California and Newport News, Virginia facilities employ 250 factory workers, of whose jobs are now in jeopardy because of the proposed rules.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturer of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,

Jeffrey S. Goldman
President
California Feather & Down Corp.
11842 South Alameda Street
Lynwood, CA 90262

Telephone: 310-898-1900
Facsimile: 310-898-1201

STATEMENT FOR THE RECORD

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF **CARPENTER CO.**
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Carpenter Co. appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Carpenter Co. is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

   (a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"

CARPENTER CO.

Carpenter Co. is a privately owned company that began operations as a producer of urethane foam and comfort cushioning products in 1948. The company has grown and prospered during the intervening years, expanding its operations into 26 states. Company Headquarters are located in Richmond, Virginia, while its Consumer Products Division operates plants in Riverside, California; Altoona, Pennsylvania; Taylor, Texas, and Russellville, Kentucky. In addition, Carpenter has invested over $5 million in feather and down processing equipment in Pennsylvania and California and another $2-3 million for the special equipment required to fill comforters and pillows with the processed down and feathers. The plants of the Consumer Products Division produce synthetic bed pillows and comforters, feather and down bed pillows and comforters, foam bed pillows and mattress pads, synthetic fiber mattress products, and synthetic and natural craft fiber products. Carpenter's products are distributed through leading department stores, catalogues, and specialty stores and shops throughout the United State, Canada, and Mexico. The company employs approximately 5,000 people in North America.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufactures of cotton down proof comforter shells that use fabric woven in China which is cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods worn in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reason for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334(b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United State from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 was filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a dependable source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA preferential duty rates. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(a), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

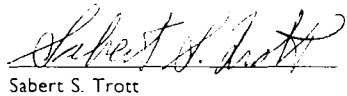
- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might required on this subject.

Respectfully submitted,



Sabert S. Trott
Vice President Marketing Consumer Products
Carpenter Co.
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Richmond, VA 23230

Phone: 804/359-0800 ext. 289
Fax: 804/355-7708

Carson Pirie Scott & Co.
BERGNER'S BOSTON STORE CARSON PIRIE SCOTT

September 7, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Stanton J. Bluestone
President
Chief Executive Officer

CORPORATE OFFICES
331 W. WISCONSIN AVENUE
MILWAUKEE WI 53203

Carson Pirie Scott & Co.
BERGNER'S BOSTON STORE CARSON PIRIE SCOTT

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
Attention: Phil Mosely, Staff Director
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

David Harris
Senior Vice President
General Merchandise Manager

DH:ads

CORPORATE OFFICES
331 W. WISCONSIN AVENUE
MILWAUKEE, WI 53203

BEFORE THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE
(SEPTEMBER 8, 1995)

PROPOSED TECHNICAL CORRECTION
TO THE NORTH AMERICAN FREE TRADE AGREEMENT
IMPLEMENTATION ACT
(Advisory TR-15, Dated: August 9, 1995)

SUBMITTED BY

DE ANGELUS, SCHAFFER & ASSOCIATES
A DIVISION OF LIVINGSTON TRADE SERVICES
THE WILLARD OFFICE BUILDING
SUITE 1150
1455 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004
(202) 783-2000

ON BEHALF OF

THE COMMITTEE OF AMERICAN BUSINESS
FOR EQUAL TREATMENT UNDER NAFTA
(Membership List Attached)

INTRODUCTION

The Committee of American Business for Equal Treatment Under NAFTA ("the Committee") strongly supports the technical correction to the North American Free Trade Agreement implementing act which would modify the tariff treatment of certain goods manufactured in a U.S. foreign trade zone ("FTZ"), exported to another NAFTA country, and subsequently reimported into the U.S. (Advisory Number TR-15, page 3, NAFTA item 1). It is the Committee's understanding that the proposal would provide that, for automobiles manufactured in U.S. FTZ's of domestic and foreign components, customs duties and fees would be assessed only against the value of the foreign content upon reimportation from another NAFTA member country. The technical correction would provide for the continuation of a practice which has been followed over the course of the last 10 years.

EXPLANATION OF THE PROVISION

An active manufacturing industry currently exists to produce automobiles within U.S. FTZ's. These automobiles are created from both domestic and foreign components, many with a majority of U.S.-made parts. Current law permits these automobiles to be entered into the commerce of the U.S. directly from the FTZ by paying Customs duties and fees only on the foreign content. This duty liability typically amounts to small sum of approximately $7.00 per automobile. However, when those automobiles are exported to Canada and subsequently reimporter into the U.S. without any alteration or increase in value, an unintended result of the application of a NAFTA provision requires that these automobiles, containing mainly U.S. parts and made by U.S. workers in the FTZ's, be inappropriately held to be of completely foreign origin, with Customs duties and fees assessed against the value of the entire automobile. The result of this inconsistent treatment is that the duty implication of entering these automobiles into the commerce of the U.S. jumps from approximately $7.00 per automobile to more than $400.00 per automobile.

The proposed technical correction to the NAFTA would eliminate this inconsistent treatment of identically-manufactured automobiles, whether the automobiles are entered directly from the FTZ or entered by way of a NAFTA member country. This correction would recognize that equal treatment for these automobiles is appropriate under past practice and is in keeping with the spirit of the NAFTA for merchandise which conforms to the NAFTA rules of origin.

THE INDUSTRY

The Committee represents a small niche industry composed of entrepreneurs who have developed a market to supply automobiles of predominantly North American origin to dealers throughout the U.S. and Canada. Again, these automobiles are constructed primarily of U.S. parts and components.

The members of the Committee are all registered with the Department of Transportation ("DOT"), and therefore comply with the safety and environmental standards covering imported automobiles as administered by DOT. These U.S. firms imported approximately 14,000 automobiles in 1994, many of which were produced in U.S. FTZ's.

The Committee is also part of a larger industry which includes parts vendors and automobile service providers who retrofit imported automobiles with necessary equipment to bring nonconforming automobiles into compliance with U.S. standards. This associated industry employs additional U.S. labor and ports in the preparation for sale of these automobiles in the U.S. market.

IMPACT

This technical correction will preserve an existing niche industry in the U.S. marketplace by ensuring equal treatment of automobiles manufactured in U.S. FTZ's whether entered into the U.S. commerce directly from the FTZ or by way of a NAFTA member country. If this correction is not enacted, the resulting situation, requiring that FTZ-manufactured automobiles entered by way of a NAFTA country be assessed duties on the value of the entire automobile, would dramatically increase the duty liability, placing this industry in great jeopardy. Such significant increases in costs would eliminate potential profit margins, making continued operation economically infeasible. This niche industry, composed of 95 companies employing approximately 1,000 individuals, could be imperiled. Jobs would be lost; businesses would go bankrupt.

The disappearance of this unique industry, would have ripple effects on other industries and the surrounding communities. The aforementioned parts vendors and service providers would be adversely affected by the loss of these automobiles to retrofit. Communities in which these industries operated and contributed would suffer from the loss of business taxes, sales taxes, and the increase in unemployment. The loss of one segment of an integrated economic activity will have negative implications far beyond the immediate industry.

CONCLUSION

The Committee, representing a small but vital group of entrepreneurs, supports the effort to correct an unintended inequity arising from the administration of the NAFTA which would preserve an active U.S. industry. Consistent treatment of automobiles manufactured in U.S. FTZ's and entered into the commerce of the U.S. directly from the FTZ or by way of a NAFTA member country is fair, equitable, and economically beneficial for everyone involved.

COMMITTEE OF AMERICAN BUSINESS FOR
EQUAL TREATMENT UNDER NAFTA

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850 N. Rochester Road
Clawson, Michigan 48017
(810)589-3600
FAX (810)589-3218

CAN AM AUTO IMPORTERS
8535 Transit Road
Williamsville, New York 14221
(716)689-8900
FAX (716)266-2518

CIRCLE T
302 South 700 East
Jerome, Idaho 83338
(208)324-3814
FAX (208)733-4333

DICKSON MOTOR SALES AND LEASING
7723 Buffalo Avenue
Niagara Falls, New York 14304
(716)283-7117

FREEWAY AUTO BROKERS
1801 Iowa Street
Billingham, Washington 98226
(206)380-3309

INTERNATIONAL VEHICLE IMPORTERS
6070 S. Saginaw Street
Grand Blanc, Michigan 48439
(810)603-0311
FAX (810)693-0002

J.K. MOTORS
941 Ridge Road
Webster, New York 14580
(716)671-3161
FAX (716)671-2780

LAUREK INTERNATIONAL TRADE
129 State Street
Clayton, New York 13624
(315)686-4652
FAX (315)686-4652

NAFTA TRADING
10108 Portland Avenue
Tacoma, Washington 98445
(206)537-2038
#1910

PLAZA IMPORTERS
(A.K.A. LARGO RV)
1395 Impay City Road
Lapeer, Michigan 48446
(810)667-6109
FAX (810)667-4540

SUPERIOR AUTO SALES
5201 Camp Road
Hamburg, New York 14075
(716)649-6695
FAX (716)649-2375

THOMPSON-FELT AUTO BROKERS
445 Douglas Avenue, Suite 2205J
Altamonte Springs, Florida 32714
(407)788-9085
FAX (407)880-1702

TK AUTO
13 Brigham Street
Westboro, Massachusetts 01581
(508)842-4678 or (508)366-2408
FAX (508)898-2328

US CAR
1234 1/2 W Fairbanks Avenue
Winterpark, Florida 32789
(407)629-7919
FAX (407)629-7919

WRITTEN COMMENTS SUBMITTED ON BEHALF OF THE COMPANY STORE ON PROPOSED AMENDMENTS TO SECTION 334 (b) (2) (A) OF THE URUGUAY ROUND AGREEMENTS ACT OF 1995

This statement is being submitted on behalf of The Company Store, 455 Park Plaza Drive, La Crosse, Wisconsin 54601, a wholly-owned subsidiary of Hanover Direct, Inc., 1500 Harbor Blvd., Weehawken, New Jersey 07087. Founded nearly 85 years ago, today The Company Store is a leading United States manufacturer, wholesaler and retailer of down comforters, pillows, and featherbeds. Our domestically manufactured down products are sold under The Company Store and Scandia Down brand names. Our United States produced down products are also wholesaled to other retailers under the AmeriDown and other private label brand names. The Company Store has approximately 800 employees working at its La Crosse, Wisconsin facilities.

These written comments are submitted in response to the Subcommittee on Trade's advisory dated August 9, 1995, inviting interested parties to comment on miscellaneous trade proposals. Specifically, we wish to comment on two proposed modifications to the country of origin rules contained in section 334 (b) (2) (A) of the Uruguay Round Agreement Act (Public Law 103-456, 108 Stat. 4809), which proposed modifications are set forth in the Subcommittee's August 9, 1995 advisory under Uruguay Round Agreement Act of 1995 points 1(a) and 1(b).

One proposed modification would amend section 334 (b) (2) (A) so as to expressly exempt from that section's fabric forward rule of origin "shells for pillows, quilts, eiderdowns and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton" that are classified under subheading 6307.90 of the Harmonized Tariff Schedules of the United States (HTSUS). The Company Store enthusiastically supports passage of said proposed amendment, with but one relatively minor change to the proposed draft language. We strongly urge inclusion of the down proof cotton shell exemption in the trade legislation that the Subcommittee is considering.

Importantly, we would hasten to emphasize that The Company Store does not support the other proposed modification to the section 334 rule of origin, which would extend the exclusion from the section 334 (b) (2) (A) fabric forward rule of origin to completed down products imported into the United States that are classified under subheading 9404.90, HTSUS.

As we shall explain in greater detail below, excluding down proof cotton shells classified under subheading 6307.90, HTSUS, from the section 334 fabric forward rule is the appropriate relief for an unintended harm caused to an important and vibrant domestic manufacturing industry - United States down comforter, pillow and featherbed manufacturers - that section 334 (b) (2) (A) would inflict. In contrast, extending the exemption from the fabric forward rule to finished imported down products classified under 9404.90 would not only fail to protect a United States manufacturing industry, but would, instead, bestow an undeserved benefit on finished down goods produced entirely outside the United States.

I. DOWN PROOF COTTON SHELLS CLASSIFIED UNDER SUBHEADING 6307.90, HTSUS, SHOULD BE EXCLUDED FROM THE EMBRACE OF THE SECTION 334 (b) (2) (A) FABRIC FORWARD COUNTRY OF ORIGIN RULE.

As we previously described in our July 21, 1995 dated written submission to the Subcommittee on Trade in conjunction with the Subcommittee's rules of origin hearing that was conducted in July of this year, the crippling impact of by the section 334 (b) (2) (A) fabric forward rule to the United States down manufacturers is two-fold: First, domestic down product manufacturers are damaged by disrupting the sole viable source of a necessary component, down proof cotton shells, that are required to manufacture down comforters, pillows, and featherbeds in

the United States. Second, domestic down comforter, pillow and featherbed manufacturers are injured because the down products they produce in the United States would be forced to carry misleading country of origin labelling that would greatly disadvantage the marketing of domestically produced down comforters, pillows, and featherbeds.

Limited Shell Supplies - As acknowledged by the ATMI, there presently are no United States companies producing or interested in producing the specialized down proof cotton shells required in the production of down comforters, pillows, and featherbeds. China has become, for all practical purposes, the world-wide source of down proof cotton fabric. By applying the restrictive fabric forward rule of origin to down proof cotton shells imported into the U.S., the country in which the shell fabric has been produced, namely, China, would be considered the country of origin of the shells. (Absent section 334 (b) (2) (A), the country where the cutting and assembly of the shell takes place would be considered the country of origin of the shell.) However, because of the quantitative restriction on the Chinese quota category embracing down proof cotton shells, supplying U.S. manufacturing companies with the down proof cotton shells we would require would, at best, become unreliable and difficult. At worst, down proof cotton shells could not be imported into U.S., which, in turn, would result in the closure of U.S. down comforter, pillow and featherbed factories.

Marketing Disadvantage - Even if U.S. manufacturers were assured of adequate supplies of down proof cotton shells, U.S. produced comforters, pillows, and featherbeds would, pursuant to the section 334 (b) (2) (A) fabric forward rule of origin, still have to be marked "Made In China." In contrast, by virtue of the present U.S. Customs Service NAFTA Preference Override Regulation, 19 C.F.R. §102.19, a down comforter, pillow or featherbed made in Canada using the identical Chinese shell fabric and involving precisely the same manufacturing steps as performed in the U.S. would be labelled "Made In Canada." The U.S. consumer faced with an option of purchasing a "Made In China" or "Made In Canada" down comforter, pillow or featherbed would have no way of knowing that the "Made In China" product was actually produced in the United States. The down article labelled "Made In Canada" would have a clear, albeit completely unfair and undeserved, marketing advantage. Forced to market its U.S. made articles as "Made In China", it would seem reasonable to assume that many, if not all, U.S. down goods producers would eventually abandon U.S. production in favor of China (where goods bearing the same "Made In China" label would realize substantial production cost savings), or Canada (where the down products would be in a position to escape the fabric forward rule and be labelled "Made In Canada.")

It is important to bear in mind that because of the dual nature of the harm caused by the fabric forward rule - limited shell supplies and marketing negatives - that the solution to the application of the fabric forward rule to down proof cotton shells is not simply to raise or eliminate the quota on Chinese down proof cotton shells. For even if there was an unlimited supply of Chinese shells, U.S. manufacturers could not meaningfully compete with Canadian produced articles because the fabric forward rule of section 334 would mandate that the U.S. manufacturers mark their goods "Made In China." Not only would this be misleading to United States consumers who would have no way of distinguishing between a comforter, pillow or featherbed wholly produced in China and one produced in the U.S. that simply contained Chinese fabric in its shell, but Canadian producers would be given the upper hand in marketing their down products in the United States as Canadian articles even though they contained the same Chinese fabric in their shells.

The touchstone in examining the proposed modifications to the section 334 (b) (2) (A) fabric forward rules must be whether U.S. manufacturing interests are protected or harmed. All parties acknowledge that there are no U.S. companies that are currently producing or willing to produce down proof cotton shells. Therefore, exempting down proof cotton shells from the section 334 fabric forward rule would in no way be detrimental to the down proof cotton shell U.S. industry, since none exists. By the same token, by excluding down proof cotton shells from the section 334 fabric forward rule of origin, Congress would affirmatively benefit U.S. manufacturers of down comforters, pillows, and featherbeds by assuring shell supplies to U.S.

domestic manufacturers, as well as accurately advising U.S. consumers that the down products being purchased were manufactured in the United States.

There is one modification in the proposed language to exclude down proof cotton shells from the fabric forward rule of section 334 (b) (2) (A) that we urge the Subcommittee to incorporate. As drafted, comforters and pillows are expressly mentioned by name in the proposed amendment to section 334 (b) (2) (A) which would exclude down proof cotton shells classified under 6307.90, HTSUS, from the fabric forward rule. Featherbeds, a bedding product that The Company Store and other manufacturers produce in the United States, for some reason was not explicitly listed in the proposed amendment. All the reasons applicable for excluding the fabric forward rule for down proof cotton shells for comforters and pillows apply equally to featherbeds. We therefore would urge the Subcommittee to make clear that shells for featherbeds are intended to be included in the proposed amendment regarding imported down proof cotton shells.

Two ways of accomplishing this are by inserting after "6307.90" of section 334 (b) (2) (A) either of the following clauses:

Option 1
"(except for shells for pillows, quilts, eiderdowns, comforters and featherbeds made of down proof fabrics of cotton 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) heading (6307.90)"

or,

Option 2
"(except for shells for pillows, quilts, eiderdowns, comforters and similar articles made of down proof fabrics of cotton 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) heading (6307.90)"

The first alternative would specifically include featherbeds and featherbeds only. The second alternative would include featherbeds as part of the broader category of articles similar to the enumerated goods. The second option tracks the applicable language currently found in the Harmonized Tariff Schedules. See, subheading 6307.90.89, HTSUS.

II. THERE IS NO COMPELLING NEED TO EXCLUDE IMPORTED FINISHED DOWN ARTICLES CLASSIFIED UNDER 9404.90, HTSUS, FROM THE FABRIC FORWARD RULE OF SECTION 334 (b) (2) (A).

It is important to bear in mind that in stark contrast to the absence of down proof shell producers in the United States, there are a substantial number of United States producers of down comforters, pillows, and featherbeds, including, but not limited, to The Company Store, Carpenter Company and Imperial Home Fashions. These companies together employ thousands of Americans across all regions of this country. By exempting finished imported down products classifiable under 9404.90, such as comforters, pillows, and featherbeds, from the section 334 fabric forward rule the domestic manufacturers of comforters, pillows, and featherbeds would be plainly disadvantaged.

Stated bluntly, there is no compelling reason to bestow upon foreign manufacturers of finished down comforters, pillows, and featherbeds the relief from the section 334 (b) (2) (A) fabric forward rule of origin that domestic manufacturers of such products should receive. As applied to down proof cotton shells the fabric forward rule of origin would destroy domestic producers of down comforters, pillows, and featherbeds 1) by limiting or cutting off our supplies of down proof cotton shells in that they would become subject to a restrictive Chinese quota, and, 2) by concealing from the American consumer that the down comforters, pillows, and featherbeds were actually produced in the United States. Because there are no U.S. manufacturers of down proof cotton shells, providing relief from the harshness of the fabric forward rule for imported down proof cotton shells is both justified and deserved. The same cannot be said for imported finished down comforters, pillows, and featherbeds.

The question that should be asked in analyzing the possible exclusion of finished down products from the fabric forward rule of origin is as follows: "Would a U.S. industry be benefitted if completed down comforters, pillows, and featherbeds are granted an exclusion from the fabric forward rule of origin?" The answer to this query must be a resounding "NO!" The Company Store sees no reason why imported down products, such as comforters, pillows, and featherbeds that are fully manufactured in other countries should, in essence, be permitted to ride the coattails of the domestic down comforter, pillow and featherbed industry in obtaining an exclusion from the section 334 (b) (2) (A) fabric forward rule of origin.

In summary, The Company Store would urge the Subcommittee on Trade to act as follows:

1) to provide an exclusion to the section 334 (b) (2) (A) fabric forward rule of origin for down proof cotton shells for comforters, pillows and featherbeds classified under subheading 6307.90, HTSUS; and

2) to reject a similar exclusion from the fabric forward rule of origin of section 334 (b) (2) (A) for imported finished down articles classified under subheading 9404.90, HTSUS.

Comments of Credit Suisse
on
a proposal to

"Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted"

before
The Subcommittee on Trade of the Committee on Ways and Means
August 31, 1995

Credit Suisse, a Swiss bank with offices in the United States, and the major importer and seller of gold and silver ingots, appreciates the opportunity to submit comments for the record on a proposal to "Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted." This legislative proposal would remedy an unintentional drafting error in the Harmonized Tariff Schedules of the United States ("HTS") which occurred in the conversion of the Tariff Schedules of the United States ("TSUS") into the HTS. The error could result in the classification of the same articles, gold bullion bars and silver bullion bars, under either the provisions for bullion or the provisions for articles of gold or silver, depending on the method of manufacture: casting or minting.

Background

The imported products are gold and silver bullion bars or ingots. They are manufactured by either a casting or minting process. Cast bars are manufactured by pouring molten metal into a mold of specified dimensions. The bars are usually "inclined" (i.e. tapered) in shape in order to facilitate their removal from the mold. Consequently, the dimensions (length and/or width) of the base and top surface areas are not normally the same. Cast bars range in weight from 400 ounces to ½ ounce. The minted bars are manufactured from blanks that have been stamped out to the required dimensions from a flat strip of gold. The dimensions of the bars are precise; the top and base surface areas, which are uniformly smooth and even, have the same dimensions (length and width). Minted bars range in weight from 500 grams to 0.3 grams. The purity of the gold or silver content in each bar, regardless of method of manufacture, expressed in parts gold per 1000 parts, is 999.9, although a purity of 99.5 is accepted commercially as "good delivery." The bars generally, bear markings indicating the name of the manufacturer, the weight of the bar, and the purity of the gold or silver.

Originally, all bars were cast, but it simply is not practicable to manufacture smaller bars by casting. Small bars are minted because the cost of casting the bars would be prohibitive. For each casting, a separate melt must be done, the gold or silver must be weighed separately, loss of metal is incurred in the melting, and the resulting bar weighs slightly more than the nominal weight, which may cause the producer to "give away" some of the gold or silver. In contrast, minted bars are made in quantity, there is little loss due to melting, and the producer has more control over the weight of the bars. These bars range in weight from 1 kilogram to 1 gram.

For at least the past 100 years, gold and silver bullion bars have entered the United States duty-free under tariff provisions covering gold bullion and dore, and silver bullion and dore. The gold bars are classified in HTS 7108.12.10; the silver bars are classified in HTS 7106.91.10. In October, 1993, a Customs import specialist proposed to reclassify minted gold bars imported by Credit Suisse under a tariff provision covering "Other articles of gold", HTS 7115.90.10, at a rate of duty of 7.8%. The proposed change in classification arose out of a drafting oversight in the conversion of the TSUS to the HTS which went into effect on January 1, 1989. Prior to that date, the method of manufacture, casting or minting, made no difference to Customs; the tariff provisions covered gold and silver bullion and dore, without any qualification. The Court of International Trade in Jarrell-Ash v. United States, 60 Cust. Ct 65, F. Supp.658 (1968), stated that "'bullion' in its common meaning is uncoined gold or silver in the mass considered as so much metal without regard to any value imparted to it by its form. . . . Normally, bullion is in the form of ingots, bars, plates, an the like. But it may also consist of other forms or shapes so long as the form or shape does not impart value to the mass." Thereafter, the Customs Service ruled

that minted bars were classified under the bullion and dore provisions .

The problem occurred when the drafters of the new tariff provisions did not recognize that both minting and casting were used to produce bullion, and included bullion and dore as a subset of "Gold [silver], unwrought or in semimanufactured forms, or in powder form". The Customs import specialist took the position that the definition of "unwrought" in the Additional U.S. Notes to Chapter 71, HTS, excluded bars that were minted. The note reads as follows:

1. For the purposes of subchapter II, unless the context otherwise requires:

(a) The term "unwrought" refers to metals, whether or not refined, in the form of ingots, blocks, lumps, billets, cakes, slabs, pigs, cathodes, anodes, briquettes, cubes, sticks, grains, sponge, pellets, shot and similar manufactured primary forms, but does not cover rolled, forged, drawn or extruded products, tubular products or cast or sintered forms which have been machined or processed otherwise than by simple trimming, scalping or descaling;

The Customs Service officials in Washington, D.C. responsible for construing the tariff reviewed the import specialist's proposed reclassification of the bars. They agreed that the only difference between cast and minted bullion bars is the method of production, and that there is no indication that the international drafters of the Harmonized System or the Congress in enacting the HTS intended to differentiate between bullion bars based on the method of production. However, because the minted bars were stamped from a rolled sheet, they concurred with the import specialist that the bullion bars were not "unwrought" and, therefore, could not be classified under tariff headings that covered only unwrought gold and silver.

Impact of the Ruling

The proposal to reclassify minted gold bullion bars as articles of gold would have raised the rate of duty on those bars from 0% to 7.8%. The reclassification would have had the same effect on minted silver bullion bars, raising the rate of duty from 0% to 5.4%. If the reclassification had taken effect, only importers who purchased minted bars from producers in countries entitled to preferential rates of duty would have been able to import the bars free of duty. Bars from producers in Europe and most countries in the Far East would, in effect, have been excluded and the gold and silver markets would have been disrupted. However, during the pendency of the legislation to correct the tariff language, the proposal to reclassify the minted bars has not gone into effect.

Proposed Legislation

The legislative proposal under consideration was drafted by attorneys in the International Trade Commission, the organization responsible for drafting and incorporating changes to the HTS. The legislation remedies the problem by creating several new duty-free provisions under the tariff subheadings for semimanufactured forms of gold and silver, and the tariff subheadings for other articles of gold and silver. All the new provisions would be identical, covering "Bars or bar-like shapes, each having a purity of 99.5% or higher and not otherwise marked or decorated than with weight, purity or other identifying information."

The new provision would cover minted gold bars imported by Credit Suisse. The term "bars or bar-like shapes" would eliminate any doubt that a 1 gram gold bar that looks like the larger, heavier bar is covered. Requiring a purity of 99.5% or higher insures that the minted bars conform to the worldwide standard for bullion. The restriction on the marks that can appear on a bar is consistent with commercial practice.

Conclusion

Credit Suisse strongly supports this legislative proposal which would retain the duty-free treatment accorded importations of gold and silver bullion bars for over one hundred years, and would prevent the disruption of the gold and silver markets

CROWLEY'S
CROWLEY MILNER & COMPANY

DENNY CALLAHAN
PRESIDENT & CEO

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us – from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Denny Callahan

DC/pk

2301 WEST LAFAYETTE • DETROIT, MICHIGAN 48216-1891 • (313) 962-2400 • FAX (313) 962-2529

MICHAEL H. BERNSTEIN
PRESIDENT & CHIEF EXECUTIVE OFFICER

September 7, 1995

VIA AIRBORNE

Mr. Phillip D. Mosley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Mosley:

In response to the request for comments on miscellaneous trade proposals currently under consideration, I provide the following.

I am President of Crown Crafts, Inc., a publicly-held company which designs, manufactures and markets comforters and accessories, and jacquard-woven cotton products. The Company's primary manufacturing facilities are located in Roxboro, North Carolina and in Dalton, Georgia. Crown Crafts' products are sold domestically and internationally to department stores, gift stores, chain stores, mass merchants, specialty home furnishings stores, catalogs and mail order houses. Crown Crafts had sales of approximately $210,000,000 for the fiscal year ending April 2, 1995. Crown Crafts employs approximately 2,200 individuals.

Crown Crafts supports the proposed rules and regulations under the U.S. Customs Service regarding the rules of origin as submitted in the Federal Register, Vol. 60, No. 171 on Tuesday, September 5, 1995.

We do not support creating any exceptions to the proposed rules and regulations other than those contained therein. We believe allowing any exceptions would create a precedent that would unnecessarily complicate the process.

If you have any questions regarding this, please feel free to contact me at 404-644-6400.

