

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 110th Congress¹**

[Date approved: July 29, 2008]²

Bill No. and sponsor: H.R. 4699 (Mr. John Spratt of South Carolina).

Proponent name,³ location: Filtration Group/Filtrair, Aurora, IL.

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

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

Retroactive effect: None.

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

Nonwoven air filter and diffusion media having layers of fine denier polyester fibers (2 to 10 decitex, with a length of 40 mm or more, but not more than 80 mm), weighing 400 to 700 g/m², thermally bonded and impregnated in full depth with an adhesive coating, reinforced on one side with a supporting woven open-mesh scrim, suitable for use in downdraft spray cabins for painting applications where the media is required both as an air filter and as an air diffuser, providing uniform, non-turbulent air flow (provided for in subheading 5911.40.00 or 5911.90.00).

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 product is a high-loft air filter diffusion media composed of tackifier-coated synthetic fibers (polyester 2 to 10 decitex and a length of 40 to 80 mm), weighing from 400 to 700 grams/square meter. Primary use is in paint booths for premium painting applications (automotive, aircraft, etc.) where the media is required both as an air filter and as an air diffuser, providing uniform, non-turbulent air flow.

This product is imported from the Netherlands. Manufacturers of competitive diffusion air filter media used in similar high quality paint applications are European-based Freudenberg (Germany), Libeltex (Belgium), Spiritex (Italy), and Hårdi (Switzerland).

¹ Industry analyst preparing report: Don Sussman (202-205-3331); 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 did not identify any additional beneficiaries of this bill.

Estimated effect on customs revenue:

These are alternative estimates of the customs revenue loss that would result from this bill because the classification of the subject product is unsettled and subject to litigation.⁴

HTS subheading: 5911.40.00					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty	8.0%	8.0%	8.0%	8.0%	8.0%
Estimated value <i>dutiable</i> imports	1,260,000	1,310,000	1,370,000	1,430,000	1,501,000
Customs revenue loss	\$100,800	\$104,800	\$109,600	\$114,400	\$120,080

Source of estimated dutiable import data: Commission and industry estimates.

HTS subheading: 5911.90.00					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty	3.8%	3.8%	3.8%	3.8%	3.8%
Estimated value <i>dutiable</i> imports	1,260,000	1,310,000	1,370,000	1,430,000	1,501,000
Customs revenue loss	\$47,880	\$49,780	\$52,060	\$54,340	\$57,038

Source of estimated dutiable import data: Commission and industry estimates.

⁴ The classification of the subject product is uncertain and has been the subject of administrative and judicial review. In 1994, the proponent challenged the classification of the subject product by Customs in HTS subheading 5911.40.00, which covers straining cloth of a kind used in oil presses or the like. The proponent argued that the product should be classified in HTS heading 5603, which covers various nonwovens, whether or not impregnated, coated, covered or laminated. In Headquarters Ruling 955244, dated April 4, 1994, Customs ruled that the subject product is classifiable in HTS subheading 5911.40.00. In a recent decision, however, the Court of Appeals for the Federal Circuit reversed and remanded a decision of the Court of International Trade that had classified a similar product in HTS subheading 5911.40.00. See Airflow Technology, Inc. v. United States, No. 2007-1384, decided April 28, 2008. Therefore, the subject product may be classified in HTS subheading 5911.40.00, or it may be classified in HTS subheading 5911.90.00, a basket category for textile articles for technical use. It may also be classified in HTS heading 5603, which covers various nonwovens and is MFN-free. In light of the uncertainty about the classification of the subject product, the Commission has provided alternative estimates of the customs revenue loss that would result from this bill.

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)		
Filtration Group/Filtrair (Proponent) William T. Lyons, 202-326-0290	03/13/2008	No	No	No

Technical comments:⁵

According to a U.S. Customs official,⁶ the article description in the proposed legislation is not administrable, and, as written, would apply to most nonwoven imports. Also, the bill does not include an HTS classification. The Commission staff suggests that the article description on page 1 of this report be used in the proposed heading in order to clarify the intended scope of the duty suspension and to provide the appropriate HTS subheading references.⁷

⁵ 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.

⁶ Telephone interview with National Commodity Specialist Deborah Walsh, Textiles Division, U.S. Customs and Border Protection, March 13, 2008.

⁷ In an email dated June 19, 2008, CBP National Commodity Specialist Deborah Walsh indicated that the revised bill could be administered because the article description was narrower and more precise.

110TH CONGRESS
1ST SESSION

H. R. 4699

To suspend temporarily the duty on Nonwoven air filter and diffusion media comprising tackifier-coated polyester fibers (2 to 10 decitex, with a length of 40 mm or more, but not more than 80 mm), weighing 400 to 700 grams/square meter.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2007

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

A BILL

To suspend temporarily the duty on Nonwoven air filter and diffusion media comprising tackifier-coated polyester fibers (2 to 10 decitex, with a length of 40 mm or more, but not more than 80 mm), weighing 400 to 700 grams/square meter.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. NONWOVEN AIR FILTER AND DIFFUSION MEDIA**
 2 **COMPRISING TACKIFIER-COATED POLY-**
 3 **ESTER FIBERS (2 TO 10 DECITEX, WITH A**
 4 **LENGTH OF 40 MM OR MORE, BUT NOT MORE**
 5 **THAN 80 MM), WEIGHING 400 TO 700 GRAMS/**
 6 **SQUARE METER.**

7 (a) **IN GENERAL.**—Subchapter II of chapter 99 of
 8 the Harmonized Tariff Schedule of the United States is
 9 amended by inserting in numerical sequence the following
 10 new heading:

“	9902.01.00	Nonwoven air filter and diffusion media comprising tackifier-coated polyester fibers (2 to 10 decitex, with a length of 40 mm or more, but not more than 80 mm), weighing 400 to 700 grams/square meter	Free	No change	No change	On or before 12/31/2011	”.
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11 (b) **EFFECTIVE DATE.**—The amendment made by
 12 subsection (a) applies to articles entered, or withdrawn
 13 from warehouse for consumption, on or after the 15th day
 14 after the date of the enactment of this Act.

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