

April 16, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: S.1558 (105th Congress), Senator D'Amato (NY)

Companion bill: H.R. 1947

Title as introduced: To amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel.

Summary of bill:²

Advances three existing statistical subheadings (10-digit) to the legal level (8-digit), and provides for duty-free treatment for certain steel sheet and strip, described as shadow mask steel, imported under those three headings.

Effective date: 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Senator D'Amato stated in the *Congressional Record*³ that--

shadow mask steel is used to produce aperture masks, a key component of color television picture tubes and computer video monitors. However, neither shadow mask steel nor any viable substitute for it is produced in the United States. Tariff elimination on imports of shadow mask steel would enhance the competitive position of Buckbee-Mears Cortland (BMC), the primary U.S. producer and one of four independent producers world-wide of aperture masks, with respect to that company's sales to U.S. manufacturers and assemblers of television sets and computer monitors. Such tariff elimination would indirectly benefit the production and employment in the U.S. industry producing television picture tubes and

¹ Industry analyst: Charles Yost (205-3432); attorney: Leo Webb(205-2599).

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

³ *Congressional Record*, Nov. 13, 1997, p. S12604.

computer video monitors as these manufacturers might otherwise purchase imported aperture masks or even lose competitive position relative to imports of the finished products. Also, because there is no qualified domestic producer of the steel used by BMC for its aperture masks,⁴ creating a separate tariff heading at the legal level would allow this product to be excluded from the scope of future antidumping and countervailing-duty investigations. An automatic exclusion, it is argued, would minimize disruption of the company's business and reduce its legal expenses.⁵ It has been noted that imports of this steel product also were granted exemptions from quota restrictions under the short-supply provision during the period of the steel voluntary restraint agreements, 1985-91, because there existed no U.S. supplier.⁶

Product description and uses:

Shadow mask steel is a flat-rolled (sheet or strip) product used to make aperture masks for color television picture tubes and computer monitors. Aperture masks are positioned between the dot plate and the electron guns of three-gun picture tubes in order to prevent any electron beams from striking the wrong color phosphor dot which would distort the color image. Shadow mask steel is classified as non-alloy or alloy (also called Invar) according to the steel's chemistry.

Non-alloy steel

sheet or strip Non-alloy shadow mask steel is a cold-rolled, flat-rolled product in coils containing not less than 99.2 percent of iron and having a width of between 350 mm (13.7 inches) and 762 mm (30 inches), and a thickness of between 0.05 mm (0.00197 inch) and 0.305 mm (0.012 inch). In these thicknesses (gauges), the product is considered to be ultra-thin and generally

⁴ BMC reportedly made efforts during the 1980s and early 1990s to approve the shadow mask steel product made by domestic steel producers and processors, but was unsuccessful (the last such test was made about three years ago according to the BMC's counsel, USITC staff conversation with Carrie Simon, Rogers & Wells, on Aug. 5, 1997). Such approval may extend to the processing and tracking of production as well. Product qualification means that BMC is able consistently to obtain "shadow mask steel" that meets its exacting product specifications in all respects while process qualification means that the producer has the necessary equipment capable of producing a product to the correct chemistry, gauge, and temper as well as being able to document its processes.

⁵ BMC's imports of shadow mask steel were excluded from Commerce's scope of products subject to investigation only during the final phases of certain antidumping and countervailing-duty investigations during 1992-93. See, United States International Trade Commission, *Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom*, Investigations Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 (Final) and Investigations Nos. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), Publication 2662, Aug. 1993. Also see, Commerce decision memorandum, Sept. 10, 1992.

⁶ Letter submission by Carrie A. Simon of Rogers & Wells on behalf of Buckbee Mears Cortland, Inc. to the Committee on Statistical Annotation of the Tariff Schedule, May 10, 1993, and USITC staff telephone conversation with Carrie Simon, Rogers & Wells, July 22, 1997.

has been open coil annealed prior to cold-rolling. Special surface finishing is specified to enhance downstream processing of this steel into aperture masks.

Alloy steel sheet or strip Alloy shadow mask steel (Invar) is a cold rolled, flat-rolled product containing between 35 percent and 37 percent of nickel, less than one percent of elements other than iron, with the balance of iron. Invar possesses a coefficient of thermal expansion of nearly zero and, like non-alloy shadow mask steel, a special surface finish is specified to enhance the downstream processing of this steel into aperture masks.

Tariff treatment:⁷

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
Non-alloy steel sheet ⁸ (shadow mask)..	7209.18.25	1.9%
Non-alloy steel strip (shadow mask)....	7211.23.60	3.1%
Alloy steel sheet (Invar).....	7225.50.80	2.4%

Structure of domestic industry (including competing products):

According to officials at BMC, there is no qualified domestic production of these grades of shadow mask steel, and BMC and certain other companies import the product for their manufacture of aperture masks. In the case of BMC, such aperture masks are sold to producers of color television picture tubes and computer monitors while other purchasers utilize the imports in their own production of the finished products. As noted earlier, BMC is one of four independent manufacturers of aperture masks world-wide.

