

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION ¹

[**Date approved:** August 8, 2001]²

Bill No.: S. 510; 107th Congress

Introduced by: Mr. SANTORUM

Similar and/or related³ bills: None.

Summary of the bill:⁴

The bill would amend the Caribbean Basin Economic Recovery Act⁵ to provide trade benefits [duty-free and quota-free treatment] for certain textile covers. These covers are assembled in eligible Caribbean Basin countries from fabric formed and cut in the United States from U.S. yarns.

Effective: Upon enactment.

Through: n/a.

Retroactive effect: None.

[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: Laura V. Rodriguez (202-205-3499); 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
American Textile Company	Pittsburgh, Pennsylvania	05/09/01	Yes

*Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N): Yes*

In addition to warehousing products in its Pittsburgh location, the company also has a leased overflow warehouse that is located 5 miles from the Pittsburgh warehouse.

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>Certain textile covers: Although the products now listed in the legislation are “certain textile covers,” the proponent indicates there are plans to amend the product description in the bill to read “certain pillow covers and mattress covers.” Industry sources have stated that objections have been raised to the original product description because it is too broad. The proponent’s intent is to provide duty-free and quota-free treatment for pillow and mattress covers (i.e. protective covers for bed pillows and mattresses) classifiable in HTS subheadings 6302.31.90 and 6302.32.20. HTS 6302.31.90 provides for cotton textile covers and HTS 6302.32.20 provides for those of man-made fibers. Although both tariff provisions cover only articles that do not contain any embroidery, lace, trimming, or other ornamentation, the first provision is limited to articles that are not napped, while the second provision includes both napped and not napped articles (napping is a finishing process that gives a downy surface to a cloth by raising the surface fibers of a fabric).</p> <p>Pillow and mattress covers are manufactured from roll goods that are cut to size and sewn manually, and many have zippers inserted. Some mattress covers, however, are constructed without zippers and function like a fitted sheet that covers the mattress. Pillow and mattress covers are sold separately from pillows and mattresses in retail stores.</p> <p>According to the proponent of the bill, American Textile Company, about half of the pillow and mattress covers it produces are known as allergen covers. Distinct from typical pillow and mattress covers, allergen covers are made from specialty yarns that are tightly woven into fabrics that allow air and moisture vapor to escape while providing a barrier against dust mites and their waste. American Textile Company ships pieces cut in its Pittsburgh location to El Salvador, where they are sewn into pillow and mattress covers, folded, and packaged. The assembled products are returned to the United States, where they are warehoused and prepared for shipment to retail customers.</p>	<p>El Salvador Guatemala</p>

– 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: 6302.31.90 ⁸					
	2002	2003	2004	2005	2006
General rate of duty ⁹ (AVE) ¹⁰	6.9%	6.8%	6.7%	6.7%	6.7%
Estimated value <i>dutiable</i> imports	\$2,500,000	\$2,700,000	\$3,000,000	\$3,300,000	\$3,650,000
Customs revenue loss	\$172,500	\$183,600	\$201,000	\$221,100	\$244,500

HTS number used in the bill: 6302.32.20 ⁸					
	2002	2003	2004	2005	2006
General rate of duty (AVE)	11.7%	11.6%	11.4%	11.4%	11.4%
Estimated value <i>dutiable</i> imports	\$2,200,000	\$2,400,000	\$2,600,000	\$2,900,000	\$3,200,000
Customs revenue loss	\$257,400	\$278,400	\$296,400	\$330,600	\$364,800

The Commission would not suggest that other HTS provisions are appropriate, given that the bill indicates the provisions covering the subject goods.

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>

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than the proponents</i>			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ¹¹
American Textile Manufacturers Institute	Washington, DC	5/16/01	No
Philmont Manufacturing Co.	Englewood, NJ	5/16/01	No
Levinshon	New York, NY	5/16/01	Yes
Freund, Freund & Co., Inc.	New York, NY	5/16/01	No
Tabb Textile Co., Inc.	Marietta, GA	5/17/01	No

– 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.]*

Statements concerning current U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Certain textile covers	Levinsohn Textile	New York, NY	5/29/01

¹¹ 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 “future” or “competitive” U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Certain textile covers	Levinsohn Textile	New York, NY	5/29/01

– 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** rather than ten 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 term “certain textile covers” is broad and could include pillowcases, sheets, and bolster cases under HTS headings 6302.31.90 and 6302.32.20, which the proponent indicates it does not intend to import under this measure. We understand that the proponent’s intent is to provide trade benefits only to pillow and mattress covers of the type it manufactures. This objective might be accomplished by deleting “Certain textile covers” from the new subdivision (ix) of section 213(b)(2)(A) of the CBERA and by inserting in lieu thereof “Pillow covers and mattress covers, the foregoing of cotton or of man-made fibers and designed to create a barrier to moisture and allergens,” or similar language (see attached information sheet from the proponents).

