

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

[Date approved: July 2, 2001]²

Bill No.: H.R. 1067; 107th Congress

Introduced by: Mr. COLLINS (for himself and Mr. LEWIS of Georgia)

Similar and/or related³ bills: H.R. 1141 and S. 834; 107th Congress.

Summary of the bill:⁴

The bill would suspend the general rate of duty⁵ on--

Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities
(provided for in subheading 8402.11.00)

For ease of reference, this product will be referred to as “steam generators” throughout the
remainder of the report.

Effective date: The 15th day after the date of enactment.

Through: December 31, 2005.

Retroactive effect: To January 1, 2000 upon request.

*[The remainder of this memorandum is organized in five parts: (1) information about the bill’s
proponent(s) and the product which is the subject of this bill; (2) information about the bill’s revenue
effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about
the domestic industry (if any); and (5) technical comments.]*

¹ International trade analyst: Dennis Fravel (202-205-3404); attorney: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission’s Law Library (202-205-3287) or at the Commission’s Main Library (202-205-2630).

³ “Similar bills” are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. “Related bills” are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

⁴ The product nomenclature is as set forth in the bill. See technical comments for suggested changes (if any).

⁵ See appendix A for definitions of tariff and trade agreement terms.

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ⁶
The Southern Companies	Washington, DC ¹	April 25, 2001	Yes

¹ The Southern Companies, a utility company, is also supported by other utilities in this matter:

- Alliant Energy, Madison, WI
- Arizona Public Service Company, a subsidiary of Pinnacle West Capital Corporation, Phoenix, AZ
- Entergy Corporation, New Orleans, LA
- Excel Energy, Minneapolis, MN
- Reliant Energy, Houston, TX
- Southern Company, Atlanta, GA
- Tennessee Valley Authority, Knoxville, TN
- Wisconsin Public Service Corporation, a subsidiary of WPS Resources, Green Bay, WI

*Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N):* No.

If “Yes,” provide location of this facility if different from above (city/state):

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): n/a

Imported steam generators of the type provided for in this bill will likely be replaced and used by the proponents and other users at the following locations:

- Alliant Energy Corporation and WPS Resources Corporation for nuclear power plants at Prairie Island 1, Red Wing, MN and Kewaunee Nuclear Power Plant, Kewaunee, WI.
- Arizona Public Service Company for Palo Verde 2 nuclear power plant, Wintersburg, AZ.
- The Southern Companies for nuclear power plants, Joseph Farley 1 & 2, Dothan, AL.
- Westinghouse Electric Company or its customers at U.S. nuclear power plants, including:

<u>Nuclear power plant</u>	<u>City</u>	<u>State</u>
Arkansas Nuclear 2	Russellville	AK
Waterford 3	Taft	LA
Callaway 1	Fulton	MO
Salem 2	Salem	NJ
Sequoyah 1	Daisy	TN

⁶ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

⁷ The phrase “further processing or handling” can include repackaging, storage or warehousing for resale, etc.

The imported product	
Description and uses	Country(s) of origin
<p>The only type of watertube boiler with steam production exceeding 45 metric tons per hour, for use in nuclear facilities, is a steam generator for use with a nuclear reactor in a pressurized water reactor (PWR) plant. In such a plant, reactor coolant (water) is pumped under pressure through the reactor core where heat is transferred from the nuclear fuel to piping carrying the reactor coolant. The water then continues into a steam generator, a large heat exchanger. Inside the steam generator, steam is formed in another piping system and is transferred to the main steam turbine, where electricity is generated. The reactor coolant is returned to the reactor.</p> <p>Inside the steam generator, hot reactor coolant flows through many tubes. Heat from the reactor coolant--the primary coolant system--is transferred to a secondary coolant, or feedwater, that surrounds the tubes carrying the primary coolant. When sufficient heat is absorbed, the feedwater boils and forms steam. At this point in the process, differences in steam generator vendor designs exist. In the Westinghouse and ABB-Combustion Engineering¹ (ABB-CE) designs, the steam and water mixture is separated in two stages. In the first stage, the mixture is spun to cause most of the water to separate out. In the second stage, the remaining steam and water are separated by a forced rapid change in direction, with the drier steam leaving the water behind. In these designs, the primary coolant flows through U-shaped tubes. In the Babcock & Wilcox design, the steam is heated above the boiling point, or superheated, causing the steam to separate from any water. In this design, the primary coolant flows from the top of the generator to the bottom.</p> <p>Regardless of design, dry steam is required to avoid damage to the blades on the steam turbines. PWR nuclear plants using an ABB-CE or Babcock & Wilcox designs each use 2 steam generators, while those with Westinghouse designs use 2, 3, or 4 steam generators, depending upon the power output of the PWR system. Steam generators in nuclear power plants are regularly replaced because of corrosion of their tubes; there are 3,000 or more tubes per steam generator. These generators weigh from 400 to 900 tons each and may be 40 feet tall. The time from ordering to delivery is 4-5 years. Steam generators cost from \$15 million to \$30 million each, depending upon size. The life span of a steam generator is about 40 years. The generators are classified in the Harmonized Tariff Schedule of the United States (HTS) in subheading 8402.11.00. See U.S. Customs Service Ruling Letter, NY D88567, Mar. 19, 1999.</p>	<p>France, Italy, Korea, Republic of (South Korea) Spain</p>