Producers of aperture masks indicate they have been unable to procure shadow mask steel domestically. Two U.S. companies stated that they could either supply the grade and gauge of steel (in the case of LTV) for processing into shadow mask steel or supply the shadow mask steel (in the case of Cold Metal Processing) to BMC. But these two companies have as yet been unable to meet BMC's technical requirements. Reportedly, BMC and Cold-Metal Processing (CMP) have made efforts to qualify CMP's product for use as shadow mask steel by BMC in several series of trials during the past decade, and the companies may reach an agreement on further qualification trials in the near future.⁹ Several of the U.S. companies contacted by the Commission stated they produce the grade of steel used for aperture masks, but their products have not been used for that end-use.¹⁰

⁷ See appendix B for column 1-special and column 2 duty rates.

⁸ The tariff schedules do not distinguish sheet from strip and these terms are industry definitions. However, the tariff schedules make a distinction between flat-rolled products that are less than 600 mm wide (considered to be strip) from those flat-rolled products greater than 600 mm wide (which are considered to be sheet).

⁹ USITC staff conversation with Susan Hester, Dewey Ballantine, and with Carrie Simon, Rogers and Wells, on Mar. 16, 1998.

¹⁰ For example, National Steel, makes a thin gauge cold-rolled steel (known as "Nashshield") used for shielding in color television sets and monitors; this shielding meets the required

These companies indicated that gauge and surface finish are equally or more important than chemistry in producing aperture masks.

The Commission is unaware of any products that compete with shadow mask steel of alloy or non-alloy steel for the intended application as an aperture mask. However, this grade of cold-rolled steel can be used in a slightly thicker form (i.e., heavier gauge) as shielding and framing material within the color picture tube and monitor. With respect to Invar, other applications include the manufacture of television tube gun parts and frames.

Private-sector views:

The Commission contacted 8 companies which are potential producers of shadow mask steel or import the product.¹¹ Two companies submitted comments on this bill which are set out in appendix C.

chemistry, but the company no longer possesses the open coil annealing capability and does not cold-roll its shielding product to the required gauge for aperture masks. Nashshield reportedly is coated with a metallic coating unlike shadow mask steel, and is not sold for aperture mask applications. USITC staff conversation with Clarence Ehlers, National Steel, on Aug. 5, 1997. Also, Carpenter Technology, produces Invar, Super Invar (cobalt added to lower thermal expansion), and free machining Invar (with selenium and manganese added to enhance machining), but the company's strip-rolling line does not meet the width requirements for use of these products in aperture mask applications. USITC staff conversations with William Pendelton, Carpenter Technology, and with Larry Lazoff, counsel to the Specialty Steel Industry of North America, on Aug. 5, 1997.

¹¹ Carrie Simon of Rogers & Wells, counsel to BMC, on July 21, 1997 and on Aug. 1, 1997; Lloyd Paterson of Bethlehem Steel on July 23, 1997; James R. Harpster, CEO of Cold Metal Products, Inc., on July 24, 1997 and on Aug. 1, 1997; Arden Adalgaze of SONY on July 24, 1997; Tom Schaumberg of Adduci, Mastriani & Schaumberg, L.L.P., counsel to the Association of Cold Rolled Strip Steel Producers, on July 24, 1997; Marv Skoronski, Manager for Tin Mill Products, The LTV Corporation, on July 31, 1997; Margie Sullivan, Thompson Consumer Electronics, on Aug. 1, 1997; Clarence Ehlers, National Steel, on Aug. 5, 1997; William Pendelton, Carpenter Technology, on Aug. 5, 1997; and Larry Lazoff, counsel to the Specialty Steel Industry of North America, on Aug. 5, 1997.

U.S. consumption:

Shadow mask steel:	<u>1994</u>	<u>1995</u>	<u>1996</u>
	------(1,000 dollars)-----		
U.S. production.....	0	0	0
U.S. imports.....	19,098 ¹	18,960 ¹	26,822
U.S. exports.....	0	0	0
Apparent U.S. consumption.....	19,098	18,960	26,822

¹ Estimated by the staff of the USITC.

Principal import sources: Japan, Germany.
Principal export markets: None.

Effect on customs revenue:¹²

Future (1998-2003) effect:¹³

	<u>Estimated average annual revenue loss¹</u>					
	<u>1998²</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
	------(1,000 dollars)-----					
Shadow mask steel:						
Non-alloy steel in sheet form ¹⁴	350	445	375	325	200	100
Non-alloy steel in strip form ¹⁵	175	220	175	150	100	50
Alloy-steel sheet or strip (Invar) ¹⁶	170	210	175	150	100	50

¹ Estimated by the staff of the USITC based on information provided by industry officials, adjusted for the staged reduction to zero of tariffs on these three subheadings.