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:*¹²

n/a

¹² 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.

Other technical comments (if any):

We note that this bill would amend a provision added to the CBERA by the Caribbean Basin Trade Partnership Act of 2000, implemented by presidential proclamation in subchapter XX of chapter 98 of the HTS. A proclamation would be required to give effect to the new trade treatment accorded by this bill, if passed, by adding an additional provision to this subchapter. No other goods of chapter 63 are currently eligible for this treatment, which is accorded to eligible goods of countries listed in the legal notes to the subchapter.

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.]

May 18, 2001

Ms. Laura Rodriguez
International Trade Analyst
Office of Industries
United States International Trade Commission
500 E Street, SW
Washington DC 20436

Dear Laura:

Thank you for making time to visit with us in Washington DC on Wednesday, May 9. Following is an overview of our discussion.

American Textile Company, a 75 year-old privately held Pittsburgh company, distributes mattress covers and pillow covers (allergy relief products) to Wal*Mart, Kmart, Target, Sears, Wal*Mart Germany and many other leading mass merchants.

To be globally competitive, American Textile moved its production from Pittsburgh to El Salvador six years ago. This resulted in much needed labor savings and increased capacity. But, American Textile must continually remove costs from its products to remain competitive with its primary rival, China. Immediate cost reductions can be realized through favorable federal legislation. Although American Textile sources fabrics throughout the world, existing laws make it more difficult and expensive to buy fabrics made in the U.S. By law, fabrics made in the U.S. must be cut in this country before shipping to El Salvador for sewing and packaging, which constitutes a significant additional cost to American Textile each year. Immediate relief exists in CBI legislation already enacted in governing the apparel industry. American Textile desires legislation that would treat its products in a similar manner to that in which apparel products are treated.

To date, executives from American Textile have met with legislative assistants in the offices of Senators Santorum and Specter and Congressman Coyne. Senator Santorum has introduced Trade Bill S510 into the Senate that will help American Textile.

Favorable legislative action will result in the following:

1. The savings will be invested in a new building American Textile is planning for completion in 2002.
2. The company will be more competitive, resulting in preserving the existing 115 jobs in Pittsburgh and creating more jobs in the future.
3. It will provide more incentive for American Textile to buy fabric made in the U.S.

Attached is a summary page that gives a little bit more detail than this letter. Also attached is a copy of Senator Santorum's Bill S510 with the changes recommended by Jan Summers.

Sincerely,

AMERICAN TEXTILE COMPANY

Jack Ouellette
President and CEO

Attachments

cc: Michele Kitchen, Sen. Santorum's Office
Coleman Conroy, Cong. Coyne's Office

INFORMATION SHEET

OUR REQUEST:

- A. Introduce legislation allowing our bedding products the same treatment as apparel products under the Andean Trade Preference Act (ATPA) and correct the Caribbean Basin Trade Partnership Act (CBTPA) to reflect the same provision. (Recommended language attached.)
- B. Introduce legislation into the current Congress.

ISSUE:

Our products, hypoallergenic and incontinence barrier mattress covers and pillow covers under HTSUS 6302.31.9040 and 6302.32.2060 are outside the general apparel chapters 61 and 62 yet due to the labor intensive nature of the product are more similar to apparel than to home furnishing products. The product must have a zipper installed on three sides, requires significantly more stitching, cutting and components than most bed sheets and pillow cases.

COSTS:

- In 2000, our company purchased \$8.2 Million of fabric formed in the U.S. from U.S. companies such as:

S	3M	St. Paul, MN 05144
S	Precision Fabrics	Greensboro, NC 27404
S	Springs Industries	Lancaster, SC 29720
S	Kappler	Guntersville, AL 35976
S	Scher	Patterson, NJ 87507
S	Milco	Bloomsburg, PA 17815
- 4. The existing law for **apparel** products would allow American Textile Company to ship U.S. fabric to El Salvador for cutting and sewing and not be required to pay duty when it re-enters the U.S. as finished product.
- 5. However, the existing law does not afford **bedding products such as those we manufacture** the same beneficial treatment enjoyed by apparel products.
- 6. Consequently, we are required to incur significant additional expenses to cut the fabric in the U.S. in order to avoid duty payments upon re-entry to the U.S.A. as a finished product.