Very truly yours,

Michael H. Bernstein

Dillard's
Florida Division

Executive Offices
6901 - 22nd Avenue North
St. Petersburg, Florida 33710

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us - from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Linda Zwern

Linda Zwern
Vice President
General Merchandise Manager

LZ/jn

Dillard Department Stores, Inc.
TEXAS-LOUISIANA DIVISION
9315 BROADWAY SAN ANTONIO, TX 78217

Donald C. Bradley
President
Telephone (210) 821-7615
Telefax (210) 821-7719

September 6, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to HR 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us--from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

D. C. Bradley
President

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF DOWN, INC. and EURASIA FEATHER, INC.
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Down, Inc. and Eurasia Feather, Inc. appreciate the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995

Down, Inc. and Eurasia Feather, Inc. are in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"

Down, Inc. and Eurasia Feather, Inc.

Down, Inc. and Eurasia Feather, Inc. have been headquartered in Grand Rapids, Michigan for 50 years and 24 years respectively. We manufacture down comforters and a variety of other products, including featherbeds, down pillows and feather pillows. Our United States comforter and pillow manufacturing facilities employ 50 factory workers, 28 of whose jobs are now in jeopardy because of the proposed rules.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different county (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to

originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334(b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this Amendment is not passed.

Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

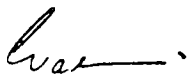
- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,



Walter H. Heise
President
Down, Inc.
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Facsimile: 616.452.1255

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF DOWN LITE INTERNATIONAL
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Down Lite International appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Down Lite International is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

Down Lite International

Down Lite International , a United States corporation, is a manufacturer of premium down filled products for domestic mail order houses { L.L. Bean, Eddie Bauer, etc. } , specialty retailers and high end department stores. We have been in business for over 25 years and currently have two (2) manufacturing locations in Cincinnati, Ohio and Loveland, Ohio. We also operate and support retail outlets in Cincinnati, Ohio Traverse City, Michigan and Polson, Montana and Our manufacturing employment has grown from 5 people in 1983 to over 100 currently. Our continuity as an American manufacturer depends on " down proof cotton " not generally domestically available. " Down proof " cotton is cotton woven in such a way that it keeps the natural feather and down filling material contained within the product.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

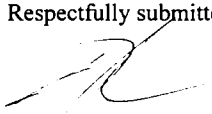
- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,



Larry H. Werthaiser
President
Down Lite International
106 Northeast Drive
Loveland, Ohio 45140-7144

Telephone: 513-677-3696
Facsimile: 513-677-3812

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF downRight Ltd.
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

downRight Ltd. appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

downRight Ltd. is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

downRight Ltd.

downRight Ltd., a United States corporation, is a manufacturer of down filled products such as comforters and pillows. We manufacture these products in Brooklyn and employ 15 people. We have been in business since 1982.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362

which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is

no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,

Marty Fried
Merchandise Manager
downRight Ltd.
6101 16th Avenue
Brooklyn, NY 11204

Telephone: (718) 232-2206
Facsimile: (718) 234-1201

September 5, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, D.C. 20515
Attention: Phil Mosely, Staff Director

Dear Chairman Crane:

As the Division Merchandise Manager for a major Midwest department store, responsible for the purchase of handbags and small leather goods, I wish to object very strongly to H.R. 1779 which relates to the tariff classification of certain flat goods.

As I understand the bill, the effective rate of duty would increase from 5.8% to 20% on certain of our goods, a move which could be devastating in our retail business which already operates on an extremely thin margin - a business which is not enjoying the best of times at present under current conditions.

Your Subcommittee rejection of this legislation would be most appreciated as is your consideration of this matter.

Sincerely,

Joyce Cology

Joyce Cology
Division Merchandise Manager
Accessories and Shoes

CORPORATE OFFICES OF ELDER-BEERMAN STORES • BEE-GEE SHOES • MARGO'S LA MODE, INC.

September 7, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, DC 20515
Attention: Phil Mosely, Staff Director

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us–from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Herbert O. Glaser
Chief Merchant

HOG:baw

August 31, 1995

Susan van Benten
DMM/DVP
Famous–Barr
601 Olive Street
St. Louis, MO 63101

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, I wish to express strong opposition of H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of pastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of my view.

Sincerely,

Susan van Benten

Susan van Benten

FENTON HILL AMERICAN LTD.

5207 N. Rose Street
Chicago, IL
60656 USA
(312) 992-1110
FAX: (312) 992-4155

August 22, 1995

Honorable Phil Crane
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longsworth House Office Building
Washington, D.C. 20515

ATTN: Phillip D. Mosely, Chief of Staff

Dear Chairman Crane:

On behalf of Fenton Hill American Ltd. of Chicago, I wish to express support for a provision to amend Section 555 of the Tariff Act of 1930 to make a technical change in the personal allowance exemption for returning U.S. residents, as proposed in your August 9, 1995 request for comments.

As a Division of Duty Free International, Inc., we own and operate the Duty Free Shop within the International Terminal at the O'Hare Airport and are in the business of selling products free of duty and tax to travelers departing the U.S. on business or for pleasure.

Currently when U.S. residents travel abroad for more than 48 hours, they are permitted to bring back up to $400 worth of goods purchased while they are away without paying duties and taxes on re-entering the country. The allowance for returning U.S. residents who do not meet the 48-hour rule is $200. These duty free allowances are an important element of tourism, providing a valuable benefit to traveling U.S. residents.

The existing personal allowance structure has one minor flaw, as it only applies to merchandise purchased in a foreign country. Many times, U.S. travelers purchase gifts or other small items from a U.S. duty free store at the beginning of their trip. This

20-377 48

merchandise leaves the country and when returning to the U.S., duty and tax must be assessed on these items, unlike merchandise purchased at foreign locations. This is a technical deficiency in the law that disadvantages duty free stores at U.S. border and airport locations. A technical change is required so that purchases at U.S. stores can later re-enter the country duty free, to the extent of the personal allowance limits.

This change will permit U.S. duty free stores to reap some of the benefits of the U.S. allowances, by providing duty free treatment for merchandise that is purchased by U.S. residents at the outset of their journey. The change we are seeking is minor, technical and revenue-neutral as it does not alter the overall limit on the personal allowance.

It is ironic that we should grant duty free status to goods purchased in foreign countries, but deny that status to those goods purchased on American soil.

We would greatly appreciate the Trade Subcommittee's favorable action on this proposed change.

Sincerely,

Gordon T. Bortnick
Regional Vice-President

Building 59
JFK International Airport
Jamaica, NY
11430 USA
(718) 656-3000
FAX: (718) 244-1207

August 30, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

I am pleased to submit the following views in response to the Subcommittee on Trade's August 9 request for public comments. We are very much in favor of the proposal to amend Section 555 of the Tariff Act of 1930, which makes a technical change in the personal allowance exemption for returning U.S. residents.

We own and operate duty free stores located at John F. Kennedy International Airport and LaGuardia Airport in New York, and are in the business of selling products free of duty and tax to travelers departing the U.S. on business or pleasure.

The change proposed in your August 9 request for comments corrects a flaw in the current law which prevents purchases from U.S. duty free stores from being included in the $400 personal allowance. Many times, U.S. travelers purchase gifts or other small items from a U.S. duty free store at the beginning of the trip, prior to leaving the country. Under current law, when the traveler returns to the U.S., the merchandise is subject to duty and tax.

It is ironic that our laws grant duty free status to items purchased in foreign countries, but deny that status to those items purchased right here in America!

We hope you will support the change proposed in the August 9 press release. It is minor, technical and revenue-neutral and would benefit U.S. duty free stores.

Sincerely yours,

FENTON HILL AMERICAN LTD.

Carl Reimerdes

Carl H. Reimerdes
President

FENTON HILL FLORIDA, INC.
TAMPA INTERNATIONAL AIRPORT
TAMPA AIRPORT MARRIOTT HOTEL • SUITE C-19 • TAMPA, FL 33607
TELEPHONE: (813) 396-3639 • TELEFAX: (813) 871-3874

August 22, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

On behalf of Fenton Hill Florida, Inc., I would like to express support for a proposed technical change in the trade laws relating to the duty free allowance, as described in your August 9, 1995 press release. Our company which operates duty free stores in three Florida airports, is headquartered in Tampa, Florida.

Under current law, U.S. residents who travel outside the country for more than 48 hours are allowed to bring back up to $400 of merchandise purchased on their trip without paying duties or taxes when they return to the U.S. The duty free allowance is an important element of tourism, benefiting both travelers and businesses.

The change proposed in your August 9 request for comments corrects an anomaly in the current law which prevents purchases from U.S. duty free stores from being included in the $400 personal allowance. Many times, U.S. travelers purchase gifts or other small items from a U.S. duty free store at the beginning of the trip, prior to leaving the country. Under current law, when the traveler returns to the U.S., the merchandise is subject to duty and tax.

We need to correct the irony in which our laws grant duty free status to items purchased in foreign countries, but deny that status to those items purchased in the United States!

We ask you to support the change proposed in the August 9 press release. It is minor, technical and revenue-neutral, but would greatly benefit U.S. duty free store operators.

Thanks for your consideration of our views.

Sincerely,

Susan H. Stackhouse
President

FIELDCREST CANNON, INC.

James M. Fitzgibbons
Chairman of the Board

September 7, 1995

Mr. Phillip D. Moseley
Chief of Staff
Committee on Ways & Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Moseley:

I am writing in response to the Ways & Means Committee's request for comments in regard to miscellaneous trade proposals currently under consideration. Specifically, I oppose a proposal to amend the Uruguay Round Agreements Act of 1995 -- section 334(b)(2)(A) -- relating to rules-of-origin requirements for bedding products such as comforters, eiderdowns, quilts and pillows.

Fieldcrest Cannon, Inc., is a major domestic producer of all types of home furnishings, including some of the bedding products that would be affected by this amendment. We employ nearly 14,000 workers in several states. We believe that the changes to the rules-of-origin adopted as part of the Uruguay Round Agreements Act last year, known as the Breaux-Cardin rules, were appropriate and necessary to limit circumvention of our various trade agreements. In the area of bedding products, the Breaux-Cardin rules allowed for the designation of origin to be properly placed on the key component of production, the construction of the exterior fabric. To reverse this emphasis by allowing country of origin designation to be determined by an ancillary process such as filling, finishing or sewing would only invite further circumvention in this area. Moreover, companies such as ours were able to support the overall Uruguay Round package only because of the perceived value of the original Breaux-Cardin amendment. Knowledge that these changes would not go into effect would have drastically changed our position on the Uruguay Round.

For these reasons, we believe that it is important for these rules to go into place in their original form. Thank you for your consideration of my views in this area.

Sincerely,

James M. Fitzgibbons

JMF:bjr

September 6, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere 'technical' change, in reality the bill would drastically increase the duty on many of the flat goods sold by our store — from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Ronald P. Murray
Senior Vice President &
General Merchandise Manager

RM/jam

atkins

Bernard Oloff
President
Chief Executive Officer

September 5, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, DC. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

/sz

[illegible]

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995, request for written comments, we wish to express our opposition to H.R. 1779, relating to the tariff classification of certain flat goods. This bill would dramatically increase the duty on many of the flat goods, which include wallets and coin purses with a surface of plastic sheeting reinforced with a textile or fabric backing.

As a retailer with 40 stores in ten states, the proposed legislation will cause a substantial increase in the cost of this merchandise to us and, ultimately, to our customer. We ask your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

G. R. HERBERGER'S, INC.

Mari Johnson
Vice President/
General Merchandise Manager

MJ:co

Comments of John Lutley
on behalf of The Gold Institute

on a proposal to

"Amend subchapter II of Chapter 71 of the HTS to correct the definition of gold and silver bullion bars which are both cast and minted"

before

The Subcommittee on Trade of the Ways and Means Committee
September 7, 1995

The Gold Institute appreciates the opportunity to submit comments for the record with regard to the proposal to "Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted." We strongly support this legislative proposal, and urge the Subcommittee's favorable consideration and adoption of this technical correction.

The Gold Institute is an international trade association based in Washington, D.C., dedicated to promoting public knowledge and awareness of the use and value of gold. Our membership is comprised of 77 member firms from 10 countries which includes mining companies, refiners, bullion suppliers, manufacturers of gold products, and wholesalers of gold investment products.

Gold plays a vital role in America today. The United States is the second largest gold producer in the world, and is one of the world's largest exporters of bullion, currently exporting some $1.5 billion annually. Over 80,000 Americans are employed by the U.S. gold industry, generating over $500 million in local, state, and federal taxes last year.

Gold is valued for its rarity, lustrous beauty, ductility, high resistance to corrosion, and conductivity. It has been treasured for its decorative and monetary value throughout recorded history. Gold is a time-tested, universally recognized store of value and a source of financial stability. It is for these reasons and more that nearly six million Americans invest in precious metals today.

Background and Present Law

For more than a century, gold and silver bars imported into the Untied States have been classified under the duty-free tariff provisions covering gold and silver bullion and dore. Until the 1970's, bars were universally produced by the casting method, whereby molten metal is poured into a mold where it is hardened into a bar. Technological advancements some twenty years ago permitted bullion bars to be minted rather than cast. Minted bars are stamped out of flat strip of rolled gold or silver to the required dimensions. In the case of smaller quantities of metal, minting bars is more efficient, precise, and cost effective. This new production method had no effect on the product. Whether cast or minted, the bars are at least 99.5 percent pure gold or silver, and both recognized internationally as bullion products of similar quality and purity.

The proposal under consideration would correct an unintentional drafting error which occurred in the conversion of the Tariff Schedules of the United States ("TSUS") into the Harmonized Tariff Schedules of the United States. In 1989, the United States adopted the Harmonized Tariff Schedules of the United States ("HTS"), replacing the TSUS. In the conversion, the drafters of the HTS, through an oversight, made the provisions for gold and silver bullion a subcategory of the provisions for unwrought forms of gold and silver. In the HTS, the definition of the term "unwrought" excludes articles that are produced using a rolling process. The drafters failed to take into account that in order to mint the bars, the gold and silver must first be rolled into a flat strip, which, according to the Customs Service removed the bars from the unwrought category. However, minted bullion bars continued to be imported duty-free for the next four years.

In 1993, the Customs Service sought to reclassify minted gold and silver bars under the provisions for other articles of gold and silver, in HTS heading 7115 at a duty of 7.8 percent and 5.4 percent, respectively. By 1994, the proposal had caused a major stir in the international precious metals market until its suspension by the Department of the Treasury, which is currently in effect. (See Attachment 1)

Proposed Legislation

The proposal under consideration would remedy the drafting oversight found in the HTS by creating new duty-free provisions for semi-manufactured gold and silver and for other articles of gold and silver. The new provisions would cover gold and silver in bar or bar-like shape, having a purity of 99.5 percent or higher and marked only with weight, purity or other identifying information. The term "bar like shape" is intended to eliminate any question that bars as small as one gram are covered by the provision, as well as larger sizes. The term "identifying information" is intended to cover the name of the manufacturer, a registration number, and security marks or devices that establish that the bar is genuine.

Inasmuch as gold and silver bullion bars, whether cast or minted, regardless of size, have always been duty-free, enactment of this corrective legislation would simply retain that status, and would not deprive the United States of revenue it had been collecting.

Conclusion

The Gold Institute, on behalf of its member firms, strongly supports this legislative proposal which will properly retain the duty-free treatment accorded importation of gold and silver bullion bars for over 100 years, and thereby prevent the disruption of the gold and silver markets. We urge the Subcommittee to adopt it at the earliest opportunity. We appreciate being given the opportunity to comment on this proposal.

ATTACHMENT 1

THE WALL STREET JOURNAL FRIDAY, NOVEMBER 4, 1994

Customs Service Weighs Duty On Some Gold

By SUZANNE MCGEE
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK – The U.S. Customs Service is considering a 7.8% import duty on certain gold bars produced overseas.

Gold industry representatives and precious-metals traders said the possible move could "devastate" the domestic gold industry. The move could boost the cost of an ounce of imported gold by about $30, based on the current price of gold.

The Customs Service disclosed the proposal in a letter sent to organizations such as the Washington-based Gold Institute, an industry group, and to some precious-metals traders. The agency warned that it is considering slapping the duty on gold bars ranging in size from one gram to one kilogram, or 32 ounces.

A spokeswoman for the Treasury Department said the document appears to be a working paper, and so hasn't come to the attention of the commissioner of the Customs Service. Under the agency's operating procedures, a document would be considered a working paper until it is published as a formal proposal in the Customs Bulletin, an agency publication, for comment by affected parties.

The move would affect so-called fabricated gold bars, meaning those which bear a stamp with an assayer's mark, a serial number, a hallmark and the weight of the bar. The process of stamping the bars, the Customs Service contends, makes the gold bullion a fabricated instead of an "unwrought" product, and therefore subject to duty.

Customs Service officials couldn't be reached for comment.

Traders fear the move could drive gold trading activity off the Comex division of the New York Mercantile Exchange to other commodity exchanges offshore, such as the London Metal Exchange. It could also hurt U.S. jewelers who would have to pay more for gold, and industrial users of both gold and silver, which also is imported under the same regulation.

"This is the craziest, most absurd proposal I have ever seen," said John Lutley, president of the Gold Institute. "It would devastate the gold industry, including gold companies which export abroad and who'd get hit by retaliatory measures overseas."

Ian Macdonald, chief of precious metals trading at CreditSuisse in New York, said a reduction of trading activity on the Comex could make the U.S. market less liquid and more vulnerable to manipulation. "If you can't be sure of bringing gold in at the international free market price, you're going to drive a lot of players right out of New York," he said. Mr. Macdonald said his clients, who include major industrial users, jewelers and investors, are "shocked and appalled" by the document.

While the United States produces more gold than it consumes, industrial users of silver, including such big companies as **Eastman Kodak** Co., which uses silver to make camera film, rely on foreign imports. Even imports of platinum and other metals like zinc, which also bear assay marks and other stamps, could be subject to such a duty, some traders fear.

"If this goes through, it's going to have a very dramatic and very negative impact on the gold market," said Mr. Macdonald.

Mr. Macdonald said he fears that the price of gold on the Comex division of the New York Mercantile Exchange would be artificially boosted by imposing a duty on gold imports. "Buyers would be forced to pay more either to be sure of getting domestic gold or to pay the duty to import it," he said. "It would be the end of a free market."

The industry has 30 days to submit comments on the proposal once it is published in the Customs Bulletin on Nov. 9. Mr. Lutley and Mr. Macdonald say they expect the industry will lobby actively against the measure. "I cannot believe this ruling will be allowed to stand," Mr. Lutley said.

Even if it is, most agree that the Customs Service likely won't make much money from charging a duty on gold. Few companies are likely to continue importing gold, they say. Their options would include shifting manufacturing offshore or buying gold domestically.

Michael Simon, director of CPM Group, a precious metals consulting concern in New York, says that if the Customs Service's main concern is the fact that the metal is stamped with the assayer's mark and a serial number, metals refiners in Europe and elsewhere could simply ship unstamped bars to the United States and have the marks added locally.

GOTTSCHALKS

EXECUTIVE OFFICES

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September 7, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways & Means Committee
1104 Longworth House Office Building
Washington DC 20515

Dear Chairman Crane:

I am writing to express my strong opposition to HR 1779, relating to the tariff classification of certain flat goods. Products affected include wallets, coin purses and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

This bill would drastically increase the duty on many of the flat goods sold by us, from an effective rate of 5.8% to 20%. I urge your Subcommittee to reject this legislation.

Thank you for your consideration.

Yours truly,

JL:nd

Joe Levy
Chairman

Before The
UNITED STATES HOUSE OF REPRESENTATIVES
Committee on Ways & Means
Subcommittee on Trade

STATEMENT OF HOLLANDER HOME FASHIONS INC. IN SUPPORT OF REMOVING COMFORTER SHELLS (HTS HEADING 6307.90.89) AND COMFORTERS (HTS HEADING 9409.90) FROM SECTION 334(b)(2)(A) OF THE URUGUAY ROUND AGREEMENTS ACT

I. INTRODUCTION

Hollander Home Fashions, Inc. a manufacturer of down-filled comforters headquartered in Boca Raton, Florida, is pleased to respond to the Trade Subcommittee's request for comments concerning whether certain articles classifiable under Harmonized Tariff Schedule (HTS) headings 6307.90.89 (comforter shells) and 9409.90 (comforters, pillows, cushions and the like) should be removed from operation of the "special rule" of origin set forth at Section 334(b)(2)(A) of the Uruguay Round Agreements Act. For the reasons set out herein, Hollander Home Fashions, Inc. supports the proposed amendment.

The United States Customs Service has proposed regulations which would fix the origin of all home textile products covered by the "special rule" according to the country where the product's constituent fabric was woven in the greige. Such a "fabric forward" rule is unduly harsh, and does not comport with commercial reality. It would work extreme hardships for Hollander and other United States manufacturers of down-filled comforters.

II. INTEREST OF COMMENTER

Hollander Home Fashions, Inc. is the United States' second largest manufacturer of down-filled comforters, and operates comforter manufacturing plants at Frackville, Pennsylvania; Tignal, Georgia; Bedford Park, Illinois; Dallas, Texas; Rogers, Arkansas; and Vernon, California. Our company employs a total of 1000 workers.

Because downproof fabrics needed for the manufacture of comforters are not manufactured in the United States in commercially significant quantities, Hollander, like other domestic manufacturers, depends on a supply of imported comforter shells. While these shells may be cut and sewn in a variety of foreign countries, they are produced from downproof fabrics which are manufactured in only three countries -- China, India and Germany. Like other American comforter producers, Hollander is heavily dependent on downproof fabric woven in China, as well as comforter shells produced in that country. However, United States quota restrictions have created a supply crisis for the United States comforter making industry. In 1994, the Committee for the Implementation of Textile Agreements for the first time established a "specific limit" on the quantity of cotton bedding items (category 362) which could be imported from China. [Previously, these items had been subject to a much larger "group" limit].

Textile quota category 362 is unusual, in that it covers both finished products (such as pre-filled down comforters and quilts), as well as intermediate materials used in making those products (such as comforter shells). Much of the Category 362 quota allocation was consumed by imports of prefilled comforters (which compete with Hollander's domestically-made products) and patchwork quilts (which compete indirectly). Obtaining quota allocations for comforter shells, which feature less value added than the finished products, became difficult. Furthermore, because the textile quota category 362 limit is administered on a "per unit" basis (rather than according to weight), a single comforter shell consumes as much of the quota allocation as a finished comforter.

In 1994, this quota closed by July, creating a supply crisis for domestic comforter manufacturers, American retailers, and consumers. This year, the quota closed on March 1, creating an even graver crisis. Our company faced the prospect that, in the following 22 months, there might only be a three- or four-week "shipping window" for the importation of comforter shells from China. This was an unacceptable situation.

One sourcing alternative which we explored was having downproof fabric of Chinese origin shipped to other countries, where they could be cut and sewn into finished comforter shells. These shells would be considered products of the country where they were cut and sewn, and could enter the United States without regard to China's quota limitation. [Since the cutting and sewing of comforter shells involves a significant capital investment, and extensive worker training, shifting the shell manufacturing operation to the United States was not a viable option]. The strategy of producing comforter shells in a second country using Chinese fabric caused our company to incur added costs for this essential component, but at least assured us a steady supply of comforter shells and kept us in business.

Section 334(b)(2)(A) of the Uruguay Round Agreements Act sets forth a "special rule" for determining the origin of comforter shells, comforters, and a wide range of home textile and made-up textile articles. The manifest purpose of this rule is to exclude certain articles from the "country of assembly" rule of origin which the URAA applies to apparel. The United States Customs Service has proposed regulations which go a step farther, and impose a "fabric forward" rule of origin for all of the goods covered by the "special rule" of Section 334(b)(2)(A). While Hollander does not agree that a "fabric forward" rule is mandated by the statute, we submit that any doubts resolving the issue can best be resolved by removing comforters and comforter shells from operation of the "special rule". This would allow the origin of the goods to be determined by the country where they are completely assembled by sewing, or, in the alternative, according to the "multicountry rule" set out in Section 334(b)(3) of the URAA.

III. DISCUSSION

1. A "Fabric Forward" Rule of Origin for Comforters and Comforter Shells is Commercially Unrealistic

Under the "fabric forward" rule which Customs has proposed, the country of origin of an imported comforter shell or of an imported finished comforter would be determined according to the country where the fabric used in its construction was woven in the "greige" state. No credit would be given for value-added operations, such as dyeing, printing, or finishing the fabric, cutting the fabric and sewing it to make comforter shells (which are complex textile constructions). No credit would be given for the insertion of processed down or other filling materials which impart added qualities of warmth, bulk and softness. It cannot be denied that these value added operations transform the greige fabric into a new and distinct article of commerce. However, under the "fabric forward" rule of origin proposed by Customs, the origin of an imported $200 comforter could conceivably be determined by the country where $5 worth of greige fabric used in its manufacture was woven. The operations which impart the remaining $195 of value -- and which make the comforter or comforter shell a manufactured article of commerce, as distinguished from a bulk material -- would be totally ignored.

On its face, this result suggests that the "fabric forward" origin rule is commercially unreasonable. It is well-settled that fabric is quite distinct from finished articles composed of fabric. It is unreasonable for Congress or Customs to ignore the distinction.

It is worth noting that most comforter shells are complex articles, which feature not only top and bottom panels, but a detailed series of internal "baffles" or chambers, which help keep the down filling distributed evenly throughout the comforter. It makes no sense to ignore this significant construction. It is equally unrealistic to ignore the process of filling comforter shells with expensive processed down. Customs has long recognized this operation as effecting a "substantial transformation" for country of origin marking purposes. Annex 401 of the North

American Free Trade Agreement recognizes this operation as sufficient to confer NAFTA-"originating" status upon an imported article.

2. A "Fabric Forward" Origin Rule Will Cause Supply Problems for Domestic Manufacturers, Retailers and Consumers

Adopting a "fabric forward" origin rule for comforter shells and comforters will have severe negative repercussions for companies such as Hollander Home Fashions, which manufactures comforters in the United States and relies upon imported comforter shells. It will also create supply problems for United States retailers and consumers.

As noted above, the early closing of China's textile quota category 362 level caused enormous supply problems for the home textiles industry during 1994. Many orders placed by retailers for the Christmas season could not be filled because of the unexpected early quota embargo. This situation grew measurably worse in 1995, and domestic producers of comforter shells were forced to find new manufacturers in other countries who could convert Chinese or Indian-origin downproof fabric into comforter shells. This resulted in increased costs for manufacturing and transportation, as well as longer supply times, but at least kept our industry in business. A "fabric forward" rule of origin, however, would probably drive some United States comforter producers out of business since, as a practical matter, they could source comforter shells from only three foreign countries -- China and India (both of which are subject to textile restraints) and Germany (whose expensive fabric is largely consumed by European comforter producers). A "fabric forward" origin rule leaves industrial consumers of downproof fabric with no meaningful alternatives.

When the Customs Service changed its rule of origin for textile and apparel products in 1984 to provide that garments would be considered to originate in the country where fabric was cut into garment parts, apparel manufacturers and importers were able to adjust to the new rules as necessary by shifting cutting facilities from one country to another. Apparel producers will also be able to adjust to the change in origin wrought by Section 334 of the URAA, for example by shifting sewing facilities. However, the imposition of a "fabric forward" origin rule for downproof products will leave our company and other U.S. comforter manufacturers with no practical supply alternatives.

To effect a change in country of origin, it would be necessary for foreign companies to establish downproof fabric weaving mills in new countries -- an enormous expenditure of time and resources that cannot be financially justified. Foreign textile producers are unlikely to establish new weaving mills to produce downproof fabric, since these are specialty fabrics whose production is only economically justified when it is centralized. United States textile producers do not manufacture downproof fabric in commercial quantities because their high speed looms are more efficiently devoted to the manufacture of other, non-specialized fabrics.

There is no good reason for imposing a "fabric forward" rule of origin on downproof home textile products. There are virtually no United States producers of this fabric, and hence no protection interest is served. This was admitted by representatives of the American Textile Manufacturers Institute (ATMI) at the Trade Subcommittee's hearing on July 11, 1995.

3. Congress Could Not Have Intended a "Fabric Forward" Rule of Origin for Comforter Shells and Comforters, Nor the Harsh Economic Consequences Which Such a Rule Would Cause

The legislative purpose of Section 334 of the URAA was to change the rules of origin applicable to imported apparel articles, conferring origin in the country where garments are assembled by sewing (rather than the country where they are cut from fabric). Home textile articles and made-up textile articles, such as comforters and comforter shells, were not the focus of the legislation. While Congress may have intended that origin not be conferred on these "miscellaneous" textile products by the act of assembly, it is difficult to conceive that Congress intended to impose an across-the-board "fabric forward" origin rule for the many varied types of items described in Section 334(b)(2)(A) of the Act. While weaving may be the most important operation in the production of some home textile articles (such as flat bedsheets or handkerchiefs), it is clearly not a major operation in the manufacture of complex articles such as comforter shells and comforters. Removing these items from the operation of the "special rule" is a sensible step which advances sound U.S. trade policy goals.