² Represents 9 months, March-December 1998.

Retroactive effect: None.

Technical comments:

Companies contacted by the Commission stated that “shadow mask steel” is difficult to define because its chemistry and gauge requirements overlap with those of other steel products (blackplate, used for tinmill sheet, or thin gauge steel used for magnetic shielding in television picture tubes and video monitors, for example).

An end use definition (i.e., used for making aperture masks) is considered susceptible to abuse, especially when the tariffs for these three items are eliminated and the remaining subheadings are higher. However, because there are a limited number of producers of aperture masks (only produced from shadow mask steel), circumvention could be identified by monitoring the actual destinations and end use of imports of shadow mask steel; e.g., by amending the proposed language “Of a kind for use ...” to read: “Certified for use ...”.

The Commission notes that it is unnecessary (and undesirable) to specify “Free” rates of duty in the Special column when the column 1 (MFN) rate is Free; e.g. proposed subheadings 7209.18.25, 7211.23.70, and 7225.50.85. Those subheadings should be amended to eliminate the Special column rates; i.e., the Special column should be blank when column 1 is Free. Also, the Special column rates in the other provisions are shown using 1997 rates. The 1998 MFN rate for 7209.18.30 is 1.9 percent; for 7211.23.75, it is 3.1 percent; and for 7225.50.99, it is 2.4 percent. Proposed subheading 7209.18.25 should be renumbered as 7209.18.20. Finally, proposed

¹² Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period.

¹³ MFN tariffs on these three subheadings are scheduled to be phased out as of Jan. 1, 2004 in accordance with the Uruguay Round Agreements Act.

¹⁴ Imports of this item currently are classified under subheading 7209.18.2510 of the HTS.

¹⁵ Imports of this item currently are classified under subheading 7211.23.6075 of the HTS.

¹⁶ Imports of this item currently are classified under subheading 7225.50.8015 of the HTS.

subheadings 7211.23.60, 7211.23.65, and 7225.50.80 do not relate to the subject of this legislation and need not be included in the bill.

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
1ST SESSION

S. 1558

To amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 1997

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

A BILL

To amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel.

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. SHADOW MASK STEEL.**

4 Chapter 72 of the Harmonized Tariff Schedule of the
5 United States is amended as follows:

6 (1) Such chapter is amended by striking sub-
7 heading 7209.18.25 and inserting the following new
8 subheadings, with the article descriptions for such
9 subheadings having the same degree of indentation
10 as the article description for subheading 7211.23.15:

“	7209.18.25	Other: Of a thickness of less than 0.361mm (blackplate): Of a kind for use in making aperture masks for cathode-ray tube video displays	Free	Free (E, IL, J) Free (CA) Free (MX)	28%	
	7209.18.30	Other	2.2%	Free (E, IL, J) 0.3% (CA) 1.9% (MX)	20%	”.

1 (2) Such chapter is amended by striking sub-
 2 heading 7211.23.60 and inserting the following new
 3 subheadings, with the article descriptions for sub-
 4 headings 7211.23.60 and 7211.23.65 having the
 5 same degree of indentation as the article description
 6 for subheading 7211.23.45:

“	7211.23.60	Other: Of a thickness exceeding 1.25mm	3.6%	Free (E, IL, J) 0.2% (CA) 1.4% (MX)	25%	
	7211.23.65	Of a thickness exceeding 0.25mm but not exceeding 1.25mm	3.6%	Free (E, IL, J) 0.2% (CA) 1.4% (MX)	25%	
	7211.23.70	Of a thickness not exceeding 0.25mm: Of a kind for use in making aperture masks for cathode-ray tube video displays	Free	Free (E, IL, J) Free (CA) Free (MX)	28%	
	7211.23.75	Other	3.6%	Free (E, IL, J) 0.2% (CA) 1.4% (MX)	25%	”.

7 (3) Such chapter is amended by striking sub-
 8 heading 7225.50.80 and inserting the following new
 9 subheadings, with the article descriptions for sub-
 10 heading 7225.50.80 having the same degree of in-
 11 dentation as the article description for subheading
 12 7211.23.15:

“	7225.50.80	Other: Of high-nickel alloy steel	2.8%	Free (E, IL, J) 0.4% (CA) 2.4% (MX)	28%	
	7225.50.85	Other: Of a kind for use in making aperture masks for cathode-ray tube video displays	Free	Free (E, IL, J) Free (CA) Free (MX)	28%	
	7225.50.90	Other:	2.8%	Free (E, IL, J) 0.4% (CA) 2.4% (MX)	28%	”.

1 **SEC. 2. APPLICABILITY.**

2 The amendments made by section 1 shall apply with
3 respect to goods entered, or withdrawn from warehouse
4 for consumption, on or after the 15th day after the date
5 of the enactment of this Act.

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