BENEFITS TO AMERICAN TEXTILE COMPANY AND PENNSYLVANIA:

7. The cost of our products will be reduced
8. Sales of our products should increase as a result of better costs.
9. In 2002, we are planning to move into a new building in Pittsburgh, Pennsylvania and the savings garnered from favorable legislation will help finance our contemplated building project.
10. Although five cutting jobs will be eliminated in Pittsburgh, the resulting growth in our business should create far more new jobs in warehousing and administration.
11. American Textile Company will be more competitive with our greatest rival, China.

POINTS OF INTEREST:

12. These changes will allow us to buy more fabric formed in the U.S.A.
13. Such a provision in the ATPA would afford an option to direct importing from Pakistan or China. The direct importing eliminates more U.S. jobs both here and at our fabric suppliers' facilities.

PLEASE NOTE:

1. The attached copy of Senator Santorum's bill indicates an 8 digit HTS level for our products
2. However, our products need the 10 digit numbers below:

6302.31.9040	Pillowcovers of cotton, not trimmed, not napped (361)
6302.31.9050	Others of cotton not trimmed, not napped (362)

NOTE: **Pillowcovers (cvc) are in 6302.31.9040; mattress covers (cvc) are in 6302.31.9050.**
6302.32.2060 Bed linens nesoi of man-made fibers *666)

NOTE: **Pillowcovers (cvs) and mattress covers (cvs) are in 6302.32.2060.**

3. Jan Summers told us we could only have legislation passed at an 8 digit level. Consequently, she recommended the changes that appear on Senator Santorum's Bill S510, using language to make 8 digit classification more specific.

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.]

Levinso

hn

201 Fifth Avenue New York, New York 10016 phone 212.685.1440 fax 212.685.1332
email levtext@aol.com

May 30, 2001

U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436

Attn: Ms. Laura Rodriguez

Re: S.510 to amend Caribbean Basin Economic Recovery Act

Dear Ms. Rodriguez:

Levinsohn Textile Co., Inc. is a 100 year old company that manufactures pillow covers and mattress covers. * We provide employment to 600 people in Pennsylvania, South Carolina, Tennessee and New York. We are certain that these people and their families will be outraged if they learn that this legislation passed.

Although there are other companies manufacturing these products, Levinsohn Textile and its one major competitor do a preponderance of the business. When this competitor moved its factory to the Caribbean Basin several years ago, sensible U.S. tariffs allowed us to compete effectively.

We are alarmed to learn that a new bill, S.510,** presently before the Senate, will have a devastating effect on our business and our employees. If enacted, S.510 will eliminate the level playing field and strip us of our ability to compete.

The original intent of the Caribbean Basin Economic Recovery Act was to provide tariff relief for the manufacture of "apparel" items. However, the stated purpose of S.510 is to provide tariff relief for two non-apparel items: pillow covers and mattress covers.

Clearly S.510 is tailor-made legislation to provide tariff relief to a single company currently manufacturing in the Caribbean Basin. Since this company is our major competitor, if S.510 is enacted, it will create a significant and unfair advantage for our competitor. If this legislation is enacted, it will create a considerable and undue hardship on Levinsohn Textile as well as on every other company manufacturing pillow covers and mattress covers within the United States. If enacted, S.510 will also adversely affect ancillary businesses such as freight hauling, insurers, energy providers, restaurant owners, etc. Further, if S510 is enacted, a considerable loss of tax revenue can be expected.

In our judgement S.510 is an ill-conceived and inappropriate piece of legislation that should be withdrawn or defeated.

Sincerely,

Martin Baron
Vice President

* enclosed information and description of pillow covers and mattress covers

** see attached Bill S.510

107TH CONGRESS
1ST SESSION

S. 510

To amend the Caribbean Basin Economic Recovery Act to provide trade benefits for certain textile covers.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2001

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

A BILL

To amend the Caribbean Basin Economic Recovery Act to provide trade benefits for certain textile covers.

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. CERTAIN TEXTILE COVERS.**

4 Section 213(b)(2)(A) of the Caribbean Basin Eco-
5 nomic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amend-
6 ed by adding at the end the following:

7 “(ix) CERTAIN TEXTILE COVERS.—

8 Certain textile covers classifiable under
9 subheading 6302.31.90 or 6302.32.20 of
10 the HTS—

1 “(I) assembled in a CBTPA ben-
2 eficiary country from fabric wholly
3 formed and cut in the United States,
4 from yarns wholly formed in the
5 United States, that are entered under
6 subheading 9802.00.80 of the HTS;
7 or

8 “(II) assembled from fabric cut
9 in a CBTPA beneficiary country from
10 fabric wholly formed in the United
11 States, from yarns wholly formed in
12 the United States, if the covers are
13 assembled in a CBTPA beneficiary
14 country with thread formed in the
15 United States.”.

○