4. Congress Should Insure that Final Marking Regulations are Consistent with United States Obligations Under NAFTA

Finally, Hollander submits that Congress should insure that any final rules of origin for textile and apparel products adopted pursuant to Section 334 of the URAA comport with United States obligations under the North American Free Trade Agreement (NAFTA). As noted above, NAFTA Annex 401 provides that the filling of a comforter shell with down or feathers is considered a sufficient manufacturing operation to confer NAFTA "originating" status on the finished comforter. Section 334, by imposing a "fabric forward" rule of origin for comforter shells and comforters, creates an anomalous situation whereby the United States' non-preferential rule of origin is more difficult to satisfy than the NAFTA preferential rule of origin. Removing comforters and comforter shells from Section 334 (b)(2)(A) should eliminate any inconsistency between these regimes, and avoid confusion in the future.

Furthermore, some commentators have suggested that the rules of origin imposed under Section 334(b)(2)(A) should supersede both the NAFTA marking rules and the NAFTA Annex 401 preference rules. Such a result would be absurd, and would in effect constitute a partial United States repudiation of NAFTA. We urge the Committee to remove comforter shells and comforters from the operation of Section 334(b)(2)(A) to eliminate any confusion concerning United States intentions regarding the operation of NAFTA in this area.

IV. CONCLUSION

Hollander Home Fashions, Inc. appreciates the opportunity to present these comments to the Subcommittee. We support the proposal to remove HTS headings 6307.90.89 and 9404.90 from the operation of the "special rule" of origin set out in Section 334(b)(2)(A) of the Uruguay Round Agreements Act.

Respectfully submitted,

Leo Hollander
Chairman
Hollander Home Fashions, Inc.
6560 West Rogers Circle
Boca Raton, Florida 33487

September 5, 1995

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF IMPERIAL HOME FASHIONS
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Imperial Home Fashions appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Imperial Home Fashions is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

Imperial Home Fashions

Imperial Home Fashions has been operating in Elk Grove Village for four (4) years. We manufacture high quality down and micro fibre comforters and pillows, featherbeds, and specialty pillows in both down and synthetic fills.

In the past four (4) years of operation we have been successful in expanding our facility from 25 personnel on start up, to over 120 personnel, and plans are currently in the works for a major expansion in 1996. The provisions in the Breaux-Cardin Agreement (Sections 334) have if unaltered now put this expansion in jeopardy.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of

the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

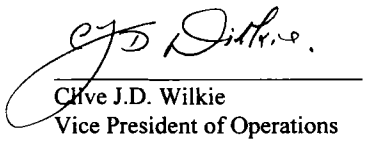
- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,



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August 21, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

ATTN: Phillip D. Mosely, Chief of Staff

Dear Chairman Crane:

In response to your August 9, 1995 request for comments, the International Association of Airport Duty Free Stores (IAADFS) wishes to express our support for the amendment to Section 555 of the Tariff Act of 1930 to make a technical change in the personal allowance exemption for returning U.S. residents.

Currently, when U.S. residents travel out of the country for more than 48 hours, they are permitted to bring back to the U.S. up to $400 worth of goods purchased while they are away without paying duties or taxes at the U.S. border. The allowance for returning U.S. residents who do not meet the 48-hour rule is $200. These duty-free allowances are an important element of tourism, providing a valuable benefit to traveling U.S. residents.

The existing personal allowance structure has one minor flaw, however: it only applies to merchandise purchased in a foreign country. Many times, U.S. travelers purchase gifts or other small items from a U.S. duty-free store at the beginning of their trip. This merchandise leaves the country. Yet, when the traveler returns to the U.S., duty and tax must be assessed on those items, unlike merchandise

purchased at foreign locations. This is a technical deficiency in the law that disadvantages duty-free stores at U.S. border and airport locations.

The technical change proposed in your request for comments is required so that purchases at U.S. stores can later be returned to the U.S. on a duty-free basis, but only to the extent of the personal allowance limits.

This will have the following impact:

* It will permit U.S. duty-free stores to reap some of the benefits of the U.S. allowances by providing duty-free treatment for merchandise that is purchased by U.S. residents at the beginning of their journey.

* The U.S. is the exception in having this limitation -- other countries in the world do not prohibit the reimportation of merchandise purchased by their own residents at duty-free stores located at their nation's borders and brought back to their country at the end of the trip. This unique U.S. prohibition has particular significance along the U.S.-Canada border, since Canadians who leave their country are allowed to do their duty-free shopping at Canadian duty-free shops. The U.S. should provide its residents who travel to Canada or elsewhere the same latitude.

* U.S. travelers will be given more flexibility in their shopping choices and will enjoy a broader range of options in making their purchases.

This change is minor, technical and revenue-neutral. It does not alter the overall limit on the personal allowance. It merely permits U.S. duty-free stores to share in the benefits of that allowance.

IAADFS urges your Subcommittee to approve this provision at the earliest opportunity.

Sincerely,

David Bernstein
President

JOINT INDUSTRY GROUP PROPOSALS

TO

WAYS AND MEANS COMMITTEE SUBCOMMITTEE ON TRADE

CONCERNING RULES OF ORIGIN FOR DETERMINATION OF COUNTRY OF ORIGIN

1. It is the position of a majority of the members of the Joint Industry Group that:

- since there is a work program underway within the World Trade Organization and the World Customs Organization to develop harmonized rules for the determination of country of origin based on the last country of substantial transformation (the criteria stated in the Uruguay Round Agreement); and,
- since the International Trade Commission has been requested to conduct a study under Section 332 of the Trade Act of 1930 to determine what is in the best interests of the United States with respect to the harmonization of international rules to determine country of origin; and,
- since the Treasury Department has proposed the promulgation of new rules for the US alone for the determination of country of origin prior to the completion of either of the ongoing work programs;

Treasury and the Administration should be requested to delay the implementation of any proposed rules that are otherwise required by statute until at least one year after completion of the ITC study. This will allow for a more reasoned development of rules with more involvement from the private sector, and will eliminate the potential disruptive effects of multiple changes in the rules. The Court of International Trade's recent decision in CPC International v. United States (Slip Op. 95-132) illustrates some of the types of costs and disruptions that rapid and frequent changes can cause.

2. The Treasury proposals for rules of origin imply that the long used doctrine of "substantial transformation" will be eliminated with the implementation of their proposed rules. While the Joint Industry Group recognizes there is some confusion about the meaning of substantial transformation, it is the underlying basis of the World Trade Organization and World Customs Organization efforts to develop harmonized rules. The Joint Industry Group believes that "substantial transformation" can and should be clearly defined in terms of the rule, and then used as the basis for development of harmonized country of origin rules. Such definition is essential to the reasoned and disciplined participation of the private sector in the development of Treasury's proposed rules of origin, and U.S. participation in the World Trade Organization and World Customs Organization efforts. The Joint Industry Group therefore requests that the Customs Service retain its current practice of applying the substantial transformation doctrine to determine the country of origin of goods.

3. Regarding today's broad marking requirements for imports of foreign merchandise, the Joint Industry Group proposes that Section 304 of the Act be amended to impose marking requirements only on those goods imported in a condition put up for retail sale. Thus for example, materials, parts, components, subassemblies, items for repair and end-products not put up for retail sale in their condition as imported would be exempted from Section 304 marking requirements applicable to both articles and containers. This exemption would also apply to imported articles of the same kind and quality where only a *de minimis* percentage of such articles is susceptible of sale at retail.

4. For more specific marking exemptions, in addition to those already acted upon by the Subcommittee which the Joint Industry Group supports, individual members have proposed the following to be added to that list:

* Exempt imported components, parts and materials and their containers which are certified for use in the manufacture of articles in this country which have a different name, character or use or in the installation or repair of those articles.
* Exempt golf clubs manufactured in the United States from imported components.
* Exempt eyeglass frames that are further processed in the United States.

5. In conclusion, the Joint Industry Group appreciates the interest and efforts of the Committee to bring about clarification and understanding of the development of rules of origin for determination of country of origin. The marking of products for country of origin has become burdensome in many sectors of the U.S. economy. The action of the Committee to exempt certain sectors from the burdens of marking is indeed welcome.

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF LEEJAY BED & BATH
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

LeeJay Bed & Bath appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

LeeJay Bed & Bath is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

LeeJay Bed & Bath

LeeJay Bed & Bath is a retail chain of 46 stores, headquartered in Norwood, Massachusetts for 23 years, and with 24 retail outlets in Massachusetts. Our retail stores carry a variety of merchandise including down comforters, featherbeds, down pillows, and feather pillows. These items are an integral part of the merchandise mix in our stores. Our supply of these products is now in jeopardy because of the rules proposed to carry out the principles of Section 334 of the URAA.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,

Howard Israel
President
LeeJay Bed & Bath
290 Vanderbilt Avenue
Norwood, MA 02062

Telephone: 617.769.1000
Facsimile: 617.769.7289

LIBERTY HOUSE

EXECUTIVE
OFFICE

September 5, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

James Famalette
President and
Chief Executive Officer

P.O. BOX 2690 • HONOLULU, HAWAII 96845 • (808)945-5500 • FAX (808)945-5571

August 25, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

Responding to your August 9, 1995 request for comments on the proposed change in the tariff classification of plastic sheeting flat goods, I wish to reiterate our company's strong opposition to that proposal, which has been introduced as H.R. 1779.

Liz Claiborne is one of America's largest marketers of better fashion merchandise. Headquartered in North Bergen, New Jersey, the company is highly regarded as a designer of distinctive women's clothing and accessories offered at a price which provides consumers unusually high quality and value. In the past decade, Liz Claiborne has grown from approximately 300 employees to over 7,000 employees.

The Accessories Division of Liz Claiborne sells leather and non-leather handbags, flat goods, hats, gloves and similar items. The flat goods portion of the division constitutes approximately 20% of the division's sales. It is this part of the business that would be adversely impacted by H.R. 1779.

In my July 17, 1995 letter to you, I described in detail the long and complicated history of this tariff and our company's position on the issue. Without repeating that statement in detail, I do again want to express the company's surprise that this measure is being considered for inclusion in a package of technical, noncontroversial items. This bill is as controversial as any tariff bill to come before this Subcommittee in the past five years. The issue itself has been the subject of a bitter dispute in Congress, in the regulatory arena and in the Court of International Trade. It continues in this Congress to be a hotly contested bill that has the result of

amatically increasing the tariff rate on these flat good products. In fact, this issue not only being debated in the Trade Subcommittee, but it is now the subject of a ıated battle in federal court, as well.

.R. 1779 attempts to reincorporate definitions and concepts that had meaning ıder the TSUS -- a system that differs markedly in content and form the armonized Tariff System. In doing so, however, the legislation forces nearly all astic sheeting flat goods into a 20%category, despite the fact that many of these oducts have longed been dutiable at a rate of 8% or lower.

ıe farther we move away from the TSUS system, which has not been used in this ıuntry since 1988, the more difficult it becomes to try to reconfigure the armonized Tariff Schedule in the precise image of the TSUS. In the years since is country left the TSUS classification system behind, the marketplace for flat ıods has evolved in response to a variety of factors and trends in the fashion dustry. Now, in this changed environment, to reinsert definitions and concepts at had meaning in another time and place will not accomplish anything, except to ace a 20% tariff on virtually all types of plastic sheeting flat goods entering this ıuntry.

'e think it is a dangerous business to attempt to make so-called "technical" visions in today's tariff schedule based on purported mistakes that happened a ıcade ago. Much has happened in the intervening years, both in the marketplace ıd in the tariff schedule -- so much so that it becomes virtually impossible to turn e clock back now without creating even greater inequities.

ır Liz Claiborne, the bottom line is this: today, under the HTS, we pay a duty rate 5.8% for plastic sheeting flat goods that we import. If passed, H.R. 1779 will ore than triple the tariff rate on flat goods imported by our company. We do not ink such a result is warranted.

r. Chairman, we again urge the Trade Subcommittee to reject this legislation. ıank you for your consideration of our request.

ncerely,

arol Hochman
esident,
ccessories Division

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF Louisville Bedding Company
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Louisville Bedding Company appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Louisville Bedding Company is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

Louisville Bedding Company

Louisville Bedding Company, a United States corporation, is a manufacturer of mattress pads, bed pillows, and decorative home fashions. Louisville Bedding Company has 2 manufacturing facilities in Kentucky employing approximately 1,000 employees and has been in business since 1889. We manufacture and market pillows and comforters filled with down and feathers. The downproof shells for these products are imported and it will be important for us to be able to continue sourcing these shells from foreign manufacturers.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent

transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,

Grace Patterson
Director of International Trade

Louisville Bedding Company
10400 Bunsen Way
Louisville, KY 40299

Telephone: (502) 495-5344
Facsimile: (502) 495-5346

Luggage and Leather Goods
Manufacturers of America, Inc.
350 Fifth Avenue • Suite 2624
New York, New York 10118
212/695-2340
FAX: 212/643-8021

STATEMENT OF THE LUGGAGE AND LEATHER GOODS MANUFACTURERS OF AMERICA, INC.

TO THE SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS

REQUEST FOR COMMENTS ON MISCELLANEOUS TRADE PROPOSALS: HTS ITEM #4: PLASTIC FLAT GOODS

SEPTEMBER 8, 1995

The Subcommittee on Trade has requested comments on certain miscellaneous trade proposals including amendments to HR 5110, the Uruguay Round Agreements Act (P.L. 103-465), which were considered by the Committee but were not included in the final version of the bill. The Luggage and Leather Goods Manufacturers of America, Inc. (LLGMA) was disappointed that the flat goods provision sponsored by Congressman Sensenbrenner that was adopted by the Ways and Means Committee last year as part of HR 5110 was later dropped from the implementing legislation because it was not germane to the bill. LLGMA believes the Committee-adopted provision on plastic flat goods should be among those considered and passed by the Committee at the earliest possible opportunity for the following reasons:

1. Both the Ways and Means Committee and the Administration supported the plastic flat goods provision as necessary to "rectify [an] error." The Committee described the problem in the following way:

> *"After adoption of the Harmonized Tariff Schedule, a Customs Service ruling had the effect of reducing the duty on articles such as wallets, purses, key cases and the like. The change, not intended by Congress [emphasis added], resulted from not carrying over the former tariff system's definition of "reinforced and laminated plastics." This provoked a flood of imports from low-wage countries and harmed U.S. producers of competing products. The amendment would rectify this error by reinstating the definition that previously was in effect... . These modifications would restore the situation that was in effect before the adoption of the Harmonized Tariff System."*

2. Through outside Counsel, LLGMA has obtained important new evidence showing that failure to carry over the former tariff system's definition of "reinforced or laminated plastics" was a mistake -- a mistake which opened the door to a huge tariff loophole that will cost the U.S. Government between 75-100 million dollars over the next ten years and thousands of jobs in the domestic flat goods industry. The mistake clearly lends itself to a technical correction.

A recap of the history of the conversion of the two plastic flat goods categories from the TSUS to the HTS that describes how this oversight occurred is provided below:

-- The TSUS had two breakouts for plastic flat goods: (1) flat goods of "reinforced or laminated plastics," TSUS 706.42, dutiable at 5.5 cents/lb. + 4.6%, and (2) other plastic flat goods, TSUS 706.61, dutiable at 20%. The overwhelming vast majority of plastic flat goods entered in the "other" category under the TSUS.

-- The September 1984 draft of the conversion to the HTS shows one category for plastic flat goods, with a duty rate of 20 percent. It eliminated the much lower duty TSUS breakout for flat goods of "reinforced or laminated plastics," reflecting the fact that there was very little trade in this category, which was considered a specialty item. In addition, the International Trade Commission's June 1983 cross reference between the HTS and TSUS shows that the TSUS provision for flat goods of "reinforced or laminated plastics" was intended to be subsumed in a new HTS provision covering all plastic flat goods at a 20% duty rate.
-- The October 1986 draft of the conversion to the HTS shows that the "reinforced or laminated plastics" flat goods category is reinserted. The intent, according to the ITC's January 1988 cross reference, is to match up the old TSUS provision for flat goods of "reinforced or laminated plastics" with the new HTS breakout of the same description.

-- The mystery of why the "reinforced or laminated plastics" flat goods category was reinserted into the October 1986 draft HS conversion, after having been removed from the earlier version, was recently solved. It was reinserted at the request of the Israeli Government because Israel argued that it would lose a trade concession on the "reinforced/ laminated" category because (1) the US-Israel FTA had been negotiated based on the TSUS, and (2) Israel had immediate duty-free treatment on the "reinforced/laminated" category, but a five year phased duty reduction on the "other" category, into which the "reinforced/laminated" category had been merged.

The attached letter and materials from the Office of the United States Trade Representative in response to a Freedom of Information Act request clearly demonstrate that the US Government bifurcated the merged category as a result of Israel's request. However, the definition of "reinforced or laminated plastics," which had appeared in a different part of the TSUS and which had been used to define these goods as specialty items (i.e., made of rigid plastics), was overlooked and failed to be reinserted by the drafters. The mistake opened the door to an erroneous interpretation of what constitutes flat goods of "reinforced or laminated plastics" under the HTS, resulting in the migration of millions of dollars of trade to the lower duty category between 1990 and 1994. In 1990, prior to the reclassification, the value of trade in the "reinforced/laminated" category was $1.5 million. By 1994, this number had grown to $78.6 million, the direct result of the erroneous reclassification.

It is the domestic industry's view that Congress should not entertain for a minute the notion that rectifying what has been identified and acknowledged as an unfortunate and costly oversight is in any way controversial. The current tariff schedule reflects a drafting error, not Congressional intent. LLGMA believes that the nature of this error lends itself to a technical correction, which is long overdue and should be enacted at once.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20506

April 4, 1995

Mr. Paul G. Giguere
Sandler, Travis & Rosenberg, P.A.
1341 G Street, N.W.
Washington, D.C. 20005-3105

Dear Mr. Giguere:

This is in response to your request for "records pertaining to modifications made to the draft Harmonized Tariff Schedule of the United States (HTS) as published in October 1986", under the Freedom of Information Act. Your request was dated February 20, 1995, and received in the General Counsel's office on February 22, 1995.

On February 23, 1995, we informed you that because of our need to coordinate with, and search files in more than one office, we would not be able to provide a response within ten working days. (5 U.S.C.A. §552(a) (6)(B) (i) (ii) (iii)).

After an extensive search of our files, we were able to locate only part of one document which would be responsive to your request, and we are releasing it to you. It is part of Annex VII of the March 1986 TPSC paper, which you cited in your request, summarizing the results of an interagency effort on the HTS conversion. We suggest that you contact the Department of Commerce and the International Trade Commission for further information, if you have not already done so.

There is no charge for processing your request.

In the event that you are unsatisfied with USTR's action on your request, you may appeal it within thirty (30) days, in writing to:

FOIA Appeals Committee
600 17th Street, NW
Washington, D.C.

Both the envelope and the letter should be clearly marked "Freedom of Information Act Appeal."

Should you have any questions, please feel free to contact me at (202) 395-3432.

Sincerely,

Sybia Harrison
FOIA Officer

Enclosures

(e) Israeli Free Trade Area -- The preferential rates of duty for products of Israel will also be reflected in the TSUS in the new "special" column. All products are included in the free trade area; however, products will stage down to free at different times. It is anticipated that the designation "I" along with the preferential rate of duty will be used to indicate the rate applicable to products of Israel. This is somewhat different from the treatment described in the previous four cases, since this is the only case where a rate of duty would be required in addition to the alpha designation.

For the most part, the conversion of the Israeli Preference rates is a technical exercise which can be performed through examination of a concordance between the items which will be covered under the TSUS and the items to which they have been allocated in the Harmonized System based tariff schedule. However, in some cases, products with different staging patterns are combined under one tariff line in the Harmonized System.

In February 1984, the TPSC Subcommittee on Israel, with advice from the Task Force, reviewed the conversion and identified the most sensitive areas in which breakouts would be needed to continue treatment agreed to under the FTA. These breakouts are listed in Annex VII as part of the general update of the conversion. The textiles chapters were not examined in detail because the 1984/85 changes in the TSUS made to accommodate the free trade area with Israel are not yet reflected in the Harmonized System documentation available to the group.

The next step will be to negotiate with Israel on the remaining less sensitive items where proposed treatment in the conversion does not align exactly with the staging patterns agreed to in the FTA. The process may result in additional breakouts or in marginal changes in the staging patterns for some items.

4202.32.10:

Delete and substitute the following:

	With outer surface of plastic sheeting:			
4202.32.10	Of reinforced or laminated plastics.....	12¢/kg + 4.6%	$1.10/kg + 60%	
4202.32.20	Other.....	20%	45%	

Remarks: FTA - Israel.

DAYTON'S Marshall Field's HUDSON'S
700 ON THE MALL • MINNEAPOLIS, MN 55402

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Barb Giangrossi

Barb Giangrossi, DMM
Accessory Division

MERCANTILE STORES COMPANY, INC.

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Ginny Johnson
Divisional Merchandise Manager

9450 SEWARD ROAD • FAIRFIELD, OHIO 45014-2230
513-881-8000 • FAX 513-881-8689

MIAMI DUTY-FREE ENTERPRISES, IN(
120 N.E. 9th Street
Miami, Florida 33132-1795
U.S.A.
Tel: (305) 358-0119
Fax: (305) 358-0430

August 30, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

You recently requested comments on various technical trade corrections. We wish to express support for one of those provisions: a technical change in the personal allowance exemption which would permit purchases at U.S. duty free stores to be applied against the personal allowance for returning U.S. residen The allowance permits U.S. travelers to bring up to $400 worth of merchandise into the country free of duty and tax when they have been out of the country for at least 48 hours ($200 if the traveler is absent less than 48 hours).

We own and operate duty free stores located at the Port of Miami, Downtown Miami and Orlando, and are in the business of selling products free of duty and tax to travelers departing the U.S. on business or pleasure.

The proposal we support is a simple, technical change that does not alter the overall monetary level of the personal allowance for returning U.S. travelers. Yet, it is important, since it will permit U.S. duty free stores to enjoy some of the benefits of the U.S. allowances. With this change, merchandise that is purchased by U.S. residents at the outset of their journey at a U.S. store will be eligible for duty free treatment when the U.S. traveler returns to this country.

Without this change, goods purchased in a foreign store will receive duty free treatment while that status is denied to goods purchased in the United States an inequity that should not be allowed to continue.

Mr. Chairman, we urge your Subcommittee to approve this proposed change at the earliest opportunity.

Sincerely yours,

MIAMI DUTY-FREE ENTERPRISES,

Carl Reimerdes
President

CHR/lk

lational Apparel & Textile Association

August 25, 1995

Mr. Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth Bldg.
Washington, D.C. 20515

RE: August 9, 1995 Request for Comments on Misc. Trade Proposals

Dear Mr. Moseley:

I am writing on behalf of the National Apparel and Textile Association (NATA) in response to your request for comments on changes in miscellaneous trade proposals currently under consideration by the Subcommittee on Trade of the Committee on Ways and Means.

The National Apparel and Textile Association is a non-profit trade association, based in Seattle, representing importers and manufacturers of textile and apparel products, ports, customs brokers, ocean carriers and others involved in textile and apparel trade (see enclosed membership list).

I am writing specifically in regard to the proposed change in Subheading 9802 of the Harmonized Tariff Schedule to allow oven baking, enzyme- washing, enzyme-stonewashing and other similar processes as allowable finishing processes in this subheading. Please note that there appears to be a typographical error in your announcement. The correct subheading under consideration should be 9802.00.90, not 9802.00.80 as listed in the announcement.

We strongly support this proposed change in the Tariff Schedule. It is our understanding that this change is also supported by all of the other major apparel industry associations, including the American Apparel Manufacturers Association (AAMA) and the U.S. Apparel Industry Council (USAIC). It is also our

Two Union Square, 601 Union St., Suite 4700 • Seattle, WA 98101-2346 USA • (206) 442-7925 • Fax (206) 621-2660

understanding that the Committee for the Implementation of Textile Agreements (CITA) supports this change.

Subheading 9802.00.90 was enacted under the North American Free Trade Agreement (NAFTA). It allows preferential duty treatment to garments assembled in Mexico from U.S. cut components, so long as the garments are not subjected in Mexico to operations that are more than "incidental to assembly". However, subheading 9802.00.90 allows certain post-assembly finishing operations--bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing.

It is our understanding that the original language in Subheading 9802.00.90 which listed these allowable finishing processes was meant to describe the effects that a process might have on garments and not to restrict what processes might be employed to achieve those effects. The characteristics imparted by enzyme-washing are basically the same as those imparted by stone-washing, acid washing and bleaching. Unfortunately, U.S. Customs has, on occasion, taken a very narrow view of this language and has denied entry under this subheading of certain garments that would have otherwise qualified because the garments had been "enzyme washed" in Mexico.

We are also concerned that U.S. Customs might take the same narrow view of garments that have been oven-baked in Mexico to achieve a perma-pressed finish or subjected to new, but unlisted, finishing process to achieve a stone-washed or acid-washed look.

In summary, we strongly support the proposed amendments in subheading 9802.00.90. We believe these changes are consistent with the original intent of the North American Free Trade Agreement and are in the best interests of U.S. manufacturers and consumers.

Thank you for your attention.

Sincerely.

Jim Langlois
Executive Director

Enclosure

NATA

National Apparel & Textile Association

NATA MEMBERS

Apparel Manufacturers and Retailers

Baybridge Sportswear
BCI, Inc.
BCTC Corporation
Brittania Sportswear/Levi Strauss
Bugle Boy Industries
B.U.M. International
California Fashion Industries
Cary Children's Clothes
CAS, Inc.
Cutter and Buck
Danube Knitwear, Ltd.
Desar, Inc.
Esprit de Corp
Fashion Resources, Inc. (No Jeans)
Fraje', Ltd.
Fritzi California
Generra Sportswear, Inc.
Hawaii Apparel Coalition
Helly Hansen, Inc.
International News
Kizan International
Lixin Company
Mallory and Church Corp.
Michael Gerald, Ltd.
Pacific Trail, Inc.
Patagonia, Inc.
Peter J. Company
Pomare, Inc.
Reyn Spooner, Inc.
San Francisco Mercantile
SeaBell Sportswear, Inc.
Shah Safari, Inc.
Spyder Active Sports
Sun Sportswear, Inc.
Sweet Potatoes, Inc.
Twin Dragon, Inc.
Union Bay Sportswear
USA Classics

Associate Members

American President Lines
CIT Group Factoring
Carmichael International
Expeditors International
"K" Line America, Inc.
KPMG Peat Marwick
Maersk Line
Mares-Shreve and Associates
Moss Adams, CPA's
MSAS Cargo International
NYK Line (North America), Inc.
Oregon Wheat Growers League
Port of Los Angeles
Port of Oakland
Port of Seattle
Port of Tacoma
Price Waterhouse
Sea-Land Corporation
SeaFirst Bank
Seino America, Inc.
Seattle Pacific University
SGS: International Quality Services
Tower International
WA Association of Wheat Growers
WA State Dept. of Trade & Econ Devel

For additional information, contact the NATA office at (206) 442-7925

"A National Association of International Scope"

National Customs Brokers & Forwarders Association of America, Inc.
One World Trade Center, Suite 1153/New York, NY 10048/(212) 432-0050/FAX (212) 432-5709

Michael F. Dugan
President

John Hammon, CAE
Executive Vice President

August 23, 1995

Committee on Ways and Means
Subcommittee on Trade
Longworth House Office Building
Washington, D.C. 20505

Attention: Mr. Phillip D. Moseley, Staff Director

Re: Miscellaneous Trade Proposals

Dear Sir:

This is in response to the Sub-Committee's request, dated August 9, 1995, with regard to the above, and contains the specific comments of the National Customs Brokers and Forwarders Association of America, Inc., (NCBFAA) in connection with proposed amendments to sections 411 and 413 of the Tariff Act of 1930, dealing with implementation of the "automated bond filing system" (ASI). ASI has been under consideration by the Customs Service for several years and we are wholly in favor of automating the filing of Customs surety bonds, including what are known as "single entry bonds" (SEB). NCBFAA is opposed to the proposed amendments.