¹Combustion Engineering was purchased by ABB in 1990 and became known as ABB-CE. Westinghouse became a subsidiary of British Nuclear Fuels plc in 1999, as did ABB-CE in May 2000.

– EFFECT ON CUSTOMS REVENUE –

[Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office “scoring” guidelines. If the indicated duty rate is subject to “staging” during the duty suspension period, the rate for each period is stated separately.]

HTS number used in the bill: 8402.11.00⁸					
	2002	2003	2004	2005	2006
General rate of duty ⁹ (AVE) ¹⁰	4.9% ¹	4.9% ²	5.2%	5.2%	5.2%
Estimated value <i>dutiable</i> imports	\$351,600,000 ³	⁽⁴⁾	\$25,000,000	\$221,000,000	⁽⁵⁾
Customs revenue loss	\$17,420,919 ³	⁽⁴⁾	\$1,300,000	\$11,500,000	⁽⁵⁾

¹ The bill is retroactive to January 1, 2000; dutiable import and revenue loss data are included for the 2000-2002 period. In estimating Customs revenue loss, the general rate of duty of 5.2 percent ad valorem was used for January 1, 2000 through November 23, 2000, and a rate of duty of 4.9 percent ad valorem was used as provided in temporary duty reduction under HTS subheading 9902.84.02. The duty reduction became effective for imports entered on or after November 24, 2000 until January 31, 2003. Further, eligible imports must also have been “purchased pursuant to a binding contract entered into on or before the date of the enactment of this Act [Public Law 106-476].” See Public Law 106-476, section 1268, 114 Stat. 2137. When the second criterion is not met, the imports should be dutiable at the general rate of 5.2% ad valorem.

² Temporary duty reduction rate, see footnote 1 above.

³ For 2000, estimated dutiable imports are \$96,200,000 with a Customs revenue loss of \$4,906,319; for 2001, estimated dutiable imports are \$55,400,000 with a Customs revenue loss of \$2,714,600; and for 2002, estimated dutiable imports are \$200,000,000 with a Customs revenue loss of \$9,800,000.

⁴ Based on available information, it is unlikely that there will be any dutiable imports in 2003.

⁵ The bill does not provide benefits beyond 2005.

Note: Dutiable imports and customs revenue loss were estimated based upon the number of PWR nuclear plants likely to have steam generators replaced during 2000-2005. Information for these estimates was obtained from the U.S. Nuclear Regulatory Commission internet site, official statistics of the U.S. Department of Commerce, and submissions from interested parties, and other publicly available information.

⁸ The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

⁹ See appendix B for column 1-special and column 2 duty rates.

¹⁰ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

HTS number recommended by the Commission: n/a ¹¹					
	2002	2003	2004	2005	2006
General rate of duty (AVE)					
Estimated value <i>dutiable</i> imports					
Customs revenue loss					

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations other than the proponents			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ¹²
McDermott International Inc. Washington Operations	Arlington, VA	April 19, 2001	Yes

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]*

¹¹ If a different HTS number is recommended, see technical comments.

