

March 24, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: H.R. 2770 (105th Congress), Representative Shaw (FL).

Companion bill: None.

Title as introduced: To amend the Tariff Act of 1930 to provide for a deferral of the duty on large yachts imported for sale at boat shows in the United States.

Summary of bill:²

The bill would defer the duty on large yachts exceeding 79 feet in length and used principally for recreation and pleasure, that are imported for sale at U.S. boat shows, until the time of sale, not to exceed a period of six months, if the importer of record certifies to the Customs Service that a yacht is being imported for sale at a boat show in the United States and posts a bond in an amount equal to twice the amount of the duty ordinarily owed on the yacht. The duty would be calculated at the rates given in subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States (HTS).

Effective date: 15 days after enactment.

Retroactive effect: None.

Statement of purpose:

Representative Shaw stated in the *Congressional Record*:³

A single large luxury boat can literally pump tens of thousands of dollars into the local economy a month. For example, the cost of supporting a crew, docking fees, boat repairs, supplies, and other related expenditures while the boat is moored at a domestic marina all help the economy and create jobs. Attracting these types of vessels to our shores is therefore beneficial to the economy.... Unfortunately, current law and customs regulations as applied to large yachts have the unintended consequence of discouraging the sale of these vessels domestically. This is primarily for two reasons. First, when the yacht is

¹ Industry analyst: Zachary Falls (205-3360); attorney: Leo Webb (205-2599).

² See appendix A for definitions of tariff and trade agreement terms.

³ *Congressional Record*, vol. 143, No. 148, daily ed. (Oct. 29, 1997), (p. H. E2114).

imported into the United States for sale, the duty must be paid immediately, whether the yacht is eventually sold or not. This requirement is onerous for the yacht seller, because if the yacht is not sold, he or she cannot get a timely or full refund of the duty.... If the value of the yacht exceeds \$1 million, the loss of funds to the seller can be quite substantial....

My bill would remedy this problem by deferring payment of the duty on large pleasure boats until after the sale has been consummated. In order to ensure that the duty is paid when the boat is sold, the foreign seller would be mandated to post a bond, the value of which would be twice the amount of the duty.

Product description and uses:

Large yacht: A large yacht is a water-going vessel exceeding 79 feet in length that is used primarily for recreation or pleasure.

Tariff treatment:⁴

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
Sailboats.....	8903.91.00	1.5 %
Motorboats.....	8903.92.00	1.5 %

Structure of domestic industry (including competing products):

There are approximately 18 manufacturers of large yachts in the United States. Some of the major producers include Broward Marine, Hatteras Yachts, Christiansen Yachts, Delta Marine, Burger Yachts, Palmer Johnson Yachts, Admiral Marine, Trinity Yachts, and Trident Shipworks. Typically, less than 100 yachts in this size range are produced each year in the United States, with the 80-89-foot range experiencing the greatest growth in the past year. Most large yachts are custom-built to owner specification, but there is also a significant market for used yachts. In 1994-96, the U.S. industry accounted for approximately 40 percent of world production in quantity of large yachts produced.

Private-sector views:

Commission staff contacted one company which produces this product, one industry association representing manufacturers, and one trade association.⁵ The company and associations had not submitted

⁴See appendix B for column 1-special and column 2 duty rates.

⁵Manufacturer:

Hatteras Yachts, contacted by telephone February 11, 1998.

Associations:

any written comments as of the date of preparation of this report.

U.S. consumption:

Large Yachts:	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$ millions)-----		
U.S. production.....	564	673	812
U.S. imports.....	53	68	114
U.S. exports.....	54	64	77
Apparent U.S. consumption ⁶	563	677	849
Principal import sources:	Netherlands, Italy, Germany, United Kingdom		
Principal export markets:	Canada, Mexico, Bahamas		

Effect on customs revenue:

Future effect: None.

Retroactive effect: None.

Technical comments:

The text of the bill refers to large yachts subject to duty under HTS subheading 8903.92.00. The Commission notes that large yachts are also subject to statistical reporting number 8903.92.00.65 of the HTS.

The Commission also notes that the Customs Service would need to keep the entries open on large yachts under this bill until the time of sale, for up to six months. The Customs Service would also need to establish a procedure for collecting posted bonds, closing entries after six months, and then collecting the duty or collecting on the bonds.

Finally, the Commission suggests that the phrase: “the intention of offer for sale” in line 8, page 2, should probably read: “the intention to offer for sale”.

National Marine Manufacturers Association, contacted by telephone February 9, 1998.