Currently, blank signed copies of these SEB's are given to the customs broker representatives of the sureties. When an importer requires an SEB, the broker electronically transmits the entry to Customs, with the surety identification number on it; thereafter, the broker fills in the information on the bond and physically

files it with the Customs District Office. Thus, the only change required for full ASI implementation is the ability to file the bond electronically. Section 411(a) of the Tariff Act of 1930, as amended by P.L. 103-182, (Customs Modernization Act) contains full authority for the electronic filing of these bonds; nothing further need be done by Congress.

The American Surety Association, (TASA) by seeking these amendments, is attempting to introduce another element into ASI; i.e., a system whereby Customs would be obligated to transmit entry information to the surety and wait for an approval from the surety, prior to accepting the entry. As was evident at the August 18, 1995, meeting conducted at Customs Headquarters,[1] these proposals are opposed by the many sureties not members of TASA, The American Surety Association, as well as NCBFAA. At the very least, they are extremely controversial and unnecessary.

Some of the reasons for opposition are as follows:

1. At land border ports, entries are processed and released in far less than the 15 minutes proposed in the amendments; no delay can be tolerated, even one of less than a minute.[2]

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[1] This meeting, attended by all parties interested in ASI, was for the sole purpose of obtaining view regarding the proposed amendments.

[2] TASA has offered that the message will be transmitted in far less than 15 minutes but this assumes that the communications lines are operating; if they are down, no message can be received or sent by the Surety. In response, they

2. This system would be anti-competitive in that a number of sureties, which write a small number of single entry bonds, would not make the investment to man their computers twenty-four hours a day to accommodate their customers; the numerical majority of sureties are content to rely on the power of attorney in favor of the broker as the sole means for verifying the bond.

3. There is no need or incentive for the Customs Service to interject itself in the middle of a commercial transaction between the principal, the broker and the surety; the only requirement is for the Customs Service to be satisfied that it has a bond on file, which can be accomplished by any number of non-intrusive methods; where necessary, the surety and the broker can communicate directly without the intervention of the Customs Service.

4. Should the surety refuse the bond, it will have received information directly from the Government to which it is not and never will be entitled; further, the Customs Service will also have information that a surety refused to bond a shipment for a particular importer, information to which Customs is also not entitled.

5. The Customs Service understands that the pre-release download to the surety is not required to operate ASI and it has not requested this legislation.

Clearly, as is the case here, Congress should avoid interjecting itself in disputes which can be resolved by the administrative agency. NCBFAA has no objection to a download to the surety of the bond information, after the entry is released by Customs, on any basis satisfactory to the surety and the Service. We have every confidence that this can be simply accomplished.

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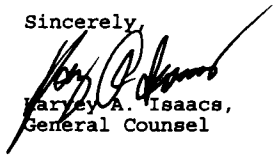
have offered to be bound if they do not respond in 15 minutes; there is no way to legally accomplish this result.

For all of the above reasons, we urge that the Committee reject these proposed amendments by TASA. Should you so desire, we would be pleased to meet with staff to elaborate on our position.

Sincerely,



Harvey A. Isaacs,
General Counsel

HAI/ir
\HAI\NCBFAA\ASI-SMIT.LTR

cc: Mr. Samuel Banks, Assistant Commissioner, United States Customs Service
Mr. John Durant
Surety Association of America
NCBFAA Board of Directors
Mr. Christopher Smith, Trade Staff Member
Mr. Jon Kent, Kent & O'Connor

STATEMENT SUBMITTED TO THE HOUSE WAYS AND MEANS COMMITTEE SUBCOMMITTEE ON TRADE

ON A TECHNICAL AMENDMENT TO SECTION 334 OF THE URUGUAY ROUND AGREEMENTS ACT OF 1994

by

Dan Kral
Natural Feather and Textiles, Inc.
Wayzata, Minnesota

September 8, 1995

I am pleased on behalf of Natural Feather and Textiles, Inc. to be submitting a statement in favor of one of the miscellaneous trade proposals included in the request for comments in the Subcommittee's Advisory of August 9. Specifically, we support enactment as swiftly as possible of item 1. (a) amending Section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1994.

This amendment would correct a serious situation that has placed in jeopardy the jobs of more than 1000 American textile workers and the future of the companies for whom they work in the down comforter sector of the textile industry. This item amends last year's GATT implementing legislation's provisions for rules of origin for certain textile and apparel products in Section 334(b)(2)(A). The proposal would insert after "6307.90:" the parenthetical phrase "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)".

Natural Feather and Textiles, an importer of down proof shells manufactured in Hong Kong and Macao, has organized a coalition of companies that manufacture down comforters to support this amendment. They include the following companies, with the name and location of their manufacturing facilities noted:

American Down & Textiles, Inc., LaCrosse, Wisconsin
California Feather & Down., Lynwood, California and Newport News, Virginia
Carpenter Company, Altoona, Pennsylvania and Riverside, California
Down Inc., Grand Rapids, Michigan
Down Lite International, Cincinnati, Ohio
downRight, Inc., Brooklyn, New York
Imperial Home Fashions, Elk Grove Village, Illinois
Louisville Bedding Company, Louisville, Kentucky
Pacific Coast Feather Co., Makoqueta, Iowa; Seattle, Washington; Lebanon, Pennsylvania; and Los Angeles, California
United Feather & Down, Brooklyn, New York
Universal Cushion Company, Commerce, California
Warm Things, Inc., San Rafael, California

Background

Section 334 of the Uruguay Round Agreements Act of 1994 was designed to change rules of origin for textile and apparel products to "more accurately reflect where significant production activity occurs, providing the United States with a more accurate indication of the source of textile and apparel imports," as stated in the Senate Finance Committee report accompanying the Uruguay Round Agreements Act. These provisions alter the method of determining rules of origin for down proof shells covered by the proposed amendment. These shells are made from 100 percent cotton down proof fabrics imported under HTS 6307.90.

With the exception of some pillow shells, down proof shells are not manufactured in the United States, nor is the fabric woven in the United States. Although some down proof

fabric is manufactured in India and Germany, China is the main supplier of quality fabric in the world. U.S. textile companies have attempted the manufacturing of the fabric and the shells, both a small specialty niche in the textile industry, but have concluded it was not economically feasible.

The Treasury Department's implementing regulations would make these shells the product of China, where the fabric is woven, even if manufactured in Hong Kong or Macao -- where there is "significant production". The fabric is cut and assembled into the shell before exportation to the U.S., where it is filled with down and finished.

As a result of the proposed rules, U.S. manufacturers will find it virtually impossible to purchase these shells, now made principally in Hong Kong, Macao and China. As a product of China, they would be subject to China's textile quota restraints under Category 362 which already -- even in the absence of Section 334 -- fills very early in the year. (The quota was filled on March 6 this year.) Buyers of the goods cannot afford to finance a year's supply in order to bring the goods into the U.S. before the quota closes.

Without a solid source of supply of these down proof shells, U.S. domestic manufacturers will either dramatically curtail -- or more likely completely stop -- their manufacturing operations in the U.S. They are making contingency plans to move to a location where there will be no difficulty in obtaining the shells. Some U.S. companies have already set up operations in Canada because there are no comparable quota restrictions. Many existing U.S. manufacturers are expected to do likewise unless the proposed amendment before the House Ways and Means Committee is enacted.

The Treasury Department and other Administration representatives are aware of the circumstances described and they have stated that the problem cannot be corrected by the implementing regulations. Natural Feather was initially encouraged by Administration officials to go to Congress for a solution. We are willing to explore other administrative options with the Executive Branch to correct this anomaly.

Summary of Reasons for Supporting Enactment of the Proposal

- **No U.S. textile firms would be injured by the enactment of the proposed exemption, because the product is not now manufactured in the United States.** Quotas on imports of these 100 percent cotton down proof comforter shells do not protect jobs in the U.S. textile industry.

- **Unless the proposed amendment is enacted, U.S. companies that import 100 percent cotton down proof shells used in the U.S. manufacture of down comforters and related bedding products would lose their only reliable source of high quality, reasonably priced 100 percent cotton down proof comforter shells.**

- **Unless the proposed amendment is enacted, at least 1000 jobs provided by small businesses in nine states from coast to coast will likely be eliminated.** U.S. companies that use 100 percent cotton down proof shells have made it clear that if the proposed Section 334 regulations are implemented for this product, they will have no option but to move their operations to Canada, where they will be able to purchase the shells because they do not face the same restrictive import quotas nor the same import restrictions on importing finished products into the U.S.

- **Unless the proposed amendment is enacted, only U.S. businesses and workers in the textile industry will be injured by implementation of the proposed Section 334 regulations affecting 100 percent cotton down proof comforter shells.**

- **Unless the proposed amendment is enacted, the primary beneficiary of the proposed rule for 100 percent cotton down proof comforter shells will be CANADIAN workers and firms, not U.S. textile workers or firms.**

- **The targeted exporter - China - will not be affected by implementation of the proposed rule for 100 percent cotton down proof comforter shells.** China will have an easier time shipping comforter shells for the U.S. marketplace by manufacturing the shells in China and shipping them directly to Canada for use in U.S. owned manufacturing facilities that have relocated to Canada -- forced by Section 334 to do so.

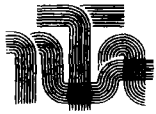
- **Implementation of Section 334 for 100 percent cotton down proof comforter shells will result in a loss to the U.S. Treasury of over $2.1 million.** Enactment of the proposed amendment will raise over $2.1 million for budget purposes by retaining the current revenue from the 7% tariff now assessed on shell imports.

- **This amendment is not an effort to exempt the down proof shells covered from Section 334 rules of origin provisions, but a change within that Section to provide a consistent rules of origin approach.** Because there is extensive processing of the fabric -- "significant production" -- before importation to the United States, the Section 334 provisions that apply to textile and apparel products not identified in section 334(b)(2)(A) are the appropriate guidelines for determining rules of origin for the shells.

Concluding Statement

We do not believe it was the intention of the supporters of Section 334 of the Uruguay Round Agreements Act to create the situation outlined above in which only U.S. textile and manufacturing workers and small textile businesses are harmed, and no U.S. interests benefit. We also do not believe that the supporters intended to depart from the basic concept of Section 334 establishing rules of origin revolving around "significant production" activity.

We very much appreciate this opportunity to make this statement and urge Congress to enact this very limited proposed amendment to Section 334 for the reasons outlined above as swiftly as possible.



Northern Textile Association

September 7, 1995

Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Dear Mr. Moseley:

I write on behalf of the Northern Textile Association representing 196 member and associate firms in all aspects of the textile trade in the U.S. NTA is the oldest textile trade association in America. While particularly concentrated in the Northeast, our members operate in 26 states, representing every region of the contiguous States of the Union.

NTA wishes to be recorded as opposing the proposed technical amendment to the URTAA rule of origin. This proposal would make the country of origin for comforter shells and/or completed comforters the country in which the comforter or shell was sewn or finished. This proposal is contrary to the country of origin principles that obtain for other textile products and is not consistent with the provisions of section 334 (b) (1) (A) et seq., the so-called Breaux-Cardin Amendment which unambiguously defines the country of origin for a fabric as that country in which the yarns are "woven, knitted, ... or transformed by any other fabric-making process" and, for apparel, "the country ... in which the most important assembly or manufacturing process occurs."

The old rules of origin were vague, often contradictory, and required Customs to respond to repeated requests for clarification. Worse, the old rule allowed country of origin to be claimed for countries where only minimal processing occurred. Congress's clear intention in passing section 334 was to stop the misuse of country of origin designation by countries in which only minor processing of a textile or apparel product took place.

The proposed amendment will open the door to abuses of country of origin designation for textiles and will create an inequitable situation that puts American manufacturers at a disadvantage in world trade. NTA supported the Breaux-Cardin Amendment as necessary to mitigate GATT's potential harm to the textile industry. We urge you not to set a dangerous example in weakening this provision which works well to provide for clear, consistent, and fair country of origin rules for textile products.

Sincerely yours,

Karl Spilhaus
President

230 Congress Street• Boston, MA 02110• 617-542-8220• 617-542-2199 FAX

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF PACIFIC COAST FEATHER COMPANY
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Pacific Coast Feather Company appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Pacific Coast Feather Company is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

Pacific Coast Feather Company

Pacific Coast Feather Company has been in business for over 70 years. We operate six factories which manufacture down comforters and a variety of other products including featherbeds, down and feather pillows, synthetic pillows, and synthetic filled comforters. Our manufacturing facilities employ 675 factory workers; 250 of these jobs are now in jeopardy with the published rules for tariff heading 6307.90.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

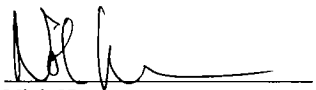
- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,



Nick Hanauer
Senior Vice President, Sales and Marketing
Pacific Coast Feather Company
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Seattle, Washington 98108

Telephone: 206-624-1057
Facsimile: 206-625-9783

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New Orleans, LA 70174-6479

PACIFIC-GULF MARINE, INC.
401 WHITNEY AVENUE
SUITE 211
GRETNA, LOUISIANA 70056

Telephone: 504-362-8121
Telex: 584376 WUI
244881 MCII
Telecopier: 504-364-6484

September 6, 1995

Via Federal Express

Mr. Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Re: Subcommittee on Trade,
Committee on Ways and Means
House of Representative's
Technical Amendments,
Customs & Trade Act of 1990,
As Amended by Uruguay Round
Agreements Act of 1994
(COMMITTEE ADVISORY NO. TR-15)

Dear Mr. Moseley:

We are in receipt of a copy of Committee Advisory No. TR-15, wherein comment on the proposed amendment of the Vessel Repair Statute is sought from all interested parties. Pacific-Gulf Marine, Inc. is a U.S.-flag vessel owner and operating company, domiciled in the State of Louisiana since 1976, whose vessels trade worldwide.

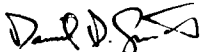
In order for our ships to remain safe, seaworthy and gainfully employed, it has been and continues to be a matter of necessity to occasionally purchase foreign equipment, material and spare parts. The obligatory payment of fifty percent (50%) duty on foreign spares/equipment/materials in accordance with the Vessel Repair Statute has long placed U.S.-flag vessel owners/operators at an uncompromising economic disadvantage when doing business in the international market. We have further been made to pay (50%) duty on spare parts, material and equipment imported into the U.S., on which duty had already been paid under the Harmonized Tariff Schedule, but later installed by foreign labor. Finally, we have been assessed and paid 50% duty on spare parts/ material/equipment of U.S. origin which was installed by foreign labor; the application of said duty heretofore being left as a matter of individual interpretation by the U.S. Customs Liquidation Branch having jurisdiction over liquidation of the entry in question.

We believe the current position of U.S. Customs on the changes to 19 U.S.C. 1466, as a result of passage of the General Agreement to Tariffs and Trade (GATT), to be a severe misinterpretation of the intent of Congress, to ease the financial burden on U.S.-flag vessels engaged in foreign commerce. Pacific-Gulf Marine, Inc. does hereby strongly support the enclosed Proposed Technical Amendment of the Vessel Repair Statute which would add duty exemptions for foreign purchased vessel "equipment" and "materials" to the exemption for "spare parts" in 19 U.S.C. 1466 (h)(3). It would also add an exemption for vessel "equipment" purchased in the U.S. to the exemptions in 19 U.S.C. 1466 (h)(2).

In closing, this Proposed Technical Amendment is necessary to properly implement the law as it is written and to give full effect to the Congressional intent in enacting this legislation. We sincerely hope this amendment will receive your favorable consideration and thank you for the opportunity to present these comments.

Respectfully yours,

PACIFIC-GULF MARINE, INC.



Daniel D. Smith
Manager, Marine Department

DDS/jls

Enclosure

PROPOSED TECHNICAL AMENDMENT

CUSTOMS AND TRADE ACT OF 1990, AS AMENDED BY URUGUAY ROUND AGREEMENTS ACT OF 1994.

A. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(2), is further amended so paragraph (2) reads as follows:

> "(2) the cost of parts or materials **or equipments** (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country, or"

B. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b)(3) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(3), is further amended so paragraph (3) reads as follows:

> "(3) the cost of parts, equipment or materials installed on a vessel before the first entry of such parts, equipment or materials into the United States, but only if duty is paid, or a bond or other acceptable security for duty is posted, under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part, equipment or materials purchased in a foreign country."

PARISIAN
750 LAKESHORE PARKWAY
BIRMINGHAM, AL 35211
(205) 940-4000

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

PARISIAN, INC.

Warren Bailey
Executive Vice President and COO

WB/jpw

Before The
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON TRADE

Comments of Pillowtex Corporation
In Support of Amendments To Section 334(b)(2)(A)
Of the Uruguay Round Agreements Act
Concerning The Origin Of Comforter Shells (subheading 6307.90)
And Feather and Down-Filled Home Textiles (subheading 9404.90)

These comments are submitted on behalf of Pillowtex Corporation of 4111 Mint Way, Dallas, Texas ı response to a notice published by the Subcommittee on Trade of the Committee of Ways and Means concerning ertain trade proposals currently under consideration. For the reasons set forth below, Pillowtex supports the roposed amendments to Section 334(b)(2)(A) of the Uruguay Round Agreements Act ("URAA"). These mendments will remove feather and down-filled home textile products (for example, comforters, pillows and feather eds) and comforter shells from the existing fabric forward rule of origin. The removal of these products from the ıbric forward rule will prevent domestic down comforter manufacturers and manufacturers or other feather and own-filled products from having to mark products produced in the United States as being of foreign origin. In ddition, this technical correction will eliminate the possibility that domestic production operations will be disrupted ue to lack of necessary inputs. These amendments will not adversely affect any domestic industry.

1. Background Information

Pillowtex is the largest U.S. manufacturer of down comforters and the fourth largest U.S. ıanufacturer of home textile products. Home textile products include comforters, pillows, blankets, comforter overs, mattress pads and similar items. Pillowtex has constructed the largest down processing facility in North .merica in Dallas, Texas. This facility alone represents an investment of over $8,000,000. In addition to its down rocessing facility, Pillowtex has comforter production facilities in Chicago, Los Angeles, Hanover, Pennsylvania nd Tunica, Mississippi. These facilities use down processed by Pillowtex' Dallas facility and imported fabric omforter shells to manufacture down comforters. In total, Pillowtex has eleven production facilities in the United tates.

On July 11, 1995, the Subcommittee on Trade held a hearing concerning rules of origin. Charles lansen, Chief Executive Officer of Pillowtex, testified at this hearing. Mr. Hansen explained that one of the main omponents used in the manufacture of down comforters and other feather and down-filled home textile products ı "down-proof" fabric -- a specialty fabric that is woven very tightly in order to prevent down and feathers from scaping. There is an insufficient supply of down-proof fabric produced in the United States.[1] Thus, Pillowtex, nd all other U.S. down comforter manufacturers, must rely on imported fabric or imported fabric comforter shells or use in their manufacturing operations. Currently, only three countries in the world produce commercial quantities f down-proof fabric -- China, India and Germany. China is the predominant supplier of both down-proof fabric nd shells made up from such fabric. **Currently, both the down-proof fabric and comforter shells from China re subject to quota restrictions despite the fact that this fabric is not woven in the United States.**

Mr. Hansen also explained also how the existing language of Section 334 injures domestic ıanufacturers of feather and dow-filled home textile products. Briefly stated, the existing statutory language causes wo discrete problems: (1) it will require down comforters produced in the United States from imported fabric or hells to be marked as products of the country where the fabric was woven -- thereby deeming irrelevant the ignificant labor and value-added to this product in the United States; and (2) it will result in the embargo of omforter shells necessary to produce down comforters -- thereby disrupting U.S. production operations. The roposed amendments to Section 334(b)(2)(A) will eliminate both of these problems. These amendments are arrowly drafted such that they only apply to feather and down-filled home textile products and the shells necessary or their production. Pillowtex strongly urges that Congress adopt these amendments and thereby rectify the roblems that Pillowtex and other companies in this industry currently face.

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[1] *During his testimony before the Subcommittee on Trade, Carlos Moore, Executive Vice President of the merican Textile Manufacturers Institute, acknowledged that down-proof fabric is not produced in commercial uantities in the United States.*

2. Section 334 of The URAA.

Section 334(b)(1) of the URAA sets forth general principles concerning how the origin of textile and apparel products should be determined. It provides that:

> Except as otherwise provided for by statute, a textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory of insular possession, if --
>
> (A) the product is produced wholly obtained or produced in that country, territory or insular possession;
>
> (B) the product is a yarn, thread, twine, cordage, rope, cable or braiding and --
>
> (i) the constituent staple fibers are spun in that country, territory, or possession, or
>
> (ii) the continuous filament is extruded in that country, territory, or possession,
>
> (C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments or yarns are woven, knitted, needled, tufted, felted, entangled or transformed by any other fabric-making process in that country, territory, or possession from its component pieces; or
>
> (D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.
>
> (2) SPECIAL RULES - Notwithstanding paragraph 1(D) --
>
> (A) the origin of goods that are classified under one of the following HTS headings or subheadings shall be determinant in accordance with subparagraph (A), (B), or (C) of paragraph (1), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90.

(Emphasis Supplied). Comforter shells are classified under subheading 6307.90, HTS, and down-filled pillows, feather beds and comforters are classified under subheading 9404.90, HTS.

According to Treasury, Section 334(b)(2)(A) requires that products classified under the named tariff provisions, including subheadings 6307.90 and 9404.90, to be considered to be "products of" the country where the fabric is woven for purposes of the customs laws and the administration of quantitative restrictions. It is a fabric forward rule.[2] Thus, the statute ignores the fact that comforters and comforter shells are commercially different articles of commerce than the fabric from which they are constructed and the value-added to these products in the second country of production. These products will always be considered to be products of the country where the fabric is woven.

---

[2] *The only exception to this rule appears to be where U.S. origin fabric is exported to foreign countries for use in the production of products classified under these tariff provisions. In this situation, the returning product would not considered to be a product of the United States -- the country where the fabric was woven. Rather, the product is considered to be a product of the country where the finished article was manufactured. It would not be surprising if countries with established textile industries, but no loom capacity, allege that this result is tantamount to fabric colonization.*

3. Proposed Amendments

The proposed amendments are very narrowly drafted. They provide for the inclusion of the following language in §334(b)(2)(A) after subheading 6307.90 **(except for shells for pillows, quilts, eiderdowns, and comforter made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)**, and the insertion of the following language after subheading 9404.90 **(except for pillows, cushions, quilts eiderdowns and comforters filled with feathers and/or down classified under HTS subheading 9404.90.)**

4. The Proposed Amendments Would Result In Down Comforters Produced In The United States To Be Considered To Be Products Of The United States.

Section 334 indicates that it applies "for purposes of the customs laws." Section 304 of the Tariff Act of 1930 (19 U.S.C. §1304, as amended) is a customs law. It requires that imported articles be marked so as to indicate to the "ultimate purchaser" in the United States the English name of the country of origin of the article. The Customs Regulations specify that if an imported article is used in a manufacturing operation in the United States, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation.[3] 19 C.F.R. §134.1(d)(1) and 19 C.F.R. §134.35. If, however, the U.S. manufacturing operations do not effect a substantial transformation, then the resulting product must be marked so as to indicate to the ultimate purchaser the foreign origin of the merchandise. Section 334(b)(2)(A) replaces the traditional substantial transformation test with a formalistic "one size fits all" rule that the origin of products classified under the tariff provisions listed in this provision is always the country where the fabric is woven. Treasury has issued final regulations consistent with this interpretation.[4]

There appears to be some confusion concerning the application of these rules to products manufactured in the United States. The following judicial decisions hopefully dispel this confusion. The issue presented in Uniroyal, Inc. v. United States, 3 CIT 219, aff'd 702 F.2d 1022 (Fed. Cir. 1983) was the proper marking of shoes that were produced in the United States by affixing an upper constructed in Indonesia to a sole constructed in the United States. The court found that the operations performed in the United States did not effect a substantial transformation. Accordingly, the finished shoe had to be marked so as to indicate to retail consumers the uppers were products of Indonesia. In a similar vein, the court has held that imported frozen concentrated orange juice does not undergo a substantial transformation in the United States when it is blended with domestic juice, processed into finished orange juice, and packaged for retail sale. Accordingly, orange juice cartons must now disclose whether there is any foreign origin concentrated juice used in its manufacture. See, National Juice Products Association v. United States, 10 C.I.T. 48 (1986).

Of course, imported textile products are subject to the same requirements applicable to imported footwear and juice. That is to say, if processing operations preformed in the United States do not effect a change in origin, the finished product must be marked so as to indicate to the ultimate purchaser the foreign origin of the product. Attached as Exhibit A is a copy of a letter written to the Customs Service confirming that, unless Section 334(b)(2)(A) is amended, Customs will require that down comforters manufactured in the United States from imported comforter shells to be marked as a product of the country where the fabric was woven.

A moment of reflection will confirm that this irrational result will transpire unless Section 334(b)(2)(A) is amended. No one would argue that, as currently written, this statute would require a finished comforter manufactured in Hong Kong from a fabric comforter shell that was produced in China to be marked as a product of China. Replacing Hong Kong with the United States will achieve this same result.

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[3] *Currently, a product produced in more than one country is considered to undergo a change in origin if the processing operations performed in the second country of production results in a substantial transformation, which is defined as a change in the name, character or use of the product. The substantial transformation test has been in effect for more than 80 years.*

[4] *Pillowtex does not fault Treasury for the manner in which it drafted its proposed regulations, because Treasury's interpretation is consistent with the statutory language.*

The United States cannot adopt a separate origin rule for such products that are produced domestically. The Uruguay Round contains a separate Agreement on Rules of Origin. Pursuant to Section 101(d)(10) of the URAA, the United States has adopted this agreement. Article 2(d) of the Agreement on Rules of Origin expressly prohibits a Member country from adopting rules of origin for imports that are stricter than rules of origin that apply to determine whether or not a good is domestic. Simply stated, if an operation preformed in a foreign country does not result in a change in origin, then the same operation preformed in the United States will not result in a change in origin. Parity is a requirement of the Uruguay Round Agreement on Rules of Origin.

If these amendments are not adopted, finished down comforters sold in the United States will be required to be marked "Made In China," or "Product of China." It is important to recognize that, in addition to Customs country of origin marking considerations, domestic down comforter manufacturers must also comply with the marking requirements of the Textile Fiber Products Identification Act (15 U.S.C. §70 et. seq.). This Act prohibits the sale of textile products that are marked in a false or deceptive manner. 15 U.S.C. §70a. Regulations promulgated by the FTC require that each textile product made in the United States either in whole or in part of imported materials shall disclose this fact. 16 C.F.R. §303.33. Thus, a shirt made in the United States from imported fabric must be labeled "Made in USA of Imported Fabric." Pillowtex is exploring with FTC officials how it can mark its down comforters to comply with FTC regulations and Section 334(b)(2)(A). Possible alternatives, have included "Made In China -- Assembled in the U.S.A." Although Pillowtex has not yet requested that the FTC issue an advisory opinion as to the sufficiency of this language, it is appears that, whatever comprising language is approved, the possibility of consumer confusion as to where the comforter is actually manufactured is great.

5. The Amended Language Eliminates Supply Problems Caused By Quota Restrictions Imposed On Imported Comforter Shells.

Section 101(d)(4) of the URAA enters into force in the United States the Uruguay Round Agreement on Textiles and Clothing ("ATC"). One of the goals of the ATC is to gradually eliminate quotas on textile products. Toward that goal, each WTO Member is required to remove quota restrictions on **not less than 16%** of the total volume of the Member's 1990 imports of textile products by January 1, 1995. Thereafter, quotas imposed on additional products are phased out in three separate stages (January 1, 1998; January 1, 2002, and January 1, 2005). At the conclusion of this time period, there will no longer be quota restrictions on imported textile products.

In the United States, the agency responsible for determining which products will fall within each phase-out stage is the Committee For Implementation of Textile Agreements ("CITA"). Although no domestic mill produces commercial quantities of down-proof fabric, CITA has determined that quota restrictions shall remain in effect on down-proof fabric and fabric comforter shells until the final integration phase of January 1, 2005. At the July 11, 1995 hearing, Carlos Moore from ATMI acknowledged that quotas imposed on products not produced in the United States do not benefit any U.S. interests. Despite this acknowledgement, it appears that these products will continue to be subject to quota restrictions for another ten years.[5]

If these quotas are kept in place (apparently to protect a non-existent U.S. industry), it is not unreasonable that down comforter manufacturers will require more than three countries from which they can source comforter shells -- an input necessary for the production of down comforters. The proposed amendment would exempt comforter shells from the fabric forward rule and thereby enable comforter shells to be considered to originate under the general principle set forth in Section 334(1)(D), i.e., the country where the comforter shell is assembled. The proposed amendment would render the rule of origin for this product to be consistent with existing law.