¹² Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

Statements concerning current U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Components and services used in the production of steam generators	McDermott International Inc. Washington Operations	Barberton, OH Mount Vernon, IN ¹	April 30, 2001

¹McDermott International also states that it uses 14 suppliers located in 12 states in its production operations.

Statements concerning “future” or “competitive” U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Components and services used in the production of steam generators	McDermott International Inc. Washington Operations	Barberton, OH Mount Vernon, IN	April 30, 2001

¹McDermott International also states that it uses 14 suppliers located in 12 states in its production operations.

– TECHNICAL COMMENTS –

*[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to **eight digits**. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

The article description of the new HTS heading should be amended by striking the existing wording and inserting the description “Steam generators for use in pressurized water nuclear reactors”. This language would not only utilize the product name commonly employed in the industry but would also avoid covering other boilers that may be used at nuclear facilities. The phrase “in nuclear facilities” is broad and ambiguous, because such a facility may encompass areas outside the plant building.

Recommended changes to any CAS numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

*Basis for recommended changes to the HTS number used in the bill:*¹³

n/a

Other technical comments (if any):

The proposed descriptions are “actual use” provisions requiring Customs Service verification of the use of the imports within 3 years of the date of entry; however, though these provisions generally present administrative and compliance burdens, the small range of purchasers in the United States should simplify implementation should the proposed tariff provisions be enacted with such a use criterion. In addition, it should be noted that the current rate of duty is not scheduled for further reduction. Last, for clarification, it should be noted that the unit of measure of “t” in the proposed tariff descriptions would be interpreted by Customs as metric tons, rather than the English unit.

¹³ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee’s consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of 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 normal trade relations 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 listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam) plus Serbia and Montenegro, which are subject to the statutory rates set forth in **column 2**. Specified goods from designated general-rate 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 September 30, 2001. 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 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. 1/4/00

APPENDIX B

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

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

107TH CONGRESS
1ST SESSION

H. R. 1067

To suspend temporarily the duty on certain steam or other vapor generating
boilers used in nuclear facilities.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2001

Mr. COLLINS (for himself and Mr. LEWIS of Georgia) introduced the following
bill; which was referred to the Committee on Ways and Means

A BILL

To suspend temporarily the duty on certain steam or other
vapor generating boilers used in nuclear facilities.

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. SHORT TITLE.**

4 This Act may be cited as the “Generator Tariff Sus-
5 pension Act”.

1 **SEC. 2. SUSPENSION OF DUTY ON CERTAIN STEAM OR**
 2 **OTHER VAPOR GENERATING BOILERS USED**
 3 **IN NUCLEAR FACILITIES.**

4 (a) IN GENERAL.—Heading 9902.84.02 of the Har-
 5 monized Tariff Schedule of the United States is amended
 6 to read as follows:

“	9902.84.02	Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities (provided for in sub-heading 8402.11.00)	Free	No change	No change	On or before 12/31/2005	”.
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7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendment made by
 9 subsection (a) applies with respect to goods entered,
 10 or withdrawn from warehouse for consumption, on
 11 or after the 15th day after the date of the enact-
 12 ment of this Act.

13 (2) APPLICATION TO LIQUIDATIONS OR RELIQU-
 14 IDATIONS.—Notwithstanding section 514 of the
 15 Tariff Act of 1930 or any other provision of law and
 16 subject to paragraph (3), any article described in
 17 heading 9902.84.02 of the Harmonized Tariff
 18 Schedule of the United States that was entered, or
 19 withdrawn from warehouse for consumption—

20 (A) on or after January 1, 2000, and

1 (B) before the date that is 15 days after
2 the date of the enactment of this Act,
3 shall be liquidated or reliquidated as if such heading
4 9902.84.02, as amended by subsection (a), applied
5 to such entry or withdrawal, and the Secretary of
6 the Treasury shall refund any excess duty paid with
7 respect to such entry.

8 (3) REQUESTS.—Liquidation or reliquidation
9 may be made under paragraph (2) with respect to
10 any entry only if a request therefor is filed with the
11 Customs Service, within 180 days after the date of
12 the enactment of this Act, that contains sufficient
13 information to enable the Customs Service—

14 (A) to locate the entry; or

15 (B) to reconstruct the entry if it cannot be
16 located.

○