

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 110th Congress ¹**

[Date approved: August 28, 2008]²

Bill No. and sponsor: H.R. 5027 (Mr. Robert Wexler of Florida).

Proponent name,³ location: Malema Engineering Corporation, Boca Raton, FL.

Other bills on product (110th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2011.

Retroactive effect: From January 1, 2007.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Integral liquid flow controllers, certified by the importer exclusively for installation in semiconductor wafer fabrication machines (provided for in subheading 8486.90.00).

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section).

Product information, including uses/applications and source(s) of imports:

The subject products are controllers designed to control flow rates of liquids, such as deionized water, harsh chemicals, and chemical mechanical wafer polishing slurries that are used in certain semiconductor wafer fabrication equipment. Each controller contains four components: a flow meter, flow meter electronics, control valve, and control valve electronics. The controller continuously compares a set point value entered by the user to the actual measured flow rate and generates signals to adjust the control valve as necessary to maintain the desired flow rate. The products are imported principally from Japan.

¹ Industry analyst preparing report: Dennis Fravel (202-205-3404); Tariff Affairs contact: Dan Shepherdson (202-205-2598).

² Access to an electronic copy of this memorandum is available at http://www.usitc.gov/tata/hts/other/rel_doc/bill_reports/.

³ The sponsor/proponent of this bill did not identify any additional beneficiaries of this bill.

Estimated effect on customs revenue:

HTS subheading: 8486.90.00					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty	Free	Free	Free	Free	Free
Estimated value <i>dutiable</i> imports	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000
Customs revenue loss	\$0	\$0	\$0	\$0	\$0

Source of estimated dutiable import data: Commission estimates based on U.S. industry data.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
Malema Engineering Corporation (Proponent) Dan Malani, 561-995-0595	05/09/2008	No	No	No
Advanced Energy Industries, Inc. Cindy Pitrat, 970-407-6012	06/11/2008	No	Yes	No
Brooks Instrument, LLC Steve Fierce, 215-362-3500	06/10/2008	No	No	No
Celerity, Inc. Carol Kimura, 408-946-3100	06/09/2008	No	No	No
Corning, Inc. Debbie Waggoner, waggonerdl@corning.com	06/06/2008	No	No	No
Endress+Hauser, Inc. Kathy Gemenden, 317-535-7138	06/17/2008	No	No	No
Entegris, Inc. Lynn Shida, 978-436-6661	06/11/2008	No	No	No
Fujikin America, Cartens Controls Div. John Crawford, jrcrawford@fujikin.com	06/20/2008	No	No	No
KLA-Tencor Corp. Meggan Powers, 408-875-3000	06/05/2008	No	No	No
McMillan Co. Bob McMillan, 512-863-0231	06/17/2008	No	No	No
MKS Instrument, Inc. Don Higgins, 978-645-5500	06/06/2008	No	No	No

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
National Electrical Manufacturers Association John Meakem, joh_meakem@nema.org	06/06/2008	No	No	No
Nor-Cal Products, Inc. David Stone, davidstone@n-c.com	06/05/2008	No	No	No
Novellus Systems, Inc. Pushpita Prasad pushpita.prasad@novellus.com	06/24/2008	No	No	No
Parker Hannifin Corp. Melissa Darrigan, 260-748-6010 Art Schmill, 215-723-4000	06/17/2008	No	No	No
Qioptiq Imaging Solutions John Gebhardt, john.gebhardt@ny.qioptiq.com	06/06/2008	No	No	No
SAES Pure Gas, Inc. Cristian Landoni cristian_landoni@saes-group.com	06/05/2008	No	No	No
Semiconductor Equipment and Materials International Ken Schramko, kschramko@semi.org	06/24/2008	No	No	No
Sierra Instruments, Inc. Scott Rouse, 831-373-0200	06/10/2008	Yes	Yes	Yes
3M Co. Megan Ivory, mmivory@mmm.com	06/09/2008	No	No	No
T&M Service Mike Brooker, mbrooker@tandmservice.com	06/05/2008	No	No	No
Valve Manufacturers Association of America Bill Sandler, 202-331-8105	06/10/2008	No	No	No
W.L. Gore and Associates Mike Ratchford, mratchfo@wlgore.com	06/06/2008	No	No	No
Xandex, Inc. Nariman Manoochehri nmanoochehri@xandex.com	06/05/2008	No	No	No

Technical comments:⁴

The Commission staff notes that, according to Customs and Border Protection, the subject product is classified in HTS subheading 8486.90.00, which is duty free.⁵ The Commission staff suggests that, as shown on page 1 of this report, the word “liquid” be added to the article description of the proposed duty suspension because the product of interest to the proponent is a controller that regulates the flow of certain liquids used in semiconductor wafer fabrication equipment. H.R. 5027, as drafted, would provide for integral controllers for both gas and liquids. According to the proponent, an integral flow controller achieves essentially the same purpose as a mass flow controller. However, an integral flow controller measures the velocity of the liquid being regulated, while a mass flow controller measures the flow rate of the liquid. Customs and Border Protection (CBP), as well as importers, may be confused as to the definition of integral and mass flow controllers, as the term integral flow controllers is not widespread in the industry.

⁴ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

⁵ Email message from CBP National Import Specialist James Sheridan, dated July 3, 2008.

110TH CONGRESS
2D SESSION

H. R. 5027

To suspend temporarily the duty on integral flow controllers, certified by the importer exclusively for installation in semiconductor wafer fabrication machines.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2008

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

A BILL

To suspend temporarily the duty on integral flow controllers, certified by the importer exclusively for installation in semiconductor wafer fabrication machines.

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. INTEGRAL FLOW CONTROLLERS, CERTIFIED BY**
4 **THE IMPORTER EXCLUSIVELY FOR INSTAL-**
5 **LATION IN SEMICONDUCTOR WAFER FAB-**
6 **RICATION MACHINES.**

7 (a) IN GENERAL.—Subchapter II of chapter 99 of
8 the Harmonized Tariff Schedule of the United States is

1 amended by inserting in numerical sequence the following
 2 new heading:

“ 9902.01.00	Integral flow controllers, certified by the importer exclusively for installation in semiconductor wafer fabrication machines (provided for in subheading 9032.89.60) ..	Free	No change	No change	On or before 12/31/2011	”.
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3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
 5 subsection (a) applies to articles entered, or with-
 6 drawn from warehouse for consumption, on or after
 7 January 1, 2007.

8 (2) RETROACTIVE APPLICATION.—Notwith-
 9 standing section 514 of the Tariff Act of 1930 (19
 10 U.S.C. 1514) or any other provision of law, upon
 11 proper request filed with U.S. Customs and Border
 12 Protection before the 90th day after the date of the
 13 enactment of this Act, any entry, or withdrawal
 14 from warehouse for consumption, of an article—

15 (A) that was made on or after January 1,
 16 2007, and before the date of the enactment of
 17 this Act, and

18 (B) with respect to which there would have
 19 been no duty if the amendment made by sub-
 20 section (a) applied to such entry or withdrawal,

- 1 shall be liquidated or reliquidated as if such amend-
- 2 ment applied to such entry or withdrawal.

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