The need for this change is underscored by the fact that, this year, the quota category for comforter shells from China closed on March 1, 1995 (it reopened briefly at a later date but closed shortly after it opened). In 1994, this quota category closed in July. Obviously, the demand for this quota limits the amount of comforter shells that U.S. down comforter manufacturers can import from China. The proposed amendment, which would result in comforter shells being considered to be products of the country where the shell is assembled, would eliminate this quota concern by allowing U.S. down comforter manufacturers to purchase down-proof fabric woven in China and ship the fabric to another country, such as Hong Kong, for production of comforter shells. The finished shells will still be subject to quota; however, they will count against Hong Kong's quota allotment -- not China's.

Unlike products such as sheets, which would be considered to be a product of the country where they are assembled provided that U.S. origin raw fabric is used in their production, there is no U.S. origin raw fabric

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[5] *Officials at CITA have intimated that they may consider removing comforter shells from quota restrictions earlier. However, Section 331 of the URAA, which governs the manner in which textile products are integrated, provides that: "After publication of such a list, the list may not be changed unless otherwise required by statute or the international obligations of the United States, to correct technical errors or to reflect reclassification." Because CITA already has published its final integration list, the agency would either have to claim that it made a technical error or Congress would have to pass legislation before comforter shells can be removed from quota.*

that meets the requirements of down comforter manufacturers. Thus, domestic down comforter manufacturers are required to utilize imported shells or fabric in their manufacturing operations, and the possible exception described in footnote 2 is not available to this industry. The proposed amendment will enable down comforter manufacturers to have a variety of sources, and the amendment will not adversely affect any U.S. company or industry. The only change that will occur by reason of this amendment is that, in the event that a quota category for this merchandise in one country closes early, domestic comforter manufacturers will be able to use alternative sources by contracting with shell manufacturers in other countries to use Chinese-origin fabric in the production of comforter shells.

6. Overall Effect Of Amendments On U.S. Textile Producers

In assessing whether or not to adopt these amendments, it is prudent to consider what would be the affect on the domestic textile industry should they be adopted. Turning first to fabric weavers, we note that the amendments will have no effect whatsoever. Because no domestic mill is capable or willing to produce down-proof fabric, and therefore do not supply the domestic down comforter industry with this product, **no domestic mill will suffer any adverse affects as a result of this amendments**.

Based on an informal survey of domestic manufacturers of feather and down-filled home textile products, the various companies within this industry want one thing -- a level playing field. A rule that allows all domestic down comforter manufacturers to mark their finished products as products of the United States is fair, creates a level playing field, and is consistent with commercial realities. Of course, this amendment would also enable companies that import down comforters to control the origin of their imported products; however, the concept of a level playing field cannot be limited to the United States. If an operation performed in the United States is considered to effect a change in origin, then the same operation performed in a foreign country must also be considered to effect a change in origin. However, quota considerations (comforters will still be subject to quota requirements), import duties (14.3% ad valorem), and the competitive conditions in this industry should keep any disruption to a minimum. Moreover, since the amendment is consistent with country of origin determinations issued by Treasury, there will be no change to the competition that domestic down comforter manufacturers currently face.

7. Timing

Home textile manufacturers, like most U.S. companies, must plan for the future. As currently drafted, the draconian effects of Section 334(b)(2)(A) will take effect on July 1, 1996. If adopted, the technical corrections to this provision currently under consideration will enable these companies to plan for the future without facing such concerns as lack or input materials and how to mark finished products to reflect the fact that the product is manufactured in the United States while, at the same time, disclosing that the comforter is "Made In China." Pillowtex requests that the Subcommittee act in a prompt manner in considering these amendments in order that Pillowtex, and other down comforter manufacturers, have adequate time to prepare for their 1996 season.

8. Conclusion

The proposed amendments will greatly benefit domestic down comforter manufacturers and will not injure any domestic industry. The amendments will not result in any change of the existing manner in which the origin of down comforters and comforter shells are determined. Finally, the proposed amendments will conform with commercial realities. Pillowtex asks that Congress adopt these proposed amendments as soon as possible in order that the industry has some guidance as to what it can expect the law to be by July 1, 1996.

EXHIBIT A

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August 3, 1995

CONFIRMATION

VIA FACSIMILE
United States Customs Service
1301 Constitution Avenue, N.W.
Franklin Court
Washington, D.C. 20229

Attention: Phil Robbins, Esq.

Re: Textile Country Of Origin Rules Implementing Section 334(b) Of The Uruguay Round Agreements Act

Dear Mr. Robbins:

This letter confirms our conversation of this afternoon concerning the proper country of origin marking of down comforters produced in the United States from imported comforter shells. Our conversation was based on the assumption that the proposed textile rules of origin published by the Customs Service in the Federal Register on May 23, 1995 (60 Fed. Reg. 27378), which implement section 334(b) of the Uruguay Round Agreements Act ("URAA"), are promulgated as written. We recognize at the outset that these rules are merely proposed, and that therefore Customs cannot yet issue a decision concerning how these rules will apply to a specific transaction.

Section 334(b) of the URAA states that:

> . . . [A] textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product or manufacture of that country, territory or insular possession, if --
>
> (A) the product is wholly obtained or produced in that country territory, or possession;
>
> (B) the product of a yarn, thread, twine, cordage, rope, cable or braiding and -

(i) the constituent staple fibers are spun in that country, territory or possession, or

(ii) the continuous filament is extruded in that country, territory or possession,

(C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, entangled, or transformed by any other fabric-making processing that country, territory, or possession; or

(D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.

Section 334(b)(2)(A) states that the origin of goods classified under certain tariff headings shall be determined under subparagraph (A), (B), or (C), as appropriate. Subheading 9404.90, HTS (which provides for the classification of down comforters) is specifically mentioned in section 334(b)(2)(A).

The proposed rule of origin for down comforters classified under subheading 9404.90.80 or 9404.90.95, HTS states that a change in origin occurs when there is:

A change to subheading 9404.90.80 through 9404.90.95 from any other heading, except from heading 5007,5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, provided that the change is the result of a fabric-making process.

Based on this rule, the origin of down comforters, for purposes of the customs laws and the administration of quantitative restrictions, is the country where the fabric was woven

The marking statute (19 U.S.C. §1304) is a customs law. This statute requires that articles be properly marked so as to advise the ultimate purchaser of the articles' country of origin.

Based on the above-cited proposed rule, the origin of down comforters produced in the United States from imported comforter shells or fabric will be the country where the fabric was woven. Accordingly, in order to comply with the requirements of 19 U.S.C. §1304, the down comforters must be marked: "Made In (Country Where Fabric is Woven)." You confirmed this conclusion during our conversation.

As indicated above, we recognize that Customs is not obligated to issue a decision concerning how proposed rules will affect a specific transaction. Rather, the purpose of our conversation and this letter is merely to seek confirmation that our opinion as to how Section 334(b) of the URAA operates in conjunction with 19 U.S.C. §1304 is accurate. In the event that you disagree in any manner with this opinion, please contact the undersigned at your earliest possible convenience.

Very truly yours,

Margaret R. Polito

HOGAN & HARTSON
L.L.P.

LEWIS E. LEIBOWITZ
PARTNER
DIRECT DIAL (202) 637-5636
INTERNET LEL@DC2.HHLAW.COM

September 8, 1995

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TEL (202) 637-5600
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Mr. Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Mosely:

This letter is on behalf of the Precision Metalforming Association ("PMA"), and responds to the Subcommittee on Trade's August 9, 1995, release (No. TR-15) and request for comments on proposed trade amendments. PMA wishes to convey its endorsement of Proposals 2 and 3 in that release, described under the heading "Uruguay Round Agreements Act of 1995."

PMA is an association of approximately 1300 companies involved in the fabrication of products from sheet metal. PMA and its members are keenly aware of the effect the trade laws have on their businesses and appreciate the opportunity to comment on proposed changes to those laws.

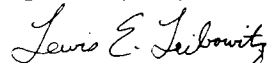
Proposal 3 concerns the application in antidumping duty cases of a duty deposit cap, which is provided for in section 737(a) of the antidumping duty law. (19 U.S.C. § 1673f(a)). Section 737(a) provides that if the definitive antidumping duty that is ultimately calculated by the Department of Commerce ("DoC") is different from the amount of the provisional cash deposits made under section 733(d)(1)(B), (19 U.S.C. § 1673b(d)(1)(B)), then the lower rate shall apply. Proposal 3 amends section 219(c)(19) of the Uruguay Round Agreements Act of 1995 by clarifying that the duty deposit "cap" not only applies where the deposit is in cash, but also applies where the final rate is different from a provisional bond or other surety posted under section 733(d)(1)(B). (19 U.S.C. § 1673b(d)(1)(B)). Proposal 3 conforms the duty "cap" provision of the antidumping law to established DoC practice, the antidumping regulations, and recent federal court decisions regarding such caps. *See* 19 C.F.R. § 353.23; *Daewoo Electronics Co., Ltd. v.*

United States, Slip ops. 92-1558 through 92-1562 (Fed. Cir., Sept. 30, 1993). PMA supports this sensible change.

In addition, PMA supports Proposal 2, which makes clear that the right to an injury determination by the International Trade Commission is applicable to countries that become Subsidy Agreement countries after the effective date of the Act. PMA believes this reasonable change also is entirely appropriate.

Thank you for the opportunity to comment on the proposed legislation.

Lewis E. Leibowitz



Hogan & Hartson L.L.P.

On behalf of the Precision Metalforming Association

Congress of the United States
House of Representatives
Washington, DC 20515

September 8, 1995

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Phil:

We are writing to urge approval of a modified technical amendment to the Uruguay Round Agreement Act of 1994 that would prevent severe, and possibly devastating, damage to the U.S. industry that produces down filled comforters.

This amendment, item 1.(a) of the Subcommittee's Advisory dated August 9, 1995, amends last year's GATT implementing legislation for rules of origin for certain textile products in Section 334(b)(2)(A). The proposal would insert after "6307.90," the parenthetical phrase "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)."

Recognizing that there is U.S. production of down proof pillow shells, we support this amendment only for quilts, eiderdowns, comforters and similar articles of cotton made of down proof fabrics 85 percent or more by weight of cotton. This language is consistent with the HTS for 6307.90.89.

Section 334(b)(2)(A) would require that China be designated as the country of origin for down proof comforter, pillow, quilt and eiderdown shells when the down proof fabric itself is woven in China -- the only reliable source of this fabric in adequate quantities at a reasonable price -- despite the extensive processing that occurs in other countries, such as Hong Kong and Macao. Currently, if fabric is both cut and assembled in Hong Kong or Macao, that country is considered the country of origin.

If this provision is not amended, U.S. manufacturers will have no reliable source of down proof comforter shells because as a product of China, they will be subject to a quota which is filled or closed early in the year. This year it was filled March 6. When Section 334 is implemented beginning July 1, 1996, the quota will fill much earlier in the year and U.S. manufacturers will not be able to obtain the shells they need to continue manufacturing down comforters in the U.S. There is no production in the U.S. of these down proof shells, nor of the down proof fabric for the shells.

If this amendment is not enacted, manufacturers of down comforters in our districts and states will have to lay off workers and close down their U.S. operations. They will either cease production completely or move to another country, most likely Canada, where there are no quota restrictions on down proof comforter shells. At stake are over 900 jobs in the U.S. textile industry.

No U.S. firm would benefit by the implementation of Section 334 as it applies to down comforter shells. China -- one of the primary targets of these provisions -- would not be affected but would continue to supply the shells to comforter manufacturers in other countries, who would in turn export finished comforters to the U.S.

In addition to the immediate concern over the future of the affected workers and firms, this amendment reflects sound trade policy. We understand the importance of rules of origin that, as stated in comments on Section 334 in the Senate Finance Committee report to the Uruguay Round Agreements Act, "more accurately reflect where significant production activity occurs, providing the United States with a more accurate indication of the source of textile and apparel imports."

In the case of down comforter shells, because there is extensive processing, or significant production, of the fabric before importation to the U.S., the Section 334 provisions that apply to the textile and apparel products not specified in Section 334(b)(2)(A) are appropriate. This amendment, hence, is not an exemption from Section 334, but a change within that Section to provide a consistent rules of origin approach.

We believe the situation outlined above for the down comforter industry in the U.S. was not intended by the supporters of these provisions of the GATT implementing language and we are currently exploring with the executive branch an administrative solution to address this problem.

If this effort is not successful, we urge swift action to approve this amendment to allow U.S. textile firms affected to make business decisions for the coming year with the certainty they will be able to purchase the essential inputs for their final products and continue to manufacture these products in the U.S.

Thank you for the opportunity to provide these comments.

Sincerely,

Jim Ramstad

Jim Nussle

Jennifer Dunn

Jim McDermott

Rob Portman

Steve Gunderson

Rick White

Gerald Kleczka

Richard Neal

RED RIVER SHIPPING CORPORATION
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September 8, 1995

Hon. Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Committee Advisory No. TR-15, Technical Corrections To Recent Trade Legislation

Dear Mr. Moseley:

We are a U.S.-flag deep sea vessel owners and operators. In response to the Committee's Advisory No. TR-15, issued by the Subcommittee on Trade on August 9, 1995, enclosed are six (6) copies of a statement for inclusion in the printed record.

The statement demonstrates the urgent need for the attached clarifying, technical amendment to Section 484E(b) of the Customs and Trade Act of 1990, 19 U.S.C. 1466 note, as heretofore amended by Section 112 of Title I, Subtitle B of the Uruguay Round Agreements Act of 1994.

The amendment would obviate the assertion of absurdly high (50%) duty claims that are extremely detrimental to the shrinking U.S. Merchant Marine and that Congress intended to eliminate in 1990. As everyone is painfully aware, soon there will be no U.S. Merchant Marine to pay this duty unless Congress acts. Additionally, the amendment would save the government substantial amounts expended to administer and collect this confiscatory and destructive duty and would save the U.S. operators the extremely high cost of compliance.

If hearings are scheduled, we would like to speak in support of the amendment. Thank you for your kind assistance.

Sincerely,

John P. Morris, III
President
Red River Shipping Corporation

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

TECHNICAL AMENDMENTS
CUSTOMS AND TRADE ACT OF 1990,
AS AMENDED BY
URUGUAY ROUND AGREEMENTS ACT OF 1994
(COMMITTEE ADVISORY NO. TR-15)

STATEMENT ON BEHALF OF RED RIVER SHIPPING CORPORATION

I
INTRODUCTION

Red River Shipping Corporation, U.S.-flag vessel owners and operators of Rockville, MD, submits this statement in response to the Committee's Advisory No. TR-15. This statement is made in support of the attached proposed technical amendment to Section 48E of the Customs and Trade Act of 1990, 19 U.S.C. § 1466(h), as recently amended by Section 112, Title I, Subtitle B of the Uruguay Round Agreements Act of 1994.

The Vessel Repair Statue, first enacted in 1866,[1] was conceived to protect American shoreside labor at the expense of American vessel owners, operators, and American seagoing labor. The world and the maritime industry has changed drastically since 1866, but the Vessel Repair Statute is still on the books.[2] In recent legislation, Congress has attempted to lessen the economic burden of the Statute, but, the intended exemptions have not been recognized. Unless Congress enacts the proposed technical amendment, the Vessel Repair Statute will continue to be cited (1) as authority to impose an unwarranted, discriminatory tariff resulting in an onerous (double) duty on U.S. purchased vessel equipment which were intended to be included under the exemptions for "spare parts" in the GATT Agreement, and (2) as authority to deny the "spare parts" exemption (in 19 U.S.C. § 1466(h)(3)) to foreign purchases administratively deemed excluded as "equipment" or "materials".

II
LEGISLATIVE HISTORY

The relevant statute, 19 U.S.C. § 1466(a), states, inter alia:

> "The equipments... or the repair parts or materials to be used, or the expense of repairs made in a foreign country upon a vessel... shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment

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[1] Act of July 18, 1866, Ch. 24, sec. 23, 14 Stat. 183

[2] See at 19 U.S.C § 1466 (1988)

> of an ad valorem duty of 50 per centum **on the cost thereof in such foreign country.."** (Emphasis added).

The language of 19 U.S.C. 1466(a) specifically indicates that it applies to articles purchased for a vessel in a **foreign country** (and never imported into the United States). Senate Reports indicate that the 50% duty was intended to apply to "the cost of equipment purchased or repairs made **in a foreign country** by a United States Vessel." Senate reports 1-473, 71st Congress, Vol. 1, page 72 (Emphasis added). This is also evident in House Reports which stated that "Section 3114 places a duty of 50 per cent on the cost of equipment and repairs purchased for or made upon vessels of the Unites States **in foreign countries.**" House Reports 1-495, 71st Congress, Vol. 1 page 171 (Emphasis added).

In 1982, the Statute was amended to provide an exemption from duty for all costs incurred after six months after the vessel's last departure from the United States, whereas U.S.-flag vessel is away from the United States for two years or more. In the legislative history prior to the passage of the amendment Congressman Snyder stated that:

> "Currently U.S.-flag vessels are assessed a 50 per cent ad valorum duty on the cost of equipment, parts or materials purchased for, and repairs made to, U.S.-flag vessels **in a foreign country,** unless necessitated by an emergency." Congressional Record page E 859, March 9, 1982 (Emphasis added).

III
ADMINISTRATIVE INTERPRETATION

The U.S. Customs Service also traditionally held the view that U.S. purchases were not covered under 19 U.S.C. § 1466(a). In Customs Headquarters Ruling #102154, Customs held if "vessel parts are imported into the United States... and duty is paid on those parts... the part would not be subject to duty under section 1466... since the purchase is not within the contemplation of section 1466." Later in Customs Headquarters Ruling #104700, Customs held that if parts are purchased in the United States the cost of the parts is not subject to duty under 19 U.S.C. § 1466. In 1988 Customs Headquarters Memorandum (Guidelines) #109408 stated that if a vessel owner purchases repair items previously imported, duty paid under the TSUS, and those items are installed abroad, the repair items are not dutiable under 19 U.S.C. 1466(a). This view (interpretation) at Customs suddenly changed in 1988. (See Customs Headquarters Ruling Letter 109703).

IV
CONGRESS ENACTED SECTION 484E OF THE CUSTOMS AND TRADE ACT OF 1990 TO END UNFAIR, UNJUSTIFIABLE, OPPRESSIVE TARIFF ASSESSMENTS AGAINST VESSEL PARTS, MATERIALS AND EQUIPMENT PURCHASED IN THE UNITED STATES OR ABROAD

In 1990, evidence was presented to this Committee regarding "The Spare Parts Dilemma

Under The [Vessel Repair] Statute."[3] The Committee was advised that large ocean liner vessels must carry spare parts, material and equipment which can be utilized, where and when necessary, on long voyages or during port calls in foreign countries.[4] Beginning in 1988, the Customs Service interpreted the Vessel Repair Statute, 19 U.S.C. § 1466(a), to mandate assessment of the high 50% ad valorem duty rate on American-purchased parts, materials and equipment if same were installed on a U.S.-flag vessel while the vessel was away from the United States.[5]

Under Customs' rules and decisions, foreign manufactured parts, equipment, and materials acquired before newly-built or re-flagged vessels were documented under the U.S. flag were not subject to duty under the Vessel Repair Statute, but parts and equipment thereafter purchased from foreign suppliers and brought to the United States by the vessel itself were held to be dutiable at the oppressive 50% ad valorem rate under the Repair statute.[6] However, if those same foreign manufactured parts, equipment, and materials were delivered to the United States by air or aboard another vessel, they could enter this country at the far lower commodity duty rates specified by the Harmonized Tariff Schedule.[7] But then, under Customs' new interpretation of the Vessel Repair Statute (in 1988), they became subject to "double duty" if they were later installed on a U.S.-flag vessel in a foreign shipyard.[8]

Confronted with these confusing, debilitating tariff rules and assessments, the U.S. maritime industry as a whole urged this Committee to exempt vessel repair parts, equipment, and materials from duty liability under the Vessel Repair Statute.[9] In order to correct the faulty interpretation of the Statute by Customs, Congress passed 19 U.S.C. § 1466(h). In response to the maritime industry's requests, Congress added an exemption from duty for parts purchased

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[3] See Ways and Means Committee Print No. 101-32, 101st Cong., 2d Sess., p. 22 (6/25/90).

[4] Id.

[5] Id., at p. 23; and, Customs Headquarters Ruling Letter 109703

[6] Id.

[7] Id.

[8] As the 1990 record before this Committee demonstrates, on April 19, 1989, Customs issued a set of "easily applied rules," No. 5 of which stated:

> "5. The dutiability of foreign make repair parts/materials under § 1466 is not affected by the fact that they may have been previously imported, duty paid, into the United States and then exported for installation or placement aboard a vessel. They ar subject to duty ["double duty"] under § 1466 upon first arrival of the vessel."

[9] WMCP 101-32, pp. 20-36.

outside the United States and thereafter imported duty paid under the HTSUS classification for that particular item.

The Customs and Trade Act of 1990, Section 484E(a) provided:[10]

"Sec 484E. Foreign Repair of Vessels

"(a) In General - Section 466 of the Tariff Act of 1930 (19 U.S.C. § 1466) is amended by adding at the end thereof the following new subsection:

"(h) The duty imposed by subsection (a) of this section shall not apply to --- ...

"(2) the cost of spare repair parts or materials... which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country."

On the Senate floor, Chairman Breaux emphasized that the 1990 legislation was thus intended "to eliminate" unfair, oppressive duty assessments on vessel parts imported from abroad and purchased of use on U.S-flag vessels.[11] The Senate Finance Committee Report issued in support of the legislation stated, in turn: "[The bill] exempts vessel spare repair parts and materials from application of the 50 percent vessel repair duty provided that duty was paid under the appropriate HTS commodity classification upon first entry into the United States."[12] The Senate report goes on to state, at p. 38:

"This section applies to spare parts carried aboard an individual vessel as well as to fleet spare parts and materials stored on land, provided they are intended for installation or use aboard a cargo vessel. **This section is intended to ensure that vessel owners will pay duty on such parts and materials only once, at the time of first entry into the United States."** (Emphasis added)

In 1994 the GATT Uruguay Round Agreements Act, Pub.L. 103-465, Section 112, Title

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[10] See 19 U.S.C. 1477 (h) (2).

[11] See Congressional Record, 4/20/90, at p. S4715.

[12] S.Rept. 101-252, 101st Cont., 2d Sess., p. 38.

I, Subtitle B made the "parts" exemption in (h)(2) permanent. In addition, Section 112(b) added a new subsection (3) to 19 U.S.C. § 1466(h), which reads as follows:

> "(b) Exemption For Certain Spare Parts- Section 466(h) of the Tariff Act of 1930 (19 U.S.C. § 1466(h) is amended...
>
> "(3) by adding at the end of the following new paragraph:
>
> "(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States of each such spare part purchased in, or imported from a foreign country."

The industry believed that the legislation would end the discriminatory double duty on all articles purchased for use on or to repair their vessels, however, this has not been the result.

IV
ENACTMENT OF THE PROPOSED TECHNICAL AMENDMENT IS ESSENTIAL

After January 1, 1995, the effective date of the GATT provision on vessel parts, the U.S. Customs Service issued a memorandum to all Customs Regional Vessel Repair Liquidation Units[13] which distinguishes between 'parts," "equipment," and "material." The memorandum holds that the "spare parts" duty exemption in 19 U.S.C. 1466 (h)(3) only applies to "parts" (and **not** to "materials" or "equipment"), and, that the duty exemption in 19 U.S.C. 1466 (h)(2) only applies to "parts" and 'materials" (and **not** to "equipment"). Customs Headquarters Letter 113316 of july 26, 1995, discussed the present administration of 19 U.S.C. 1466 (h). Therein Customs stated at p.2:

> The major difference between the former and present administration of the provision is the recognition of its limitation to parts and materials. Formerly, the benefits of (h)(s) were extended to **all expenditures** except the "expenses of repairs" (foreign labor costs). With the enactment of the new (h)(3), we recognize the intent of Congress to limit the scope of the subsection (h) provisions since the new (h)(3) is even more restrictive than (h)(2), extending only to the cost of "spare parts" and excluding even the cost of materials" as included under (h)(2)... These purchases are specifically dutiable under subsection (a) of the statute, and are not relived of duty under subsection (h)(3)" (Emphasis added).

The requested amendment is necessary to clarify the "spare parts" exemption in 19 U.S.C. 1466(h) to make it plain that the exemption covers not only "parts," but also "equipment" and "materials". If the "arts," "equipment," or "materials," were purchased in the

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[13] Customs Headquarters Memorandum No. 113291 of May 31, 1995.

United States or imported into the United States prior to use, then the exemption in (h)(2) should apply. If the "parts," "equipment," or "materials" were purchased outside the U.S. (and not imported prior to use) then, when the vessel returns to the U.S., the exemption in (h)(3) should apply.

Without the technical amendment, the Vessel Repair Statute will be cited to justify and discriminatorily impose a 50% duty on foreign purchases which Customs deems are not within Customs' definition of "spare parts."

As indicated in the legislative history, Congress intended to "end" and "eliminate" this discriminatory double duty on imported merchandise in 1990 and also to extend this coverage to foreign purchased merchandise (under the provision for "spare parts" in the GATT Agreement). Unless Congress enacts the proposed technical amendment, unjust tariff discrimination will continue on equipment and materials purchased abroad for use on U.S.-flag vessels, and, unjustifiable (double) duty collections will be imposed on **U.S. purchased vessel equipment.**

CONCLUSION

There is no logical reason to exclude foreign purchased vessel "equipment" or "materials' from the exemption for "spare parts" created in (h)(3) and passed by Congress in the GATT Agreement. Also, without the technical amendment, the Vessel Repair Statute will cited to justify and discriminatorily impose a double duty on items (vessel equipment) that Customs once held were exempt under the 1990 legislation, but which Customs now hold are not exempt.[14] This administratively imposed (by Customs) distinction between "parts" and "equipment" and "materials" will only perpetuate the unfair and onerous duty that 19 U.S.C. § 1466(h) was intended to end.

In conclusion Red River Shipping Corporation urges the Committee to adopt and favorably report the attached technical, clarifying amendment as part of any legislation which might result from the current proceedings or any other relevant proceedings.

PROPOSED TECHNICAL AMENDMENT

CUSTOMS AND TRADE ACT OF 1990, AS AMENDED BY URUGUAY ROUND AGREEMENTS ACT OF 1994.

A. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 USC § 1466(h), as amended by Section 112(b) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(2), is further amended so paragraph (2) reads as follows:

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[14] See Customs Headquarters' Memorandum 113291 of May 31, 1995 and Customs Headquarters' Letter 113316 of July 26, 1995.

"(2) the cost of parts or materials **or equipments** (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such parts or materials or equipments purchased in, or imported from, a foreign country, or"

B. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b)(3) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(3) reads as follows:

"(3) the cost of parts, equipment or materials installed on a vessel before the first entry of such parts, equipment or materials into the United States, but only if duty is paid, or a bond or other acceptable security for duty is posted, under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part, equipment or materials purchased in a foreign country."

RICH'S/Lazarus/*Goldsmith*

Molly Barney
Vice President, DMM
404/913-4543

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane,

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us - from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Molly Barney
Vice President, DMM

MB/afm

RICH'S

Gwen Manto
Senior Vice President
General Merchandise Manager

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

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We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Gwen Manto

223 Perimeter Center Parkway Atlanta, Georgia 30346 404-913-4840 FAX 404-913-5703

ROBINSONS · MAY

A DIVISION OF THE MAY DEPARTMENT STORES COMPANY

EXECUTIVE OFFICE

September 5, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us – from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Terry Callahan
Senior Vice President,
General Merchandise Manager

TC/jl

5930 6th Ave., S
Seattle, WA 98108
(206) 762-8427
Fax: (206) 767-2554

August 24, 1995

The Honorable Philip Crane
Chairman, Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

On behalf of Ammex Tax & Duty Free Shops West, Inc. d/b/a Samuel Meisel & Co., I am writing to register our support for a proposed technical change in the trade laws relating to the duty free allowance, which was included in your request for comments issued August 9, 1995. We are a duty free ship supplier.

