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June 7, 2002

VIA E-MAIL & FACSIMILE

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

Re: Comments on H.R. 4179 -- A Bill to Make Technical and Noncontroversial Changes to the Production Incentive Certificate ("PIC") Program for Insular Possession Watches and Jewelry

Dear Mr. Chairman:

Pursuant to the May 2, 2002 Advisory of the Subcommittee on Trade (Trade Advisory TR-9) requesting written comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills, the U.S. Virgin Islands Watch and Jewelry Manufacturers Association ("VIMA"), through its attorneys, hereby provides comments in support of H.R. 4179. This measure, introduced by Representatives Donna Christian-Christensen, Nancy Johnson and Michael McNulty, would make technical and noncontroversial changes to the Production Incentive Certificate ("PIC") program, which benefits the production of watches and jewelry in the U. S. insular possessions.

Over the last quarter century, Congress has demonstrated a special concern for the health and survival of the insular possession watch industry through the PIC program and other watch industry incentives. In 1999, in an effort to assist the economies of the insular possessions, Congress extended many of these incentives to jewelry produced in the insular possessions. H.R. 4179 would make various technical adjustments to enhance the ability of insular watch and jewelry producers to utilize the PIC program while, at the same time, retaining overall PIC program unit and dollar value limits. Additionally, H.R. 4179 would establish a standby mechanism to facilitate the possible future reduction or elimination of watch duties on a

worldwide basis through trade negotiations and congressional action. This mechanism -- which has broad support among the insular and domestic watch manufacturing and distribution sectors -- would ensure that any future reduction in watch duties does not disturb the relative value of current duty incentives and PIC program benefits for the insular watch industry. Importantly, this standby mechanism would have no effect on current watch duties or PIC program limits.

H.R. 4179 meets the criteria for inclusion in the Committee's technical corrections and miscellaneous tariff package. The bill would improve the administration of the PIC program, and should not result in any revenue loss. There is also no known opposition to the measure, which enjoys broad support from the insular watch and jewelry industry and domestic watch producers and distributors.

Background

VIMA represents the U.S. insular watch industry, all of which is based in the U.S. Virgin Islands ("USVI"). The watch industry is the largest light manufacturing industry in the USVI and remains one of the most important direct and indirect sources of private sector employment in the Territory. The insular watch production industry is also highly import-sensitive and faces continued threats from multinational watch producers, who have continued to move their watch production to lower wage countries.

Congress and successive Administrations have recognized the importance of the watch industry to the USVI -- and the import sensitivity of watches -- through a series of significant enactments and decisions. The General Note 3(a) program, which Congress has incorporated in the Harmonized Tariff Schedule, grants duty-free treatment for qualifying insular possession watches and thereby provides a relative duty advantage vis-à-vis foreign watch producers. Through the PIC program, insular possession watch producers can obtain duty refunds based on creditable wages paid for watch production in the insular possessions. Under a special injury test for watches established by Congress in 1988 for trade benefits under the Generalized System of Preferences ("GSP"), Presidents of both parties have repeatedly denied -- in 1989, 1991, 1993 and 1997 -- requests for GSP duty-free treatment foreign-made watches of the types produced in the USVI. Additionally, in recognition of the relative advantage that duty-free treatment of watches provides to insular possession watch producers, Congress and the Administration have resisted efforts to eliminate watch duties on a worldwide basis.

In 1999, Congress extended the General Note 3(a) program and PIC program benefits to jewelry produced in the insular possessions. In doing so, Congress sought to promote vital employment in the insular possessions by extending existing watch industry incentives to jewelry production -- an industry which utilizes many of the same skills and facilities as watch production. The important initiative by Congress led directly to the establishment of a number of new jewelry production operations in the USVI.

In early 2000, VIMA and its members consulted with the American Watch Association ("AWA") and U.S. watch firms that import substantial quantities of foreign made watches regarding proposals to preserve and protect benefits for insular possession watches and

jewelry, while also facilitating the eventual reduction or elimination of duties on imported watches. These discussions resulted in the parties' unified support for the provisions included in H.R. 4179, which, as noted, would make technical and noncontroversial adjustments to the PIC program.

Technical Changes to the PIC Program

Under the PIC program, producers of watches and jewelry in the U.S. insular possessions are issued certificates by the Department of Commerce for specified percentages of the producer's verified creditable wages for production in the insular possessions. Based on these certificates, the producers are entitled to apply to the U.S. Customs Service for refunds on duties paid on watches.

The PIC program provides important benefits to watch and jewelry producers in the insular possessions. However, certain technical provisions of the program impose unnecessary burdens on producers. These include unclear definitions, unduly complex PIC refund provisions and special issues relating to the extension of PIC benefits to jewelry. H.R. 4179 includes technical adjustments to the PIC program to eliminate these burdens, while retaining overall PIC program limits on units and benefits. Specifically, the bill would address the following technical issues:

Direct Payment. Currently, producers must assemble often voluminous import entry information and apply to U.S. Customs for wage-based refunds. If a producer has not paid sufficient import duties, the producer must sell the PIC certificate to another firm, which then applies for the duty refund. In either event, the PIC program assures that an insular producer is compensated for a specified percentage of its verified production wages, regardless of whether it has paid the corresponding amount of import duties. H.R. 4179 would simplify this refund process by providing producers with the option of applying directly to the Treasury Department for the full amount of their verified PIC program certificates.

