June 4, 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 LEGISLATION[1]

Bill no., sponsor, and sponsor's state: H.R. 3123 (105th Congress), Representative Holden (PA).

Companion bill: None.

Title as introduced: To suspend the duty on niobium oxide until January 1, 2002.

Summary of bill:[2]

Temporarily suspends the most-favored-nation (MFN) rate of duty on imports of niobium oxide through December 31, 2001.

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Representative Holden made no statement at the time the bill was introduced. According to background information provided by Reading Alloys Inc.,[3] continued payment of duty could force the company out of the master alloy business. This would leave U.S. titanium producers and the domestic aerospace industry with only a single off-shore source of critically needed alloying components. Reading Alloys is the only domestic producer of master alloys required by the titanium industry.[4]

Product description and uses:

Niobium oxide: This chemical is a white powder used as an intermediate in the manufacture of high-purity niobium products including ferroniobium, nickel niobium, niobium metal and niobium carbide. Niobium products are used as alloying elements (i.e., master alloys) in steels used in aerospace, energy, and transportation industries.

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[1] Industry analyst: Jack Greenblatt (205-3353); attorney: Leo Webb (205-2599).
[2] See appendix A for definitions of tariff and trade agreement terms.
[3] Fax memorandum, Mr. Joe Patrick (Reading Alloys Inc.) to Commission staff on April 8, 1998.
[4] Ibid.

Tariff treatment:[5]

Product	HTS subheading	Col. 1-general rate of duty
Niobium oxide..............	2825.90.15	3.7% ad. val.

Structure of domestic industry (including competing products):

Niobium oxide: According to Reading Alloys Inc., there is no primary domestic producer of niobium oxide .[6] However, a representative of Cabot Corporation indicates that Cabot Corporation is a primary domestic producer of niobium oxide.[7]

Reading Alloys Inc. imports the product from Brazil and Russia for the production of master alloys in its plant located in Robesonia , PA, for the nickel-based superalloy industry. The Brazilian oxide producer (CBMM) has begun to produce the upgraded master alloy for sale in the United States through their subsidiary, Reference Metals, located in Pittsburgh, PA.[8]

Private-sector views:

The Commission contacted 15 firms which may produce, purchase or import niobium oxide or competitive products or which specialize in metallurgical products.[9] Six firms have submitted written comments on this bill as set out in attachment C.

U.S. consumption:

Niobium oxide:	1995	1996	1997
	-----------------	($1,000)	-------------------
U.S. production..........................	([1])	([1])	([1])
U.S. imports...............................	20,163	16,303	30,658
U.S. exports................................	([1])	([1])	([1])
Apparent U.S. consumption.......	([1])	([1])	([1])

[1]Not available.

[5] See appendix B for column 1-special and column 2 duty rates.
[6] Fax memorandum, Mr. Joe Patrick (Reading Alloys Inc.) to the Commission on April 8, 1998.
[7] Staff conversation with Terence Kita, Cabot Corp., Apr. 20, 1998.
[8] Fax memorandum, Mr. Joe Patrick (Reading Alloys Inc.) to the Commission on April 8, 1998.
[9] Joe Patrick, Reading Alloys Inc., on Apr. 1, 1998; and Dale Lathrop, H.C. Starck Inc.; Jim Brancho, Kennametal Inc.; Andrew Matheson, Cabot Corp.; Ronnie Munez, AMAX Metals Recovery Inc.; William Deering, President, Gulf Chemical and Metallurgical Corp.; Peter Frank, Kerr McGee Chemical Corp.; Kevin Jones, President, Bear Metallurgical; Frank Dollarton, Shieldalloy Metallurgical Corp.; Robin Lettman, Teledyne Wah Chang Albany; Hein Enslin, President, U.S. Vanadium Corp.; Dr. Harry Stuart, Reference Metals Co., David Henderson, Metallurg Int. Resources, and Earl Hoellen, President, International Uranium Corp.; on Apr. 13, 1998.

Principal import sources: Brazil, Germany, Russia
Principal export markets: Unknown.

Effect on customs revenue:[10]

Future (1998-2000) effect: The projected average annual revenue loss is anticipated to be about $1.2 million during the period covered by this bill, assuming that none would enter from Canada duty-free under NAFTA.

Retroactive effect: None.

Technical comments: None.

[10] Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. The revenue loss estimate did not include the possibility that some imports may be entering duty-free under special programs. For example, during 1995, 1996, and 1997, the percentage of niobium oxide imports that entered free of duty under the GSP amounted to 9 percent, 8 percent, and 8 percent, respectively.

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.

Rev. 8/12/97

APPENDIX B

SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

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

APPENDIX C

OTHER ATTACHMENTS

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

105TH CONGRESS
2D SESSION

H. R. 3123

To suspend the duty on niobium oxide until January 1, 2002.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 1998

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

A BILL

To suspend the duty on niobium oxide until January 1, 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON NIOBIUM OXIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.28.00	Niobium oxide (provided for in subheading 2825.90.15)	Free	No change	No change	On or before 12/31/2001	".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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