Current law allows U.S. residents who travel outside the country for more than 48 hours to bring back up to $400 of merchandise purchased on their trip without paying duties or taxes when they return to the U.S. Duty free allowances are an important element of tourism.

The existing U.S. duty free allowance has one minor defect in that it only applies to merchandise purchased in a foreign country. Frequently, U.S. travelers purchase gifts or other small items at a U.S. duty free store at the start of their trip. This merchandise leaves the country. Yet, when the traveler returns to the U.S., duty and tax must be assessed on those items, unlike similar merchandise purchased at foreign locations. This is a technical deficiency in the law that disadvantages duty free stores at U.S border and airport locations.

The U.S. is the exception in having this limitation. Other countries in the world do not prohibit the reimportation of merchandise purchased by their own residents at duty free stores located at their nation's borders and brought back to their country at the end of the trip. The U.S. should provide its residents the same latitude when they travel.

We hope you will give prompt and favorable consideration to the change proposed in the August 9 press release. Thank you for the opportunity to present our views.

Best regards,

Robert T. Weitz

RTW/cas

SIA **SEMICONDUCTOR INDUSTRY ASSOCIATION**
4300 Stevens Creek Boulevard, Suite 271 ◆ San Jose, California 95129
Phone 408-246-2711 ◆ Fax 408-246-2830

August 30, 1995

Phillip D. Moseley
Chief of Staff
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Moseley:

The Semiconductor Industry Association (SIA) strongly supports the inclusion of H.R. 947 (Archer/Mineta) in the miscellaneous trade proposals, which are under consideration by the Ways & Means Trade Subcommittee. H.R. 947 is a deficit-neutral bill that exempts from the U.S. requirement to mark semiconductors and their containers with country of origin as currently required by Section 304 of the Tariff Act of 1930.

This bill will eliminate problems related to conflicting origin determinations among the principal semiconductor consuming countries: the United States, EU member nations, and Japan. The United States employs an assembly-based approach to determine the origin of semiconductors, while the EU and Japan focus on where wafer fabrication (diffusion) takes place. The country of final assembly frequently differs from the country of wafer fabrication. Thus, if a device is marked according to U.S. requirements, it may be mismarked when it is shipped to an EU country or Japan. Since the EU and Japan do not require origin marketing of semiconductors, but prohibit false marking, the obvious solution to this problem is to eliminate the U.S. marking requirement.

In addition, H.R. 947 will eliminate the cost and difficulty associated with country of origin marking requirements. While the cost of marking semiconductors is not great when amortized over a production run, the cost is significant to SIA member companies in absolute terms.

It is important to note that the marking law that this bill seeks to amend is designed to enable purchasers of products to make an informed buying decision based on the country of origin. Purchasers of semiconductors overwhelmingly consist of original equipment manufacturers who are generally aware of where the product is made through the qualification process. Congress has already exempted semiconductors in North American trade from marking requirements under NAFTA annex 311.

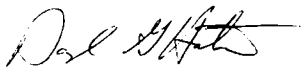
SIA understands that concerns have been raised that H.R. 947 will prevent semiconductor users from using the existing marking to declare the origin of semiconductors on an international basis. These concerns are misplaced for three reasons. First, reliance on marking for international trade facilitation is not contemplated by the U.S. marking statute, which exists to create informed buying decisions. Second, semiconductor marking does not provide a uniform basis for satisfying origin declaration or "false marking" requirements of other countries, given the differing national treatment of the origin of semiconductors. Third, the marking does not coincide with the scope of U.S. or EU dumping orders, which are linked to the country where wafer fabrication occurs.

The most that the marking requirements can accomplish is that products entering the United States are marked in accordance with the intent of the marking statute. Any use of the semiconductor marketing requirements outside this context is inappropriate.

SIA nevertheless wishes to ensure an orderly transition to a system where marking is no longer required. To this end, SIA recommends that the bill's current effective date of January 1, 1996 be changed to January 1, 1997.

In sum, passage of H.R. 947 will provide both short-term and long-term benefits on a deficit-neutral basis. SIA therefore urges you to pursue the incorporation of this bill in trade legislation enacted this year.

Sincerely,



Daryl G. Hatano
Vice President, International Trade
and Government Affairs

cc: Thelma Askey, Ways & Means Trade Subcommittee
Meredith Broadbent, Ways & Means Trade Subcommittee
Don Carlson, Office of Representative Archer
Frank Paganelli, Office of Representative Mineta
Mary Wignot, Ways & Means Trade Subcommittee

SILVER USERS ASSOCIATION 1730 K ST., N.W. WASHINGTON, D.C. 20006 (202) 785-3050

September 7, 1995

Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 LHOB
Washington, D.C. 20515

Re: Advisory from the Subcommittee on Trade, TR-15, August 9, 1995

Dear Mr. Moseley:

This letter is in response to the request of the Subcommittee on Trade for comments on certain miscellaneous proposals which under Harmonized Tariff Schedule included the item, "5. Amend subchapter 11 of Chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted."

On behalf of its members which are estimated to use at least 80 percent of the silver consumed by industry in the United States, the Silver Users Association supports the proposed amendment which would ensure that imports of bars and bar-like items of gold and silver in a purity of 99.5% and higher remain duty free. This special legislation would correct what appears to be an oversight when tariff schedules were approved in 1989. At that time drafters were apparently unaware of technological improvements which permitted the minting of bar-like shapes as an alternative form for providing gold and silver bullion to industry for processing.

We understand that without the corrective wording proposed, the Customs Service would be obliged to impose a duty on some gold and silver bullion which has been duty-free for more than 100 years. Further, such added cost to this raw material could be disruptive to trade for users, producers and traders. It could as well cause American participants to be less competitive in this particular world market. Again, Association members urge favorable consideration of this corrective legislative proposal.

A list of companies which are members of the Silver Users Association is attached. We appreciate your invitation for comments on this legislation.

Sincerely,

Walter L. Frankland, Jr.
Executive Vice President

WLF:dwh
Enclosure

This mark is a medieval alchemist's symbol for silver. The modern chemical symbol is Ag, the atomic number is 47.

SILVER USERS ASSOCIATION

1730 K Street, N.W.
Suite 304
Washington, D.C. 20006-3868
(202) 785-3050

Company Name	*Location*
3M	St. Paul, MN
Advanced Metallurgy, Inc.	Export, PA
Ames Goldsmith	Glens Falls, NY
Boliden Metech, Inc.	Mapleville, RI
Cimini & Associates, Inc.	Pawcatuck, CT
Degussa Corp.	S. Plainfield, NJ
E.I. Du Pont de Nemours	Wilmington, DE
Eastman Kodak Co.	Rochester, NY
Eaton Corporation	Cleveland, OH
Engelhard Corporation	Carteret, NJ
Gannon & Scott, Inc.	Cranston, RI
Gorham, Inc.	Smithfield, RI
Handy & Harman	East Providence, RI
J.W. Harris Co., Inc.	Cincinnati, OH
Kirk Stieff	Baltimore, MD
Konica Imaging USA, Inc.	Glen Cove, NY
Lunt Silversmiths	Greenfield, MA
Nat'l Assn. of Mirror Mfrs.	Potomac, MD
Polychrome Corp.	Clark, NJ
Reed & Barton Corp.	Taunton, MA
RFE Industries	Keasbey, NJ
SIPI Metals Corp.	Chicago, IL
Stern Metals, Inc.	Attleboro, MA
Technic, Inc.	Providence, RI
Tiffany & Company	New York, NY

Date: April 11, 1995

STATEMENT OF SNAP-ON INCORPORATED IN OPPOSITION TO TRADE TECHNICAL CORRECTIONS PROVISION: IMPORTED TOOL FORGINGS AND FINISHED HAND TOOLS - COUNTRY OF ORIGIN

Snap-on Incorporated ("Snap-on") strongly opposes Section 8(f) of the (as yet undesignated) "technical corrections" draft bill recently passed by the Subcommittee on Trade and now pending before the House Ways and Means Committee. (See Ways and Means Release No. TR-4A, Section 8, August 3, 1995). This provision, entitled "Marking of Metal Forgings", would exempt both imported tool forgings and finished hand tools from Section 304 of the Tariff Act provision mandating the marking of their country of origin (a copy of this legislation is attached).

This proposed amendment is not a simple clarifying technical correction that is unopposed by the domestic industry; rather it is a controversial amendment creating a statutory exemption to current federal law that would have a broad and injurious impact to Snap-on and its customers. Thus, this proposed legislation should not be the subject of a technical corrections bill. Section 8(f) would give companies who import forgings an unfair advantage over those such as Snap-on who manufacture the forgings in this country by deluding U.S. purchasers of hand tools into believing that they are buying an American-made product when, in fact, the essential parts of the tools are of foreign manufacture.

Snap-on believes that forgings for hand tools made in other countries should be marked with their country of origin because the forging forms a substantial part of the finished product. For purposes of uniformity, predictability and consistency for U.S. manufacturers, importers and consumers, the Customs Service's NAFTA Marking Rules (19 C.F.R. Part 102) should be extended, as proposed by the agency, to require marking of imported products from all countries.

Snap-on: An American Hand Tool Manufacturer

Headquartered in Kenosha, Wisconsin, Snap-on is an American manufacturer of a wide variety of hand tools, including standard and adjustable wrenches, ratchets, screwdrivers and hammers, among many other products. (It should also be noted that some subsidiaries of Snap-on import components, including forgings that are finished in the United States.) Nationwide, Snap-on has manufacturing facilities located in eight states and employs approximately 7000 American workers. Snap-on is a billion dollar company whose primary product line is hand tools and associated equipment distributed through a system of mobile dealer vans delivering directly to professional tool users.

Some importers of forgings would have the Congress believe that forging is a hot, disagreeable process that is best left to foreign workers and that the U.S. hand tool industry has largely moved its forging operations overseas. Nothing could be farther from the truth. Snap-on manufactures forgings for hand tools in five of its facilities in the United States and has spent millions of dollars upgrading these American facilities to invest in technology which will allow us to use forging processes which are both modern and located in the United States.

The Bill at Issue

The provision in the legislation that Snap-on is concerned about was apparently inserted in a "technical corrections" draft bill during markup by the Foreign Trade Subcommittee earlier this month. It currently has no numerical designation or title but is simply entitled "A Bill to make technical corrections in certain trade legislation and other miscellaneous trade provisions".

Section 8(f) of the bill would amend 19 U.S.C. § 1304, which is the Tariff Act provision mandating the marking of virtually all imported products with the English name of their country of origin, to exempt from the marking obligations both imported metal forgings and the hand tools finished in the United States from those metal forgings. It would amend Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) by adding a new subsection (f) as follows:

> "(f) MARKING OF METAL FORGINGS - The marking requirements of subsections (a) and (b) shall not apply to --
>
> (1) Metal forgings that --
>
> (A) Are imported for processing into finished hand tools in the United States, and
>
> (B) have not been improved in condition beyond rough burring, trimming, grinding, turning, hammering, chiseling, or filing, and
>
> (2) hand tools made from metal forgings described in paragraph (1)."

The Marking Statute Contains Very Limited Exceptions

The breadth of this proposed legislative exemption stands in stark contrast to the limited product exceptions provided for in the current Tariff Act marking provisions, which authorize Customs to provide exceptions for certain products, such as crude substances and those items that are incapable of being marked after importation except at a cost that is economically prohibitive. (Customs has applied these exceptions narrowly, to exempt products such as eggs and feathers from the marking obligations. See 19 C.F.R. 134.33). Moreover, it undercuts

past decisions by the Customs Service, embodied in their regulations and adopted after consideration of a variety of factors affecting the hand tool industry and consumers, which mandate specific permanent marking methods for certain hand tools, such as pliers and nippers and hinged hand tools for holding and splicing wire. See 19 C.F.R. § 134.43.

Hand Tools Should Be Marked With Their Country of Origin

As America's manufacturing base continues to decline, it is important that Congress not accept measures that would needlessly injure those companies that continue to manufacture in the U.S. and not adopt legislation that will further erode our country's manufacturing base. U.S. manufacturers of forgings should have the right to expect fair competition from those who import forgings and allow the competitive marketplace to determine which companies will be successful; there is no justification for giving those who import an unfair advantage by allowing them to call their products "Made in the U.S.A." or to not disclose their real country of origin when, in fact, the forging was foreign made and forms a substantial part of the product.

There is a substantial competitive benefit for a U.S. seller of hand tools to be able to market its products as American-made. Even proponents of the legislation admit this. Richard Ayers, Chairman and Chief Executive Officer, The Stanley Works, made the following statement before the House Ways and Means Committee (July 11, 1995).

> "Where the mechanics tools are made is an important consideration for many of Stanley's customers. Unlike the users of many products, there is strong belief among end-users of hand tools that the quality they demand is associated with being American-made."

A view has been expressed by one manufacturer that it has relied on past Customs' interpretations of the marking rules by importing rough forgings made at overseas facilities which may or may not be affiliated with it. But no action has been taken by Customs other than to propose rules that reflect traditional legal principles and existing case law, such as National Hand Tool v. United States, 16 CIT 308 (1992), aff'd. 989 F.2d 1201 (Fed. Cir. 1993). Snap-on agrees with Customs that both the NAFTA Marking Rules (19 C.F.R. Part 102) and the proposed extension of those Rules to imports from the rest of the world would codify these existing court decisions and the traditional principles applied by the courts to determine country of origin marking obligation. In this regard, it is Customs' interpretation that:

> "The Part 102 rules are totally consistent with the application of the substantial transformation principle in this case, not only in the case of hand tools but also as applied to other products involving similar processing operations." 60 Fed. Reg. 22315-22316 (May 5, 1995).

The Customs Service's Rules Protect the American Consumer

The forgings of most hand tools present the essential character of the ultimate product: their shape, appearance, chemical composition, material composition, and name are virtually identical to that of the hand tool into which they are finished. Yet the proposal before the Committee would enable those who import such forgings to legally pass off both the forgings and the hand tools made from them as American-made, thus gaining a substantial benefit at the expense of those manufacturers such as Snap-on who have chosen to continue to produce both the forging and the tool into which it is finished in the United States. Even more importantly, it will delude the countless American automotive shops, mechanics and weekend tool users into believing that they are buying the American-made tool they sought.

The approach taken by the Customs Service to product origin and marking protects American consumers from deception over where the items they purchase were produced. Customs has proposed extension of the NAFTA Marking Rules to products imported from all countries. The proposal merely codifies the key concepts for determining a product's country of origin, and thus incorporates time-tested (and court-tested) traditional principles for determining a product's country of origin that have been addressed repeatedly by the affected manufacturing and importing communities. Snap-on fully supports both Customs' interpretation of the rules and its plan to move away from a case by case application of the "substantial transformation" test to these objective standards.

Moreover, and more importantly, Customs' NAFTA Marking Rules are the product of international negotiation and public comment over a multi-year period. As a consequence, the marking rules in all three NAFTA countries are based on the change in tariff classification principle and are largely the same in all three countries. To overturn this carefully constructed framework to benefit a few importers at the expense of the domestic manufacturing industry is unjustified and unjustifiable.

The Federal Trade Commission

In addition to the Customs Service, the Federal Trade Commission has been addressing the related issue of deceptive "Made in USA" claims. In a press release dated July 11, 1995, the FTC announced that it will conduct a comprehensive review of consumers' perceptions of "Made in USA" advertising claims. The FTC will hold a public workshop to obtain an exchange of views on a number of related issues.

Because two federal agencies are dealing with related marking issues, Congress should consider the views of these agencies before making a far-reaching statutory change in law as part of the budget reconciliation process. Americans would be better served if Congress would wait to address this issue in more targeted legislation.

Snap-on Incorporated
Kenosha, Wisconsin

SRI
SPECIALTY RETAILERS, INC.

XECUTIVE OFFICES:
'.O. BOX 35167 • HOUSTON, TX 77235

September 7, 1995

The Honorable Philip Crane
Chairman
Subcommittee On Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets and other similar items having an outer surface of plastic sheeting reinforced a fabric backing.

While sponsors characterize this as a mere "technical" change in fact, the bill would drastically increase the duty on many of the flat goods carried in our stores - from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Mary Ann Barr
V.P., Divisional Merchandise Manager, Accessories

SPECIALTY RETAILERS, INC.

CARL E. TOOKER
PRESIDENT · CHIEF EXECUTIVE OFFICER

EXECUTIVE OFFICES:
P.O. BOX 35167 • HOUSTON, TX 77235
713-669-2678
FAX 713-669-2709

September 5, 1995

The Honorable Phillip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 11779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us...from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Carl E. Tooker

CET/nt

TESTIMONY OF WALTER Y. ELISHA
SPRINGS INDUSTRIES INC.

Springs Industries, Inc.
Executive Offices
Fort Mill, SC 29715
803/547-3780

Walter Y. Elisha
Chairman of the Board
Chief Executive Officer

September 7, 1995

The Honorable Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Sir:

I am writing on behalf of Springs Industries, Inc. in response to your request for comments on miscellaneous trade proposals dated August 9, 1995. Springs Industries is a major manufacturer and marketer of home furnishings and specialty fabrics with 1994 sales of $2.1 billion. Springs employs approximately 24,000 associates, operating in 10 states, with minority equity positions in Asia and Europe.

Springs is strongly opposed to the proposed amendments to the rules of origin on textiles and apparel contained in section 334 of the Uruguay Round Agreements Act of 1995. The proposal to exempt a portion of HTS line items "6307.90" comforter shells, and "9404.90" comforters would create the only exception to the finalized rule as published in the Federal Register of September 5, 1995.

One of the great benefits of the new rule of origin for textiles and apparel is that the rules are simple, consistent and transparent. The country of origin for fabrics is where the goods are woven, the country of origin for apparel is where the goods are assembled, and the country of origin for made ups is where the fabric is woven. Any amendment would set a precedent for requesting exemptions to the rules; the process for determining country of origin would soon evolve to a series of special rulings thus creating a complicated, burdensome system.

The textile and apparel industries continue to be greatly concerned by the volume of imports that are entering the country illegally. Customs recently stated that "conspiracies to circumvent import requirements have now reached epidemic proportions". The use of requesting special rulings to change the country of origin for a product to avoid current restrictions has contributed to this dilemma. The request for a technical amendment to exempt down comforters and down proof comforter shells from the new rules of origin is exactly this - a way to circumvent current restrictions.

Springs welcomes the adoption of the new rules of origin, and strongly opposes any amendments.

Sincerely,

Walter Y. Elisha

WYE/sl

STRAWBRIDGE & CLOTHIER

PHILADELPHIA

CHARLES D. HOLLANDER
VICE PRESIDENT
GENERAL MERCHANDISE MANAGER

September 6, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, DC. 20515

Dear Chairman Crane:

Reference is made to an August 9, 1995 press release by the Trade Subcommittee asking for public comments on a number of trade issues. I wish to express my strong opposition to H.R. 11779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

The sponsors of this legislation refer to this as a mere "technical" change; in reality, the bill would drastically increase the duty on many of the flat goods that we sell in our retail stores -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this unreasonable tariff increase.

I urge you as Chairman, along with the members of this Subcommittee, to reject this legislation. Thank you for reviewing my opposition to this issue and the consideration of my feelings.

Sincerely,

Charles D. Hollander

CDH/kb

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September 8, 1995

Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Moseley:

Re: August 9, 1995, Proposed "Technical" Corrections to Trade Legislation

On behalf of The Timken Company and The Torrington Company, both major U.S. manufacturers of antifriction bearings, we submit the following comment in response to the August 9, 1995, invitation in the captioned matter.

In its May 4, 1995, comments to the Committee, the International Trade Commission suggested that there is an "oversight" in Section 771(24)(B). See WMCP 104-4 at 4-5. The ITC proposed, and the Committee has now also proposed, a technical amendment that would apply 4 percent/9 percent numerical thresholds to the determination of "negligible" imports in the context of threat of injury determinations. Yet, in the Uruguay Round Agreement on Subsidies and Countervailing Duty Measures, "the standard for determining negligible import levels is not expressed in specific import share terms." Statement of Administrative Action, H. Doc. 103-316, Part I at 921.

Thus, the Uruguay Round Implementing Act imposes a definition of "negligible" imports for purposes of countervailing duty investigation without there being any express requirement in the SCM Agreement. Nor is it clear how to interpret Article 27.10(b) of the SCM Agreement, which does not indicate whether it is to be applied in threat determinations or not. H. Doc. 103-316 at 1562. The ITC comments reference this provision in a footnote, but offer no indication why the 4 percent/9 percent thresholds should be applied to "potential" imports in the context of a threat determination.

Given the absence of such requirements in the SCM Agreement, and given in particular that a substantial threat of injury may exist even where there have been no importations, it is not necessary or appropriate to impose any numerical minima with respect to imports in threat cases (whether from developing countries or otherwise). Indeed, in cases such as rail cars from Italy and offshore oil platforms and jackets, the ITC has found a threat of injury without any importations, where there has been a contract lost and imports are imminent. Hence, the proposed technical amendment would create an impediment to relief from dumping (the standards for a threat determination are otherwise not insignificant) without any requirement in the SCM Agreement to do so. Accordingly, this proposal should not be adopted.

Respectfully submitted,

Terence P. Stewart
James R. Cannon, Jr.

Special Counsel for
The Timken Company
The Torrington Company

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

TECHNICAL AMENDMENTS
CUSTOMS AND TRADE ACT OF 1990,
AS AMENDED BY
URUGUAY ROUND AGREEMENTS ACT OF 1994
(COMMITTEE ADVISORY NO. TR-15)

STATEMENT ON BEHALF OF
U.S.-FLAG VESSEL OWNERS AND OPERATORS

I

Introduction

In response to the Committee's Advisory No. TR-15, Givens And Kelly submits this statement on behalf of its clients which are U.S.-flag vessel owners or operators located in Houston, Texas, and in other cities in the United States. This statement is made in support of the attached proposed technical amendment to Section 484E of the Customs and Trade Act of 1990, 19 U.S.C. § 1466(h), as recently amended by Section 112, Title I, Subtitle B of the Uruguay Round Agreements Act of 1994.

The Vessel Repair Statute, first enacted in 1866,[1] was conceived to protect American shoreside labor at the expense of American vessel owners, operators, and American seagoing labor. The world and the maritime industry has changed drastically since 1866, but the Vessel Repair Statute is still on the books.[2] In recent legislation, Congress has attempted to lessen the economic burden of the Statute, but, the intended exemptions have not been recognized. Unless Congress enacts the proposed technical amendment, the Vessel Repair Statute will continue to be cited (1.) as authority to impose an unwarranted, discriminatory tariff resulting in an onerous (double) duty on **U. S. purchased vessel equipment** which were intended to be included under the exemptions for "spare parts" in the GATT Agreement, and, (2.) as authority to deny the "spare parts" exemption (in 19 U.S.C. §1466(h)(3)) to foreign purchases which are administratively deemed excluded as "equipment" or "materials."

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[1] Act of July 18, 1866, Ch. 24, sec. 23, 14 Stat. 183.
[2] See at 19 U.S.C. § 1466 (1988).

II
Legislative History

The relevant statute, 19 U.S.C. § 1466(a), states, inter alia:

> "The equipments...or the repair parts or materials to be used, or the expense of repairs **made in a foreign country** upon a vessel...shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum **on the cost thereof in such foreign country**...." (Emphasis added).

The language of 19 U.S.C. 1466(a) specifically indicates that it applies to articles purchased for a vessel in a **foreign country** (and never imported into the United States). Senate Reports indicate that the 50% duty was intended to apply to "the cost of equipment purchased or repairs made **in a foreign country** by a United States Vessel." Senate Reports 1-473, 71st Congress, Vol. 1, page 72 (Emphasis added). This is also evident in House Reports which stated that "Section 3114 places a duty of 50 per cent on the cost of equipment and repairs purchased for or made upon vessels of the United States **in foreign countries.**" House Reports 1-495, 71st Congress, Vol. 1 page 171 (Emphasis added).

In 1982, the Statute was amended to provide an exemption from duty for all costs incurred after six months after the vessel's last departure from the United States, where a U.S.-flag vessel is away from the United States for two years or more. In the legislative history prior to the passage of the amendment Congressman Snyder stated that:

> "Currently U.S.-flag vessels are assessed a 50 per cent ad valorum duty on the cost of equipment, parts or materials purchased for, and repairs made to, U.S.-flag vessels **in a foreign country**, unless necessitated by an emergency." Congressional Record page E 859, March 9,1982 (Emphasis added).

III
ADMINISTRATIVE INTERPRETATION

The U. S. Customs Service also traditionally held the view that U. S. purchases were not covered under 19 U.S.C. § 1466(a). In Customs Headquarters Ruling #102154, Customs held if "vessel parts are imported into the United States...and duty is paid on those parts...the part would not be subject to duty under section 1466...since the purchase is not within the contemplation of section 1466." Later in Customs Headquarters Ruling #104700, Customs held that if parts are purchased in the United States the cost of the parts is not subject to duty under 19 U.S.C. § 1466. In 1988 Customs Headquarters Memorandum (Guidelines) 109408 stated that if a vessel owner purchases repair items previously imported, duty paid under the TSUS, and those items are installed abroad, the repair items are not dutiable under 19 U.S.C. 1466(a). This view (interpretation) at Customs only changed in 1988, while under the scrutiny of a GAO investigation. (See GAO/RCED 89-152 and Customs Headquarters Ruling Letter 109703).

IV

CONGRESS ENACTED SECTION 484E OF THE CUSTOMS AND TRADE ACT OF 1990 TO END UNFAIR, UNJUSTIFIABLE, OPPRESSIVE TARIFF ASSESSMENTS AGAINST VESSEL PARTS, MATERIALS AND EQUIPMENT PURCHASED IN THE UNITED STATES OR ABROAD

In 1990, evidence was presented to this Committee regarding "The Spare Parts Dilemma Under The [Vessel Repair] Statute."[3] The Committee was advised that large ocean liner vessels must carry spare parts, material and equipment which can be utilized, where and when necessary, on long voyages or during port calls in foreign countries.[4] Beginning in 1988, the Customs Service interpreted the Vessel Repair Statute, 19 U.S.C. § 1466(a), to mandate assessment of the high 50% ad valorem duty rate on U. S.-purchased parts, materials and equipment if same were installed on a U.S.-flag vessel while the vessel was away from the United States.[5]

The confusion and inequity involved for U.S.-flag vessel operators were magnified by the fact that, for economic reasons, many U.S.-flag vessels were constructed in recent years in foreign shipyards. In those instances, many articles needed to repair those vessels simply could not be obtained in the United States, so they had to be purchased abroad and imported into the United States.

Under Customs' rules and decisions, foreign manufactured parts, equipment, and materials acquired before newly-built vessels were documented under the U. S. flag were not subject to duty under the Vessel Repair Statute, but parts and equipment thereafter purchased from foreign suppliers and brought to the United States by the vessel itself were held to be dutiable at the oppressive 50% ad valorem rate under the Repair statute.[6]

However, if those same foreign manufactured parts, equipment, and materials were delivered to the United States by air or aboard another vessel, they could enter this country at the far lower commodity duty rates specified by the Harmonized Tariff Schedule.[7] But then, under Customs' new interpretation of the Vessel Repair Statute (in 1988), they became subject to "double duty" if they were later installed on a U.S.-flag vessel in a foreign shipyard.[8]

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[3] See Ways and Means Committee Print No. 101-32, 101st Cong., 2d Sess., p. 22 (6/25/90).

[4] Id.

[5] Id., at p. 23; and, Customs Headquarters Ruling Letter 109703

[6] Id.

[7] Id.

[8] As the 1990 record before this Committee demonstrates, on April 19, 1989, Customs issued a set of "easily applied rules," No. 5 of which stated:

> "5. The dutiability of foreign made repair parts/materials under § 1466 is not affected by the fact that they may have been previously imported, duty paid, into the United States and then exported for installation or placement aboard a vessel. They are subject to duty ["double duty"] under § 1466 upon first arrival of the vessel."

Confronted with these confusing, debilitating tariff rules and assessments, the U.S. maritime industry as a whole urged this Committee to exempt vessel repair parts, equipment, and materials from duty liability under the Vessel Repair Statute.[9] In order to correct the faulty interpretation of the Statute by Customs, Congress passed 19 U.S.C. § 1466(h). In response to the maritime industry's requests, Congress added an exemption from duty for parts purchased outside the United States and thereafter imported duty paid under the HTSUS classification for that particular item.