Marine Industries Association of South Florida, contacted by telephone February 6, 1998.

⁶Production figures are estimated based on the number of large yachts produced in the United States each year and the average price of large yachts. Import and export data are available only in an aggregate form. Exports are approximated as a percentage of production based on the ratio of exports to production and imports as a ratio of imports to exports for the aggregate data available for the SIC number for the industry. The data on U.S. consumption are therefore an approximate number and subject to error.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth

in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

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APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

105TH CONGRESS
1ST SESSION

H. R. 2770

To amend the Tariff Act of 1930 to provide for a deferral of the duty on large yachts imported for sale at boat shows in the United States.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 1997

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

A BILL

To amend the Tariff Act of 1930 to provide for a deferral of the duty on large yachts imported for sale at boat shows in the United States.

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

3 **SECTION 1. DEFERRAL OF DUTY ON LARGE YACHTS IM-**
4 **PORTED FOR SALE AT UNITED STATES BOAT**
5 **SHOWS.**

6 (a) IN GENERAL.—The Tariff Act of 1930 (19
7 U.S.C. 1304 et seq.) is amended by inserting after section
8 484a the following:

1 **“SEC. 484b. DEFERRAL OF DUTY ON LARGE YACHTS IM-**
2 **PORTED FOR SALE AT UNITED STATES BOAT**
3 **SHOWS.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of law, any vessel meeting the definition of a large
6 yacht as provided in subsection (b) and which is otherwise
7 dutiable, may be imported without the payment of duty
8 if imported with the intention of offer for sale at a boat
9 show in the United States. Payment of duty shall be de-
10 ferred, in accordance with this section, until such large
11 yacht is sold.

12 “(b) DEFINITION.—As used in this section, the term
13 ‘large yacht’ means a vessel that exceeds 79 feet in length
14 and is used primarily for recreation or pleasure.

15 “(c) DEFERRAL OF DUTY.—At the time of importa-
16 tion of any large yacht, if such large yacht is imported
17 for sale at a boat show in the United States and is other-
18 wise dutiable, duties shall not be assessed and collected
19 if the importer of record—

20 “(1) certifies to the Customs Service that the
21 large yacht is imported pursuant to this section for
22 sale at a boat show in the United States; and

23 “(2) posts a bond, which shall have a duration
24 of 6 months after the date of importation, in an
25 amount equal to twice the amount of duty on the
26 large yacht that would otherwise be imposed under

1 subheading 8903.91.00 or 8903.92.00 of the Har-
2 monized Tariff Schedule of the United States.

3 “(d) PROCEDURES UPON SALE.—

4 “(1) DEPOSIT OF DUTY.—If any large yacht
5 (which has been imported for sale at a boat show in
6 the United States with the deferral of duties as pro-
7 vided in this section) is sold within the 6-month pe-
8 riod after importation, entry shall be completed and
9 duty shall be deposited with the Customs Service.
10 Duty shall be calculated at the rates provided for
11 under subheading 8903.91.00 or 8903.92.00 of the
12 Harmonized Tariff Schedule of the United States
13 and shall be based upon the value of the large yacht
14 at the time of importation.

15 “(2) RETURN OF BOND.—The bond posted as
16 required by subsection (c)(2) shall be returned to the
17 importer.

18 “(e) PROCEDURES UPON EXPIRATION OF BOND PE-
19 RIOD.—

20 “(1) IN GENERAL.—If the large yacht entered
21 with deferral of duties is neither sold nor exported
22 within the 6-month period—

23 “(A) entry shall be completed and duty
24 (calculated at the rates provided for under sub-
25 heading 8903.91.00 or 8903.92.00 of the Har-

1 monized Tariff Schedule of the United States
2 and based upon the value of the large yacht at
3 the time of importation) shall be deposited with
4 the Customs Service; and

5 “(B) the bond posted as required by sub-
6 section (c)(2) shall be returned to the importer.

7 “(2) ADDITIONAL REQUIREMENTS.—No exten-
8 sions of the bond period shall be allowed. Any large
9 yacht exported in compliance with the bond period
10 may not be reentered for purposes of sale at a boat
11 show in the United States (in order to receive duty
12 deferral benefits) for a period of 3 months after
13 such exportation.

14 “(f) REGULATIONS.—The Secretary of the Treasury
15 is authorized to make such rules and regulations as may
16 be necessary to carry out the provisions of this section.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply with respect to a large yacht en-
19 tered into the United States after the date that is 15 days
20 after the date of enactment of this Act.

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