Usual and Customary Fringe Benefits; Training. H.R. 4179 would clarify current law by stating explicitly that verified wages include the amount of usual and customary fringe benefits. Additionally, to the extent permitted by the Secretaries of Commerce and the Interior, the wages of training personnel would be included in the definition of verified wages.

Individual Producer Limits for Jewelry. For watches, the PIC program establishes a 750,000 unit limitation on the number of watches used to calculate an individual producer's PIC benefits. When the PIC program was extended by Congress to jewelry, this upper limit was also extended to each individual jewelry producer's qualifying jewelry production. While this limit may be appropriate for watches, which are technically sophisticated and relatively expensive, it is likely to unduly limit jewelry production in the insular possessions, which relies on large quantities of relatively lower-priced units. H.R. 4179 would address this issue by eliminating the 750,000 unit per producer limit for jewelry, while retaining the overall unit and dollar value limits for the PIC program as a whole.

Transition Rule for Jewelry. When Congress extended the PIC program to jewelry in 1999, it sought to encourage the phased establishment of new jewelry production in the insular possessions through a transition rule. Under this rule, jewelry items which were assembled (but not substantially transformed) in the insular possessions before August 9, 2001 would be eligible for PIC program and duty-free benefits. Before its expiration, this transition rule helped attract substantial new jewelry production to the USVI. However, various practical and administrative difficulties prevented other interested producers from benefitting from this rule. H.R. 4179 would extend this transition treatment for a limited 18-month period only for the jewelry imports on new insular possession producers.

Extension of PIC Program. H.R. 4179 would help to facilitate long term planning by existing insular producers and attract new producers to the insular possessions by extending the authorized term of the PIC program until 2015.

Facilitating the Eventual Reduction or Elimination of Watch Duties

For many years, multinational companies that import substantial quantities of foreign-made watches into the United States have sought to reduce or eliminate U.S. watch duties, either through multiple petitions for duty-free treatment for watches from certain GSP-eligible countries or through worldwide elimination of watch duties in trade negotiations. Insular possession watch producers have repeatedly opposed these efforts on the ground that the elimination of duties on foreign watches would eliminate the relative benefit that insular possession producers receive through duty-free treatment under the General Note 3(a) program and, in turn, lead to the eventual demise of the insular watch industry. Successive Congresses and Administrations have agreed with these arguments and refused to erode the benefits which insular possession producers receive under General Note 3(a) and the PIC program.

These continued battles over watch duties and the insular possession watch program have imposed significant resource burdens on Virgin Islands watch producers and the Government of the U.S. Virgin Islands, diverting resources and energy that could better be spent in enhancing growth and employment in the insular watch and jewelry industries. As a result, VIMA and its members met in early 2000 with AWA and representatives of U.S. firms that import foreign-made watches regarding the possibility of reconciling existing insular possession watch benefits with the worldwide reduction or elimination of watch duties. These discussions culminated in agreement among the parties on two mechanisms -- now incorporated in H.R. 4179 -- to help facilitate the eventual reduction or elimination of watch duties, while also preserving existing watch benefits.

Standby PIC Benefit. H.R. 4179 would put in place a standby mechanism that would preserve the benefits of duty-free treatment under General Note 3(a) in the event that Congress and a future Administration were to agree to eliminate or reduce duties on watches. This mechanism would preserve the relative tariff advantage that insular producers currently enjoy over foreign-made watches by incorporating a "hold harmless" provision in the PIC program. Under this standby mechanism, if watch duties were reduced or eliminated in the

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future, PIC payments to insular producers would also include an amount which reflects the value to the insular producers of the current General Note 3(a) benefit. This mechanism would facilitate the eventual reduction or elimination of watch duties on a worldwide basis while helping to assure that any such duty reduction does not lead to the demise of the insular industry.

Alternative Funding Source. Currently, payments under the PIC program are funded from watch duties. An alternative funding source would be required if watch duties were reduced or eliminated on a worldwide basis. H.R. 4179 provides that PIC benefits can be funded from jewelry duties or duties on other appropriate products.

It is important to bear in mind that these mechanisms would only be activated in the event that watch duties are reduced or eliminated in the future-- decisions that would require considerable deliberation and consultation by the President and Congress. By assuring the continuation of current benefits for insular producers, however, these mechanisms would greatly facilitate any eventual decision by Congress to reduce or eliminate watch duties.

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Congress and the Committee have long recognized that the current watch industry incentives are critical to the health and survival of the watch industry in the U.S. Virgin Islands. By incorporating H.R. 4179 in its version of miscellaneous tariff legislation, the Committee would help improve the administration of the PIC program for insular watch and jewelry producers and establish a mechanism to facilitate the eventual reduction or elimination of watch duties on a worldwide basis. The provisions of H.R. 4179 are either technical or noncontroversial in nature and should result in no revenue loss. Moreover, the legislation enjoys the support of broad segments of the U.S. watch industry, including VIMA, the AWA and major U.S importers of foreign watches.

Respectfully submitted.

Peter N. Hiebert
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Counsel to the U.S. Virgin Islands Watch
and Jewelry Manufacturers Association