The Customs and Trade Act of 1990, Section 484E(a) provided:[10]

"Sec 484E.. Foreign Repair of Vessels

"(a) In General - Section 466 of the Tariff Act of 1930 (19 U.S.C. § 1466) is amended by adding at the end thereof the following new subsection.

"(h) The duty imposed by subsection (a) of this section shall not apply to ----....

"(2) the cost of spare repair parts or materials... which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country."

On the Senate floor, Chairman Breaux emphasized that the 1990 legislation was thus intended "to eliminate" unfair, oppressive duty assessments on vessel parts imported from abroad and purchased for use on U.S.-flag vessels.[11] The Senate Finance Committee Report issued in support of the legislation stated, in turn: "[The bill] exempts vessel spare repair parts and materials from application of the 50 percent vessel repair duty provided that duty was paid under the appropriate HTS commodity classification upon first entry into the United States."[12] The Senate report goes on to state, at p. 38:

> "This section applies to spare parts carried aboard an individual vessel as well as to fleet spare parts and materials stored on land, provided they are intended for installation or use aboard a cargo vessel. **This section is intended to ensure that vessel owners will pay duty on such parts and materials only once, at the time of first entry into the United States.**" (Emphasis added)

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9 WMCP 101-32, pp. 20-36.

10 See 19 U.S.C. 1477(h)(2).

11 See Congressional Record, 4/20/90, at p. S4715.

12 S.Rept. 101-252, 101st Cong., 2d Sess., p. 38.

In 1994 the GATT Uruguay Round Agreements Act, Pub.L. 103-465, Section 112, Title I, Subtitle B made the "parts" exemption in (h)(2) permanent. In addition, Section 112(b) added a new subsection (3) to 19 U.S.C. § 1466(h), which reads as follows:

> "(b) Exemption For Certain Spare Parts - Section 466(h)of the Tariff Act of 1930 (19 U.S.C. § 1466(h)) is amended...
>
> "(3) by adding at the end the following new paragraph:
>
> "(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States of each such spare part purchased in, or imported from a foreign country."

The industry believed that the legislation would end the discriminatory double duty on all articles purchased for use on or to repair their vessels, however, this has not been the result.

III

ENACTMENT OF THE PROPOSED TECHNICAL AMENDMENT IS ESSENTIAL

After the effective date of the GATT provision on vessel parts, the U. S. Customs Service revised its prior interpretation of 19 U. S. C. § 1466(h). On May 31, 1995, Customs Headquarters issued a memorandum to all Customs Regional Vessel Repair Liquidation Units[13] which distinguishes between "parts," "equipment," and "material." The memorandum holds that the duty exemption in 19 U.S.C. 1466(h)(2) only applies to "parts" and "materials" (and **not** to "equipment"), and, that the "spare parts" duty exemption in 19 U.S.C. 1466(h)(3) only applies to "parts" (and **not** to "materials" or "equipment"). Customs Headquarters Letter 113316 of July 26, 1995, discussed the present administration of 19 U.S.C. 1466(h). Therein Customs stated at p. 2:

> "The major difference between the former and present administration of the provision is the recognition of its limitation to parts and materials. Formerly, the benefits of (h)(2) were extended to **all expenditures** except the "expenses of repairs" (foreign labor costs). With the enactment of the new (h)(3), we recognize the intent of Congress to limit the scope of the subsection (h) provisions since the new (h)(3) is even more restrictive than (h)(2), extending only to the cost of "spare parts" and excluding even the cost of materials" as included under (h)(2)....These purchases are specifically dutiable under subsection (a) of the statute, and are not relieved of duty under subsection (h)(3)." (Emphasis added).

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[13] Customs Headquarters Memorandum No. 113291 of May 31, 1995.

The requested amendment is necessary to clarify the "spare parts" exemption in 19 U.S.C. 1466(h) to make it plain that the exemption covers not only "parts," but also "equipment" and "materials." If the vessel "parts," "equipment," or "materials," are purchased in the United States or imported into the United States prior to use, then the exemption in (h)(2) should apply. If the vessel "parts," "equipment," or "materials" are purchased outside the United States (and not imported prior to use) then, when the vessel returns to the United States, the exemption in (h)(3) should apply.

Congress intended to "end" and "eliminate" the discriminatory double duty on imported merchandise in 1990 and also to extend this coverage to foreign purchased merchandise (under the provision for "spare parts" in the GATT Agreement). However, unless Congress enacts the proposed technical amendment, unjustifiable (double) duty collections will be imposed on U. S. purchased vessel equipment, and, unjust tariff discrimination will continue on equipment and materials purchased abroad and used overseas on U.S.-flag vessels.

Conclusion

Without the proposed technical amendment, the Vessel Repair Statute will cited to justify and discriminatorily impose a double duty on items (vessel equipment) that Customs once held were exempt under the 1990 legislation, but which Customs now holds are **not** exempt[14] . Also, there is no logical reason to exclude foreign purchased vessel "equipment" or "materials" from the exemption for "spare parts" created in (h)(3) and passed by Congress in the GATT Agreement. This administratively imposed (by Customs) distinction between "parts" and "equipment" and "materials" will only perpetuate the unfair and onerous duty that 19 U.S.C. § 1466(h) was intended to end.

On behalf of our clients, we urge the Committee to adopt and favorably report the attached technical, clarifying amendment as part of any legislation which might result form the current proceedings or any other relevant proceedings.

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[14] See Customs Headquarters' Memorandum 113291 of May 31, 1995 and Customs Headquarters' Letter 113316 of July 26, 1995.

PROPOSED TECHNICAL AMENDMENT

CUSTOMS AND TRADE ACT OF 1990, AS AMENDED BY URUGUAY ROUND AGREEMENTS ACT OF 1994.

A. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(2), is further amended so paragraph (2) reads as follows:

> "(2) the cost of parts or materials or equipment (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such part, material or equipment purchased in, or imported from, a foreign country, or"

B. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b)(3) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(3), is further amended so paragraph (3) reads as follows:

> "(3) the cost of parts, equipment or materials installed on a vessel, documented under the laws of the United States, before the first entry of such parts, equipment or materials into the United States, but only if duty is paid, or a bond or other acceptable security for duty is posted, under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such part, equipment or materials purchased in a foreign country."

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: MAY 31 1995

FILE: VES-13-R:IT:C
113291 LLB

TO : All Vessel Repair Liquidation Units

FROM : Assistant Commissioner, Office of Regulations and Rulings

SUBJECT: Vessel Repair Provisions in GATT Legislation

This memorandum interprets amendments made to the vessel repair statute (19 U.S.C. 1466) by legislation implementing the provisions of the General Agreement on Tariffs and Trade.

Under 19 U.S.C. 1466(a), a duty of 50 percent is charged on the foreign value of repairs made to U.S.-documented vessels abroad. This duty is charged on the value of equipment or parts of equipment, repair parts, repair materials, and most labor costs.

On August 20, 1990, the President signed into law the Customs and Trade Act of 1990 (Pub. L. 101-382), section 484E of which amended the vessel repair statute by adding a new subsection (h). Subsection (h) included two elements, as follows:

(h) The duty imposed by subsection (a) of this section shall not apply to--

(1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers, or

(2) the cost of spare repair parts or materials (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.

The effective date of the amendment was stated as follows:

> Effective Date.--The amendment made by this section shall apply to--
>
> (1) any entry made before the date of enactment of this Act that is not liquidated on the date of enactment of this Act, and
>
> (2) any entry made--
> (A) on or after the date of enactment of this Act, and
> (B) on or before December 31, 1992.

Section 1466 was recently amended by the reinstatement of subsections (h)(1) and (2), the wording of which remain unchanged from their previous enactment. The amendment, which is effective for all vessel entries made on or after January 1, 1995, also added a new subsection (h)(3) which provides as follows:

> (3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.

The scope of the new amendments is limited in nature. It is useful to bear in mind that the limiting language of (h)(2) refers only to "spare repair parts or materials" and that (h)(3) refers only to "spare parts", whereas under subsection (a) of the statute duty is made applicable to a broad range of costs including "equipments, or any part thereof, including boats,...or the repair parts or materials to be used, or the expenses of repairs..." (emphasis added). It is clear that the Congress has recognized a distinction between these categories of purchases, and has applied vessel repair duty limitations under subsection (h)(2) and (3) only to certain parts and materials.

With respect to subsection (h)(2), the law will be administered in a manner similar to that employed for the provision that expired for all entries made after December 31, 1992. This means that in order to receive the benefit of treatment under the subsection it is required that foreign-made parts and materials first be imported into the United States and entered under a consumption entry. They may then be sent abroad without future duty consequences under the vessel repair statute. The major difference between former and present administration of the provision is the recognition of its limitation to parts and materials. Formerly, the benefits of (h)(2) were extended to all expenditures except the "expenses of repairs" (foreign labor costs). With the enactment of the new (h)(3), we recognize the intent of the Congress to limit the scope of the subsection (h) provisions since the new (h)(3) is even more restrictive than (h)(2), extending only to the cost of "spare parts" and excluding even the cost of "materials" as included under (h)(2)

The new subsection (h)(3) will be administered as follows. The requirement remains in ect that a vessel repair entry (Customs Form 226) must be filed upon first arrival in the United tates of vessels covered by the repair statute. In instances in which a vessel operator claims ertain foreign parts expenditures to be within the terms of subsection (h)(3), continuation sheets ormally submitted with entries for consumption (Customs Form 7501-A) should be completed id attached to the vessel repair entry form. The continuation sheets must provide all required iformation necessary to assign the proper duty rate as listed in the Harmonized Tariff. The essel repair entry number will be the sole number assigned to the entry, and the entry with ontinuation sheets attached will be considered an 05 entry type.

It must be understood that the submission of the continuation sheets with a vessel repair ntry does not constitute the filing of an entry for consumption. The amended statute does not iandate the filing of entries for consumption, merely the payment of duty under the item numbers /hich would be appropriate were such an entry to be filed. A continuation sheet used as part of vessel repair entry may be used to identify a "spare part" only, and no other purchase. We are nable to ascribe any particular meaning to the word spare as used in the statute, and so will apply ie provision to all parts which are purchased and installed abroad. This, of course, cannot be ead to apply to the cost of any materials or equipments. These purchases are specifically endered dutiable under subsection (a) of the statute, and are not relieved of that status under ubsection (h)(3).

Since the underlying entry is made pursuant to the vessel repair statute, the principles of ection 159.11(b) of the Customs Regulations (19 CFR 159.11(b)) remain in effect, and such ntries will not be liquidated by operation of law upon the expiration of one year from the date of ntry. Each Vessel Repair Liquidation Unit should establish workable procedures with ommodity classification teams at their locations by which items listed on CF 7501-A continuation heets can best be reviewed for proper duty determinations.

In order to implement proper enforcement of the amended statute, it is necessary that the ey terms be defined. In defining parts, materials, and equipment, it is most beneficial to do so in escriptive terms rather than in the form of specific lists of items which fit the categories. In ompiling lists it is inevitable that items will be inadvertently omitted which may lead to improper r inconsistent application of the law.

For purposes of 19 U.S.C. 1466 the term materials is determined to mean something /hich is consumed in the course of its use, and/ or loses its identity as a distinct entity when ncorporated into the larger whole. Some examples of materials as defined are seen in such items s a container of paint which is applied to vessel surfaces, and sheets of steel which are ncorporated into the hull and superstructure of a vessel.

A part is determined to be something which does not lose its essential character or its identity as a distinct entity but which, like materials, is incorporated into a larger whole. It would be possible to disassemble an apparatus and still be able to readily identify a part. The term part does not mean part of a vessel, which practically speaking would encompass all elements necessary for a vessel to operate in its designed trade. Examples of parts as defined are seen in such items as piston rings and pre-formed gaskets, as opposed to gaskets which are cut at the work site from gasket material.

The term equipment is determined to mean something which constitutes an operating entity unto itself. Equipment retains at least the potential for portability. Equipment may be affixed to a vessel in a non-permanent fashion, such as by means of bolts or other temporary methods, which is a feature distinguishing it from being considered an integrated portion of the hull and superstructure of a vessel. Examples of equipment as defined are seen in such items as winches and generators.

These interpretations are a faithful attempt to implement the law as it is written and to give full effect to the Congressional intent in enacting the legislation. This document cannot be expected to anticipate the varied issues which will inevitably arise in the course of administering the amended statute. Issues which are ancillary to these broad policy determinations will be addressed on a case by case basis in the normal ruling process.

Stuart P. Seidel

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

VES-13-18-R:IT:C
113316 LLB

Ms. Sharon Steele Doyle
Givens and Kelly
950 Echo Lane
Suite 360
Houston, Texas 77024-1540

JUL 26 1995

Dear Ms. Doyle:

Reference is made to your letter of December 29, 1994, inquiring about the interpretation to be placed upon recent amendments to the vessel repair statute (19 U.S.C. 1466) effectuated by Section 112 of the GATT Implementation Act. Your letter suggests that you are concerned about how the Customs Service will interpret the amended law.

We believe that your concerns have been addressed by this office in a combination of three pieces of correspondence written to yourself over the past year. These letters include our case numbers 113188 (August 17, 1994), 113216 (September 20, 1994), and most recently our letter to you of this month on this same topic, 113331. For your convenience we are sending courtesy copies of the first two letters with this correspondence. Since we are not sure whether our case number 113331 will reach you before this letter, we will recount the advice given in that document.

Section 1466 was amended by the reinstatement of subsections (h)(1) and (2), the wording of which remain unchanged from their previous enactment as part of the Customs and Trade Act of 1990 (section 484E of Pub. L. 101-382), which had expired by its terms on December 31, 1992. The amendment, which is effective for all vessel entries made on or after January 1, 1995, also added a new subsection (h)(3) which provides as follows:

> (3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.

The scope of the new amendments is limited in nature. It is useful to bear in mind that the limiting language of (h)(2) refers only to "spare repair parts or materials" and that (h)(3) refers only to "spare parts", whereas under subsection (a) of the statute duty is made applicable to a broad range of costs including "equipments, or any part thereof, including boats,...or the repair parts or materials to be used, or the expenses of repairs..." (emphasis added). It is clear that the Congress has recognized a distinction between these categories of purchases, and has applied vessel repair duty limitations under subsection (h)(2) and (3) only to certain parts and materials.

With respect to subsection (h)(2), the law will be administered in a manner similar to that employed for the provision that expired for all entries made after December 31, 1992. This means that in order to receive the benefit of treatment under the subsection it is required that foreign-made parts and materials first be imported into the United States and entered under a consumption entry. They may then be sent abroad without future duty consequences under the vessel repair statute. The major difference between former and present administration of the provision is the recognition of its limitation to parts and materials. Formerly, the benefits of (h)(2) were extended to all expenditures except the "expenses of repairs" (foreign labor costs). With the enactment of the new (h)(3), we recognize the intent of the Congress to limit the scope of the subsection (h) provisions since the new (h)(3) is even more restrictive than (h)(2), extending only to the cost of "spare parts" and excluding even the cost of "materials" as included under (h)(2).

The new subsection (h)(3) will be administered as follows. The requirement remains in effect that a vessel repair entry (Customs Form 226) must be filed upon first arrival in the United States of vessels covered by the repair statute. In instances in which a vessel operator claims certain foreign parts expenditures to be within the terms of subsection (h)(3), continuation sheets normally submitted with entries for consumption (Customs Form 7501-A) should be completed and attached to the vessel repair entry form. The continuation sheets must provide all required information necessary to assign the proper duty rate as listed in the Harmonized Tariff. The vessel repair entry number will be the sole number assigned to the entry, and the entry with continuation sheets attached will be considered a vessel repair rather than a consumption entry.

It must be understood that the submission of the continuation sheets with a vessel repair entry does not constitute the filing of an entry for consumption. The amended statute does not mandate the filing of entries for consumption, merely the payment of duty under the item numbers which would be appropriate were such an entry to be filed. A continuation sheet used as part of a vessel repair entry may be used to identify a "spare part" only, and no other purchase. We are unable to ascribe any particular meaning to the word spare as used in the statute, and so will apply the provision to all parts which are purchased and installed abroad. This, of course, cannot be read to apply to the cost of any materials or equipments. These purchases are specifically rendered dutiable under subsection (a) of the statute, and are not relieved of that status under subsection (h)(3).

Since the underlying entry is made pursuant to the vessel repair statute, the principles of section 159.11(b) of the Customs Regulations (19 CFR 159.11(b)) remain in effect, and such entries will not be liquidated by operation of law upon the expiration of one year from the date of entry. Each Vessel Repair Liquidation Unit will establish workable procedures with commodity classification teams at their locations by which items listed on CF 7501-A continuation sheets can best be reviewed for proper duty determinations.

In order to implement proper enforcement of the amended statute, it is necessary that the ey terms be defined. In defining parts, materials, and equipment, it is most beneficial to do so in escriptive terms rather than in the form of specific lists of items. In compiling lists it is inevitable iat items will be inadvertently omitted which may lead to inconsistent application of the law.

For purposes of 19 U.S.C. 1466 the term materials is determined to mean something /hich is consumed in the course of its use, and/ or loses its identity as a distinct entity when icorporated into the larger whole. Some examples of materials as defined are seen in such items s a container of paint which is applied to vessel surfaces, and sheets of steel which are icorporated into the hull and superstructure of a vessel.

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These interpretations are a faithful attempt to implement the law as it is written and to give ll effect to the Congressional intent in enacting the legislation. This document cannot be xpected to anticipate the varied issues which will inevitably arise in the course of administering ie amended statute. Issues which are ancillary to these broad policy determinations will be ddressed on a case by case basis in the normal ruling process.

We hope this information is helpful to you. Please do not hesitate to contact us again if /e may be of further assistance to you in this regard.

Sincerely,

Arthur P. Schifflin
Chief
Carrier Rulings Branch

SANDLER, TRAVIS & ROSENBERG, P. A.

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September 7, 1995

VIA FEDERAL EXPRESS

Philip D. Moseley
Chief of Staff,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

COMMENTS TO MISCELLANEOUS TRADE PROPOSALS
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
SUBHEADING 9802.00.90, HTS

Dear Mr. Moseley:

On behalf of the United States Apparel Industry Council ("USAIC"), we hereby present the following written comments on proposed changes in miscellaneous trade proposals now under consideration by the Subcommittee on Trade of the Commitee on Ways and Means.

USAIC is the only national trade association representing U.S. twin-plant apparel producers in all regions of the globe, including such areas of special importance to the trade as the Caribbean and Mexico. Through unified action, USAIC works to improve the international business environment for U.S.-headquartered apparel/textile firms, by providing information and advice aimed at encouraging constructive changes in both U.S. and foreign government policies.

We see three problems with the proposed legislation amending section XXII, Chapter 98 of the Harmonized Tariff Schedule ("HTS").

First, presumably due to a typographical error, the stated HTS provision which is the subject of the amendment has been incorrectly identified as subheading 9802.00.80, HTS. The correct provision should be subheading 9802.00.90, HTS. Secondly, we are concerned that the listed post-assembly finishing processes may be viewed as exclusive, when in fact subheading 9802.00.90 was intended to describe the characteristics that a process might impart to garments and not restrict what *types* of processes might be employed to impart those characteristics. Thirdly, since the North American Free Trade Agreement ("NAFTA") -- which enacted subheading 9802.00.90 -- was intended to simply carry-over the Special Regime criteria, the language of subheading 9802.00.90 should clearly indicate that duty-free treatment may be granted for those garments assembled from "wholly" U.S. cut and formed fabric even if some of these components are "further fabricated" or subjected to minor operations which are considered "more" than incidental to assembly.

The remainder of this letter addresses these three issues.

THE PROPOSED AMENDMENT IDENTIFIES THE WRONG TARIFF PROVISION

Presumably due to a typographical error, the proposed amendment identifies the wrong tariff provision to be amended. The provision which should be amended in subheading 9802.00.90, HTS, not, subheading 9802.00.80, HTS. As explained below, amending the latter tariff provision will not accomplish the intent of the proposed amendment, which is to ensure *duty-free* treatment for garments which are subjected to the types of post-assembly finishing processes listed in the provision.

The reason for this is simple. As stated, subheading 9802.00.90 is a NAFTA provision which provides *duty-free* treatment; subheading 9802.00.80 is not a NAFTA provision and does *not* allow full duty-free treatment. If subheading 9802.00.80 is amended, then garments which are enzyme-washed would still be dutiable. Therefore, in order to realize NAFTA's duty-free goals, subheading 9802.00.90 is the proper tariff provision to be amended, and not subheading 9802.00.80.

SUBHEADING 9802.00.90 SHOULD NOT RESTRICT ALLOWABLE POST-ASSEMBLY PROCESSES TO THE LISTED EXAMPLES

While we support the inclusion, in subheading 9802.00.90, of "ovenbaking, enzyme-washing, and enzyme-stonewashing" as allowable post-assembly operations, we are concerned that their inclusion might be viewed by U.S. Customs and others as excluding other similar processes not specifically named. Our proposal, to add the language "or other similar processes" following the last named process, would help clarify the intent of the provision which is to allow finishing processes that impart the types of characteristics that are achieved by the finishing processes listed in the provision.

Subheading 9802.00.90, HTS, extended a duty preference to the full value of textile and apparel goods assembled in Mexico from U.S. formed and cut fabric components. The NAFTA agreement also extends a quota preference to such goods, continuing and expanding upon a quota preference formerly provided under a Special Regime program administered by CITA. Under subheading 9802.00.80, only the value of U.S. components assembled abroad is entitled to duty free treatment upon the importation of the assembled article.

Both subheadings 9802.00.80 and 9802.00.90 allow preferential duty treatment to garments assembled abroad from U.S. cut components, so long as the garments are not subjected in the country of assembly to operations that are more than "incidental to assembly." However, subheading 9802.00.90 allows certain post-assembly finishing operations -- bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing -- despite the fact that those particular operations are considered to be more than incidental under the customs regulations interpreting subheading 9802.00.80. See 19 C.F.R. § 10.16(c)(4).

Subheading 9802.00.90 was not meant to be exclude all types of post-assembly finishing operations other than stone-washing, acid-washing, bleaching, garment dyeing, and perma-pressing. Indeed, CITA, which was responsible for the statutory language, has taken the position that the above exemplars were not meant to be exclusive.

As noted above, subheading 9802.00.90 evolved out of the Special Regime program, former subheading 9802.00.8010, HTSUS. Accordingly, Customs has taken the position that all policy directives implementing the Special Regime program will be considered applicable to its administration of subheading 9802.00.90. See HRL 558896

(March 10, 1995). Statistical Note 3, to Chapter 62, HTSUS, provides that certain garments of Chapter 62 which have been assembled abroad from U.S. components and subjected to bleaching, dyeing, stone-washing, acid-washing, or perma-pressing, may be eligible for Special Regime.

This statistical note was adopted because of Customs' position that these finishing operations precluded "807" treatment for the finished garment. However, domestic industry and other federal agencies involved in the textile program all agreed that such finishing operations were not sufficient to preclude the subject garment from the Special Access and/or Special Regime programs. Thus, the note was adopted to allow garments subjected to these types of finishing operations (and indirectly *U.S. fabric* from which they were made) special quota access to the U.S. In fact, the premise behind the establishment of these programs was that they would act as an incentive for using U.S. fabric. It appears illogical that such an artificial barrier would keep U.S. fabric components from qualifying for preferential access to the U.S. market and thereby undermine the purpose of the programs.

The range of permissible finishing operations for Special Regime was not limited to the specific operations listed in the Chapter 62 statistical note. Rather, those finishing operations merely represented the *type or kind* of operations that would be deemed permissible.

That said, we are concerned that under the subject trade proposal, similar finishing processes not listed in the tariff provision might be disallowed by U.S. Customs on the ground that they are not specifically listed. We therefore suggest that the language "or similar processes" be added to subheading 9802.00.90, as indicted in the suggested paragraph below.

SUBHEADING 9802.00.90 SHOULD BE AMENDED TO REFLECT CONGRESS' INTENT THAT NOT ALL U.S. FORMED AND CUT FABRIC COMPONENTS MUST MEET EACH OF THE 9802 REQUIREMENTS

As discussed above, subheading 9802.00.90 was enacted as part of the NAFTA agreement and its implementing legislation. The Special Regime program required only that all *fabric* components be formed and cut in the U.S. and not that each of the fabric components meet the other requirements of heading 9802. In other words, under Special Regime, there was never a requirement that all of the components, or even all of the U.S.

formed and cut fabric components, had to meet the 9802 requirements. The problem is that as drafted, your proposed amendment may disqualify certain formed and cut parts such as beltloops and pocketing (made exclusively from American cut and formed fabric), which in turn would disqualify the whole garment from subheading 9802.00.90. For example, under the proposed amendment, the whole garment could be disqualified by the presence of a single, decorative stitch on the back pocket of a garment.

This concept was explicitly recognized and adopted by the Department of Commerce in the Special Regime Implementation Manual that was prepared in cooperation with Customs. This manual directly acknowledged that Special Regime treatment was applicable as long as the product could be entered under 9802 "even if some components do not qualify". It should be noted that the implementation manual for the Special Access Program, which still remains in effect, contains the same type of language. It is also interesting to focus on the rationale for this approach, which is to encourage the use of U.S. formed and cut fabric, and thus the allowance of numerous "incidental operations".

More importantly, this practice was specifically adopted by the NAFTA. *See* Appendix 2.4 and Appendix 3.1(B)(10) of Annex 330-B of NAFTA. Our position is also directly supported by CITA, and we encourage you to contact that office should you have any specific questions or wish to confirm their position.

Accordingly, we suggest that subheading 9802.00.90 be amended to include the language "which in whole or in part", as set forth below. This language was inadvertently dropped in the revisions to subheading 9802.00.90. Our amendment will clarify that the intent of subheading 9802.00.90 was to allow duty-free treatment to the whole garment even though some of the American-formed fabric components do not meet all the heading 9802 requirements.

SUGGESTED CHANGES FOR SPECIAL REGIME MERCHANDISE

9802.00.90 00

> Textile and apparel goods, assembled in Mexico in which all fabric components were wholly formed and cut in the United States, ***which in whole or in part***, (a) were exported in condition ready for assembly without further fabrication,

(b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process; provided that goods classifiable in Chapters 61, 62 or 63 may have been subject to bleaching, garment dyeing, stone-washing, acid-washing, perma-pressing, ***ovenbaking, enzyme-washing, enzyme-stonewashing, or similar processes*** after assembly as provided for herein.

This provision is effective for all entries made on or after January 1, 1994.

CONCLUSION

We strongly support the above-discussed amendments to subheading 9802.00.90. The proposed changes are consistent with the intent of the NAFTA agreement which enacted the tariff provision. Additionally, the proposed amendments provide clarity to the tariff provision, which will help to avoid misunderstandings as to its proper interpretation and scope.

Thank you for your consideration of these suggested amendments. Should you have any particular questions regarding these comments or require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

Thomas G. Travis, Esq.
Legal Counsel, USAIC

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USAIC

USAIC MEMBER COMPANIES

Akra-Nylon dc Mexico
American & Efird, Inc.
Argus International, Inc.
Assembly Systems, Inc.
Bend'n Stretch, Inc.
Brown, Alcantar & Brown
Cierres Ideal de Mexico
Cluett Shirt Group
Coats American
Customs & Trade Services
East-West Trading
Emery Customs Brokers
M&F Girbaud
Haggar Apparel Co.
Levi Strauss & Co.
Miami Int'l Forwarders
Omsa Inc.
OshKosh B'Gosh
Oxford Industries
Phillips-Van Heusen Corp.
Red Kap
Rydal Manufacturing
Salant Corporation
Sara Lee Knit Products
Scovill Fasteners
Seaboard Marine Ltd.
Sea-Land Services
Texas Apparel Co.
Thompson Co.
Threads USA
Tower Group International
Tropical Garment Manufacturing
Western Textile Products Co.
Wrangler, Inc.

USA ITA
UNITED STATES ASSOCIATION OF IMPORTERS OF TEXTILES AND APPAREL

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NEW YORK, NEW YORK 10003
212-463-0089
FAX: 212-463-0583

September 8, 1995

Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Mosely:

In response to Advisory No. TR-15 issued by the Subcommittee on Trade on August 9, 1995, requesting written comments on miscellaneous trade proposals currently under consideration, the United States Association of Importers of Textiles and Apparel (USA-ITA) hereby submits its views on those proposals relevant to the importation of textile and apparel products.

USA-ITA member companies source textile and apparel products domestically and overseas. Our more than 160 members include manufacturers, distributors, retailers, and related service providers, such as shipping lines and customs brokers. We account for over $40 billion in U.S. sales annually and employ more than one million American workers.

USA-ITA supports the proposed amendments to section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995. The proposed amendments to section 334 would create an exception to the general rule for home furnishing products (under which the country in which the fabric is produced will dictate origin) in the case of products made of down-proof fabrics.

These proposed amendments would appear to address an issue raised at the Trade Subcommittee's July 11, 1995 hearing on rules of origin. At that time, the chief executive of a major domestic producer of down comforters testified that section 334 would require that his company label its comforters, which are cut, sewn, stuffed and finished in the United States, as products of the country in which the down-proof fabric is manufactured. Since there is no U.S. manufacturer of such fabric, under the current terms of the statute, the product would bear a label of a foreign country, an incredible result given the substantial labor and value added within the United States.

Our primary criticism of the amendments to section 334 is that they are too limited. The problems created by the section 334 rules affect more than products made with down-proof fabric. By establishing a radical change in the origin rules for fabrics, home furnishings and apparel accessories -- moving from a fabric rule that examines both where a fabric is formed and where it is finished, and moving from a home furnishings and apparel accessories rule that focuses on where the final product is manufactured as a result of cutting and sewing operations, to a rule that looks only at where the fabric is formed without regard to any subsequent and substantial manufacturing processes -- the United States has impacted the operations of many domestic producers and producers situated in industrialized countries. As USA-ITA noted in its July 11 testimony, in establishing rules of origin for foreign products entering the United States the Congress should be considering how those same rules would affect U.S. producers if applied by foreign governments to goods exported from the U.S. As a general rule, the section 334

rules, if implemented internationally, would have a highly detrimental impact on U.S. producers, causing them to have to label their products as being made in countries other than the United States. The highly marketable and desirable "Made in the USA" label would be precluded.

USA-ITA also strongly supports two other proposed trade provisions listed in the August 9 Advisory. First, we support the proposal to amend section XXII, Chapter 98 of the Harmonized Tariff Schedule to include ovenbaking, enzyme washing and enzyme stone washing as additional allowable finishing processes under subheading 9802.00.80. A statutory change is necessary because the U.S. Customs Service has been unwilling to interpret the current law to treat such finishing processes as analogous to washing and pressing. Given the logic of including such finishing operations at the point of assembly, many companies have either lost the benefit of entering their goods under subheading 9802.00.80, or been forced to incur additional expenses to perform these operations within the United States after importation of assembled goods in order to preserve the eligibility of their goods for entry under subheading 9802.00.80.

Finally, USA-ITA supports the proposal to amend section 631 of the NAFTA to request that the Secretary of the Treasury provide for the development of a plan by the U.S. Customs Service to create, test and evaluate the viability of paperless entry utilizing the Electronic Visa Verification System (ELVIS). **However, we strongly urge the Subcommittee to draft this provision as a direction, rather than a request, to the Treasury Department.**

Under the Customs Mod Act (enacted as part of NAFTA), Customs has been granted the authority to automate the entry process, and thereby reduce expenditures while expediting the movement of goods. However, while Congress has authorized paperless entry and electronic transmission of data, importers of textiles and apparel have been denied access to this benefit, solely on the basis of the commodity they import and not because they, as importers, would not otherwise qualify for the program. With textiles and apparel representing a significant part of total Customs entries (as much as 20 percent), the savings expected from the modernization process will not materialize so long as textiles and apparel are excluded.

The Customs Service should be permitted to apply the same automated entry procedures to all merchandise, including imports of textiles and apparel so long as a system exists to ensure that this highly regulated trade is properly monitored. USA-ITA believes that ELVIS is such a system, because it permits Customs to quickly verify the authenticity of foreign government's authorization of shipments under the U.S. quota system. However, to date, no opportunity has been provided to prove that paperless entry for products subject to ELVIS will not impair the ability of Customs to effectively enforce U.S. quota requirements. The proposed amendment to section 631 will provide this important evaluation opportunity.

USA-ITA appreciates this opportunity to provide these comments and would be glad to provide the Subcommittee with further information should there be any questions regarding this statement.

Respectfully submitted,

Laura E. Jones

Laura E. Jones
Executive Director

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

TECHNICAL AMENDMENTS
CUSTOMS AND TRADE ACT OF 1990,
AS AMENDED BY
URUGUAY ROUND AGREEMENTS ACT OF 1994
(COMMITTEE ADVISORY NO. TR-15)

STATEMENT ON BEHALF OF
VAN OMMEREN SHIPPING (USA) INC.

I
Introduction

Van Ommeren Shipping (USA) Inc., U.S.-flag vessel owners and operators of Stamford, CT, submits this statement in response to the Committee's Advisory No. TR-15. This statement is made in support of the attached proposed technical amendment to Section 484E of the Customs and Trade Act of 1990, 19 U.S.C. § 1466(h), as recently amended by Section 112, Title I, Subtitle B of the Uruguay Round Agreements Act of 1994.

The Vessel Repair Statute, first enacted in 1866,[1] was conceived to protect American shoreside labor at the expense of American vessel owners, operators, and American seagoing labor. The world and the maritime industry has changed drastically since 1866, but the Vessel Repair Statute is still on the books.[2] In recent legislation, Congress has attempted to lessen the economic burden of the Statute, but, the intended exemptions have not been recognized. Unless Congress enacts the proposed technical amendment, the Vessel Repair Statute will continue to be cited (1) as authority to impose an unwarranted, discriminatory tariff resulting in an onerous (double) duty on **U. S. purchased vessel equipment** which were intended to be included under the exemptions for "spare parts" in the GATT Agreement, and (2) as authority to deny the "spare parts" exemption (in 19 U.S.C. §1466(h)(3)) to foreign purchases administratively deemed excluded as "equipment" or "materials".

II
Legislative History

The relavant statute, 19 U.S.C. § 1466(a), states, inter alia:

> "The equipments...or the repair parts or materials to be used, or the expense of repairs **made in a foreign country** upon a vessel...shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum **on the cost thereof in such foreign country**...."(Emphasis added).

The language of 19 U.S.C. 1466(a) specifically indicates that it applies to articles purchased for a vessel in a **foreign country** (and never imported into the United States). Senate Reports indicate that the 50% duty was intended to apply to "the cost of equipment purchased or repairs made **in a foreign country** by a United States Vessel." Senate Reports 1-473, 71st Congress, Vol. 1, page 72

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[1] Act of July 18, 1866, Ch. 24, sec. 23, 14 Stat. 183.

[2] See at 19 U.S.C. § 1466 (1988).

(Emphasis added). This is also evident in House Reports which stated that "Section 3114 places a duty of 50 per cent on the cost of equipment and repairs purchased for or made upon vessels of the United States **in foreign countries.**" House Reports 1-495, 71st Congress, Vol. 1 page 171 (Emphasis added).

In 1982, the Statute was amended to provide an exemption from duty for all costs incurred after six months after the vessel's last departure from the United States, where a U.S.-flag vessel is away from the United States for two years or more. In the legislative history prior to the passage of the amendment Congressman Snyder stated that:

> "Currently U.S.-flag vessels are assessed a 50 per cent ad valorum duty on the cost of equipment, parts or materials purchased for, and repairs made to, U.S.-flag vessels **in a foreign country**, unless necessitated by an emergency." Congressional Record page E 859, March 9,1982 (Emphasis added).

III
ADMINISTRATIVE INTERPRETATION

The U. S. Customs Service also traditionally held the view that U. S. purchases were not covered under 19 U.S.C. § 1466(a). In Customs Headquarters Ruling #102154, Customs held if "vessel parts are imported into the United States...and duty is paid on those parts...the part would not be subject to duty under section 1466...since the purchase is not within the contemplation of section 1466." Later in Customs Headquarters Ruling #104700, Customs held that if parts are purchased in the United States the cost of the parts is not subject to duty under 19 U.S.C. § 1466. In 1988 Customs Headquarters Memorandum (Guidelines) #109408 stated that if a vessel owner purchases repair items previously imported, duty paid under the TSUS, and those items are installed abroad, the repair items are not dutiable under 19 U.S.C. 1466(a). This view (interpretation) at Customs suddenly changed in 1988. (See Customs Headquarters Ruling Letter 109703).

IV
CONGRESS ENACTED SECTION 484E OF THE CUSTOMS AND TRADE ACT OF 1990 TO END UNFAIR, UNJUSTIFIABLE, OPPRESSIVE TARIFF ASSESSMENTS AGAINST VESSEL PARTS, MATERIALS AND EQUIPMENT PURCHASED IN THE UNITED STATES OR ABROAD

In 1990, evidence was presented to this Committee regarding "The Spare Parts Dilemma Under The [Vessel Repair] Statute."[3] The Committee was advised that large ocean liner vessels must carry spare parts, material and equipment which can be utilized, where and when necessary, on long voyages or during port calls in foreign countries.[4] Beginning in 1988, the Customs Service interpreted the Vessel Repair Statute, 19 U.S.C. § 1466(a), to mandate assessment of the high 50% ad valorem duty rate on American-purchased parts, materials and equipment if same were installed on a U.S.-flag vessel while the vessel was away from the United States.[5]

Under Customs' rules and decisions, foreign manufactured parts, equipment, and materials acquired before newly-built or re-flagged vessels were documented under the U. S. flag were not subject to duty under the Vessel Repair Statute, but parts and equipment thereafter purchased from foreign suppliers and brought to the United States by the vessel itself were held to be dutiable at the oppressive 50% ad valorem rate under the Repair statute.[6] However, if those same foreign

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[3] See Ways and Means Committee Print No. 101-32, 101st Cong., 2d Sess., p. 22 (6/25/90).

[4] Id.

[5] Id., at p. 23; and, Customs Headquarters Ruling Letter 109703

[6] Id.

manufactured parts, equipment, and materials were delivered to the United States by air or aboard another vessel, they could enter this country at the far lower commodity duty rates specified by the Harmonized Tariff Schedule.[7] But then, under Customs' new interpretation of the Vessel Repair Statute (in 1988), they became subject to "double duty" if they were later installed on a U.S.-flag vessel in a foreign shipyard.[8]

Confronted with these confusing, debilitating tariff rules and assessments, the U.S. maritime industry as a whole urged this Committee to exempt vessel repair parts, equipment, and materials from duty liability under the Vessel Repair Statute.[9] In order to correct the faulty interpretation of the Statute by Customs, Congress passed 19 U.S.C. § 1466(h). In response to the maritime industry's requests, Congress added an exemption from duty for parts purchased outside the United States and thereafter imported duty paid under the HTSUS classification for that particular item.

The Customs and Trade Act of 1990, Section 484E(a) provided:[10]

"Sec 484E. Foreign Repair of Vessels

"(a) In General - Section 466 of the Tariff Act of 1930
(19 U.S.C. § 1466) is amended by adding at the end thereof the following new subsection.

"(h) The duty imposed by subsection (a) of this section shall not apply to ----....

"(2) the cost of spare repair parts or materials... which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country."

On the Senate floor, Chairman Breaux emphasized that the 1990 legislation was thus intended "to eliminate" unfair, oppressive duty assessments on vessel parts imported from abroad and purchased for use on U.S.-flag vessels.[11] The Senate Finance Committee Report issued in support of the legislation stated, in turn: "[The bill] exempts vessel spare repair parts and materials from application of the 50 percent vessel repair duty provided that duty was paid under the appropriate HTS commodity classification upon first entry into the United States."[12] The Senate report goes on to state, at p. 38:

"This section applies to spare parts carried aboard an individual vessel as well as to fleet spare parts and materials stored on land, provided they are intended for

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[7] Id.

[8] As the 1990 record before this Committee demonstrates, on April 19, 1989, Customs issued a set of "easily applied rules," No. 5 of which stated:

"5. The dutiability of foreign made repair parts/materials under § 1466 is not affected by the fact that they may have been previously imported, duty paid, into the United States and then exported for installation or placement aboard a vessel. They are subject to duty ["double duty"] under § 1466 upon first arrival of the vessel."

[9] WMCP 101-32, pp. 20-36.

[10] See 19 U.S.C. 1477(h)(2).

[11] See Congressional Record, 4/20/90, at p. S4715.

[12] S.Rept. 101-252, 101st Cong., 2d Sess., p. 38.

> installation or use aboard a cargo vessel. **This section is intended to ensure that vessel owners will pay duty on such parts and materials only once, at the time of first entry into the United States.**" (Emphasis added)

In 1994 the GATT Uruguay Round Agreements Act, Pub.L. 103-465, Section 112, Title I, Subtitle B made the "parts" exemption in (h)(2) permanent. In addition, Section 112(b) added a new subsection (3) to 19 U.S.C. § 1466(h), which reads as follows:

> "(b) Exemption For Certain Spare Parts - Section 466(h)of the Tariff Act of 1930 (19 U.S.C. § 1466(h)) is amended...
>
> "(3) by adding at the end the following new paragraph:
>
> "(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States of each such spare part purchased in, or imported from a foreign country."

The industry believed that the legislation would end the discriminatory double duty on all articles purchased for use on or to repair their vessels, however, this has not been the result.

III

ENACTMENT OF THE PROPOSED TECHNICAL AMENDMENT IS ESSENTIAL

After January 1, 1995, the effective date of the GATT provision on vessel parts, the U. S. Customs Service issued a memorandum to all Customs Regional Vessel Repair Liquidation Units[13] which distinguishes between "parts," "equipment," and "material." The memorandum holds that the "spare parts" duty exemption in 19 U.S.C. 1466(h)(3) only applies to "parts" (and **not** to "materials" or "equipment"), and, that the duty exemption in 19 U.S.C. 1466(h)(2) only applies to "parts" and "materials" (and **not** to "equipment"). Customs Headquarters Letter 113316 of July 26, 1995, discussed the present administration of 19 U.S.C. 1466(h). Therein Customs stated at p. 2:

> "The major difference between the former and present administration of the provision is the recognition of its limitation to parts and materials. Formerly, the benefits of (h)(2) were extended to **all expenditures** except the "expenses of repairs" (foreign labor costs). With the enactment of the new (h)(3), we recognize the intent of Congress to limit the scope of the subsection (h) provisions since the new (h)(3) is even more restrictive than (h)(2), extending only to the cost of "spare parts" and excluding even the cost of materials" as included under (h)(2)....These purchases are specifically dutiable under subsection (a) of the statute, and are not relieved of duty under subsection (h)(3)" (Emphasis added).

The requested amendment is necessary to clarify the "spare parts" exemption in 19 U.S.C. 1466(h) to make it plain that the exemption covers not only "parts," but also "equipment" and "materials". If the "parts," "equipment," or "materials," were purchased in the United States or imported into the United States prior to use, then the exemption in (h)(2) should apply. If the "parts," "equipment," or "materials" were purchased outside the U. S. (and not imported prior to use) then, when the vessel returns to the U. S., the exemption in (h)(3) should apply.

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[13] Customs Headquarters Memorandum No. 113291 of May 31, 1995.

Without the technical amendment, the Vessel Repair Statute will be cited to justify and discriminatorily impose a 50% duty on foreign purchases which Customs deems are not within Customs' definition of "spare parts."

As indicated in the legislative history, Congress intended to "end" and "eliminate" this discriminatory double duty on imported merchandise in 1990 and also to extend this coverage to foreign purchased merchandise (under the provision for "spare parts" in the GATT Agreement). Unless Congress enacts the proposed technical amendment, unjust tariff discrimination will continue on equipment and materials purchased abroad for use on U.S.-flag vessels, and, unjustifiable (double) duty collections will be imposed on **U. S. purchased vessel equipment**.

Conclusion

There is no logical reason to exclude foreign purchased vessel "equipment" or "materials" from the exemption for "spare parts" created in (h)(3) and passed by Congress in the GATT Agreement. Also, without the technical amendment, the Vessel Repair Statute will cited to justify and discriminatorily impose a double duty on items (vessel equipment) that Customs once held were exempt under the 1990 legislation, but which Customs now holds are **not** exempt[14]. This administratively imposed (by Customs) distinction between "parts" and "equipment" and "materials" will only perpetuate the unfair and onerous duty that 19 U.S.C. § 1466(h) was intended to end.

In conclusiont Van Ommeren Shipping (USA) urges the Committee to adopt and favorably report the attached technical, clarifying amendment as part of any legislation which might result form the current proceedings or any other relevant proceedings.

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[14] See Customs Headquarters' Memorandum 113291 of May 31, 1995 and Customs Headquarters' Letter 113316 of July 26, 1995.

PROPOSED TECHNICAL AMENDMENT

CUSTOMS AND TRADE ACT OF 1990, AS AMENDED BY URUGUAY ROUND AGREEMENTS ACT OF 1994.

A. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(2), is further amended so paragraph (2) reads as follows:

> "(2) the cost of parts or materials **or equipments** (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, buy only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such parts or materials or equipments purchased in, or imported from, a foreign country, or"

B. Section 484E(a) of the Customs and Trade Act of 1990, Pub.L. 101-382, Title IV, 19 U.S.C. § 1466(h), as amended by Section 112(b)(3) of the Uruguay Round Agreements Act of 1994, Pub.L. 103-465, Title I, Subtitle B, 19 U.S.C. § 1466 (h)(3), is further amended so paragraph (3) reads as follows:

> "(3) the cost of parts, equipment or materials installed on a vessel before the first entry of such parts, equipment or materials into the United States, but only if duty is paid, or a bond or other acceptable security for duty is posted, under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part, equipment or materials purchased in a foreign country."

VON MAUR

September 1, 1995

The Honorable Philip Crane, Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your August 9, 1995 request for written comments, we wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterized this as a mere "technical" change, in reality, the bill would drastically increase the duty on many of the flat goods sold by us -- from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately will pay for this dramatic tariff hike,

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

VON MAUR

John R. Arth
President

JRA/jmb

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMENTS OF WARM THINGS, INC.
IN RESPONSE TO ADVISORY TR-15 DATED AUGUST 9, 1995

Warm Things, Inc. appreciates the opportunity to submit written comments to the Committee on Ways and Means Subcommittee on Trade in response to Advisory TR-15 published on August 9, 1995.

Warm Things, Inc. is in full support of Amendment 1.(a) of the advisory which is stated as follows:

Uruguay Round Agreements Act of 1995

1. Amend section 334(b)(2)(A) of the Uruguay Round Agreements Act of 1995:

> ***(a) by inserting after "6307.90:" "(except for shells for pillows, quilts, eiderdowns, and comforters made of down proof fabrics of cotton, 85 percent or more by weight of cotton, classified under Harmonized Tariff Schedule (HTS) subheading 6307.90)"***

Warm Things, Inc.

Warm Things, Inc. is a manufacturer and retailer headquartered in San Rafael, California with four (4) retail stores in the Bay Area. For the past twenty-two (22) years, we have been manufacturing down comforters and a variety of other products, including down and feather pillows and featherbeds. Warm Things, Inc. has fifteen (15) employees whos jobs are now in jeopardy because of the published rules.

Background Information

1. Cotton down proof fabric is not manufactured in the United States in any commercially viable quantity. Thus, no U.S. textile jobs are being protected by the new country of origin rules concerning these products.

2. There are three countries in the world that produce commercial quantities of cotton down proof fabrics. Those countries are China, India, and Germany. Of these three producer countries China offers the best value (i.e. price quality relationship) for the U.S. marketplace, and thus, a majority of the cotton down proof fabric used in the shells that are used by United States manufacturers of down and feather filled items is woven in China.

3. Down proof comforter shells of cotton are under textile quota restraint category 362. These shells comprise a small part of quota category 362 which includes other textile bedding items such as comforter covers, filled comforters and quilts.

4. In 1994 the quota from category 362 from China filled on June 30. It was reopened on July 22, 1994 to offer a special one time carry forward from 1995 of 20% of 1995's quota allocation. The additional quota closed upon opening on July 22, 1994.

5. In 1995 the quota from category 362 from China filled on March 6 and will be embargoed for the balance of this year.

6. There are manufacturers of cotton down proof comforter shells that use fabric woven in China but are cut and sewn in a different country (e.g. Hong Kong, Macau). Our company utilizes and depends on sources of comforter shells that engage in multi-country manufacturing using greige goods woven in China. At the present time, comforter shells and pillow shells are considered to originate in the country in which they are substantially transformed into a new and different article of commerce, having a new name, character, and use.

7. Under the new rules published by the Treasury Department the country of origin of cotton comforter shells made of down proof fabrics would be the country in which the greige cloth, used in making the comforter shell, was woven. This rule would eliminate the manufacture of comforter shells that originate in Hong Kong, Macau, and any other country that did not have the technology, investment, and dedication to the weaving of down proof fabrics of cotton.

8. In a situation of limited quota allocation, countries will normally give the available quota to those goods with the highest value added in their own country. Comforter shells are a part of the lower value items in quota category 362, and thus it is very difficult to obtain quota when the demand exceeds the supply. Because of these factors (general lack of quota and difficulty in obtaining the quota that does exist), sourcing of shells directly from China is unreliable.

9. Many companies, including ours, rely on a supply of shells made in countries other than China which are manufactured from cloth woven in China in the greige form. It is not economically feasible for us to engage in the cut and sew manufacturing operations that would be required to make these shells in the United States and remain competitive in the U.S. or global marketplaces.

Reasons for Support of Trade Proposal 1.(a)

The reasons for support of Trade Proposal 1.(a) can be clearly and concisely stated in the following points.

- One of the main goals of Section 334(b)(2)(A) is to protect U.S. textile workers by a redefinition of the country of origin rules that would prevent transshipments of textile goods from occurring. Because there is no commercially viable quantity of down proof fabric made in the United States, there are no U.S. textile jobs being protected.

- The country of origin rules promulgated by the Department of Treasury under Section 334 (b)(2)(A) of the Uruguay Round Agreements Act would cause the sourcing patterns of comforter and pillow shells made of cotton down proof fabrics to become chaotic by changing the current country of origin rules and by so doing remove a number of current reliable and established sources of these producer goods. The country of origin of these goods, in most of these cases would revert to China, the country in which the fabrics were woven in the greige state.

- The shells used in down and feather filled products are not manufactured in the United States from down proof fabric woven in foreign countries. U.S. companies have attempted the manufacturing of these shells in the United States and have concluded that it is not economically feasible. United States manufacturers of these products rely on shells, as an input to their manufacturing, from sources outside the United States.

- The quota from China on category 362 has filled early in the year last year and this year and cannot be relied on for sourcing of these shells from China. Buyers of these goods cannot afford to bring in a year's supply of shells and Sellers of these goods cannot afford to finance a year's supply to their buyers in order to bring the goods into the United States before the quota would close for the year.

- Without a solid source of supply of down proof cotton comforter shells and pillow shells, U.S. manufacturers would need to curtail, or stop their manufacturing of down and feather filled products in the United States and find a location that would be conducive to having a reliable supply of shells available.

- Some American companies have already set up operations in Canada because of the more reliable supply of cotton down proof comforter shells from China that can be obtained in Canada, filled in Canada, and brought into the United States under the NAFTA. More companies would be forced to consider this as an alternative if this amendment is not passed. Thus, instead of protecting or even creating new American jobs, as was the intent of Section (b)(2)(A), the result of the new country of origin rules would be the eventual destruction of American jobs.

- The amendment should be passed to allow the goods listed in the amendment to originate in the country in which the goods are wholly assembled; the rule described in Section 334(b)(1)(D).

- The amendment is sound trade policy and should be added to legislation to be passed into law by the Congress of the United States.

Conclusion

We urge the Subcommittee on Trade to fully support this amendment by presenting this amendment to the Congress of the United States for passage into law.

We thank the Subcommittee for the opportunity to express our full support of amendment 1.(a) of Advisory TR-15 and for the consideration of the Subcommittee of these comments. We stand ready and willing to share any further information the Subcommittee might require on this subject.

Respectfully submitted,

Richard Smith-Allen
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Comments of Michael B. Clark

on behalf

of the Wilmington Trust Company

on a proposal to

"Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars which are both cast and minted"

before

The Subcommittee on Trade of the Ways and Means Committee

September 7, 1995

The Wilmington Trust Company appreciates the opportunity to submit comments for the record with regard to the proposal to "Amend subchapter II of chapter 71 of the HTS to correct the definition of gold and silver bullion bars to include bars which are both cast and minted." We strongly support this legislative proposal, and urge the Subcommittee's favorable consideration and adoption of this technical correction.

The Wilmington Trust Company is Delaware's largest independent commercial banking institution and one of this nation's largest trust and custody institutions. The company operates one of the largest precious metals depositories in North America serving participants in the precious metals industry at every level, including refiners, major commodity dealers, brokerage houses, banks and mutual funds, as well as individual investors. In 1987 Wilmington Trust was named by the New York Mercantile Exchange its first licensed depository for precious metals storage outside New York City. The company now serves hundreds of institutional clients and many thousands of individual clients the world over.

Background

Gold is marketed in a wide range of bars, and are either cast or minted in their production. Their weights can range from 1 gram to 400 troy ounces. The specifications for these bullion products must conform to specific standards set by the internationally recognized bullion exchanges, and must bear the marks of recognized refiners and assayers. The bars commonly traded in the international market are the 400 troy ounce "good delivery bar," and the 1 kilo bar. These products are produced through casting of the metal.

A wide variety of small bars, ingots and wafers are also traded, their weights can range from 1 gram to 500 grams. This latter category is commonly known in the marketplace as "minted bars," which refers to the process of their manufacture. Minted bars are popular amongst small investors here in the United States, but also in Asia, Europe and the Middle East. Their purity, like that of the cast bars, is 99.5 fine or greater. The production method has no effect on the product.

Bars are minted for reasons of efficiency and practicality for the manufacturer. The only difference between cast and minted bullion bars is the method of production.

The proposal under consideration would negate a proposed Customs Service reclassification of minted gold and silver bullion bars within the Harmonized Tariff Schedules of the United States (HTS), which was adopted in 1989. The Customs Service proposed reclassification would raise the duty on these bars from zero percent to 7.8% for gold, and from zero to 5.4% for silver. In effect, this imposition of duty would exclude bars from foreign producers in Asia and Europe from the U. S. market, thereby causing unnecessary disruption to the world's gold and silver markets.

The Customs Service's proposed reclassification is the result of an unintentional drafting error which occurred, in 1989, in the conversion of the Tariff Schedules of the United States "TSUS") into the Harmonized Tariff Schedules of the United States. As a result, the Customs Service proposes to reclassify minted gold and silver bars under the provisions for other articles of gold and silver, in HTS heading 7115 at a duty of 7.8% and 3.4%, respectively. Should these tariffs go into effect, the importation of these products will cease. These investment products sell at very small premiums over the daily world market prices; consequently, these tariffs would make these products prohibitively expensive.

Wilmington Trust Company provides precious metals depository services to suppliers as well as consumers of precious metals products. Given that the proposed tariffs would effectively render the effected products prohibitively expensive, they will have a severe impact on the business activities of our customers and, therefore, on our depository operations as well. These tariffs would effectively limit the types of products suppliers could offer to the marketplace and would

restrict the options available to American consumers of these products. Consequently, these tariffs will also have a highly detrimental impact on the precious metals depository business of Wilmington Trust.

Proposed Legislation

The proposal under consideration would remedy the drafting oversight found in the HTS, and allow the markets to flow freely and without unnecessary restraint, and provide the customer the widest possible investment options for gold and silver bullion products. Because gold and silver bullion bars, whether cast or minted, have always been duty-free for the past century, enactment of this corrective legislation would appropriately retain that status.

Conclusion

The Wilmington Trust Company urges adoption of this legislative proposal which will properly retain the duty-free treatment accorded importation of gold and silver bullion bars for over 100 years, and thereby prevent the disruption of gold and silver markets. We respectfully request the Subcommittee to adopt it at the earliest opportunity. We appreciate being given the opportunity to comment on this proposal.

Younkers
P.O. BOX 1495
DES MOINES / IOWA 50397
EXECUTIVE OFFICES

September 7, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

We wish to express our strong opposition to H.R. 1779, relating to the tariff classification of certain flat goods. The products affected by this legislation include wallets, coin purses, and similar items having an outer surface of plastic sheeting reinforced with a textile or fabric backing.

While sponsors characterize this as a mere "technical" change, in reality, the bill would drastically increase the duty from an effective rate of 5.8% to 20%! This legislation would be detrimental to our company, as well as to consumers, who ultimately pay for this dramatic tariff hike.

We urge your Subcommittee to reject this legislation. Thank you for your consideration of our views.

Sincerely,

Jo Sauvageau
Senior Vice President,
General Merchandise Manager

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