

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: October 4, 2006]²

Bill No. and sponsor: S. 3394 (Mr. Jim DeMint of South Carolina).

Proponent name, location: Outdoor Industry Association, Boulder, CO.

Other bills on product (109th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2009.

Retroactive effect: None.

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

Men's performance outerwear pants, under the terms of U.S. note 27 to this subchapter, the foregoing knitted or crocheted of synthetic fibers (provided for in subheading 6103.43.15).

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

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

This bill would provide duty-free treatment for U.S. imports of men's specialty performance outerwear knit pants.³ These pants are designed for outdoor athletic activities, such as backpacking, hunting, mountain biking, and trail running, and are composed of synthetic, water resistant material. They range from goods for recreational purposes to specialty items procured by the U.S. military. Imports of the subject pants are reportedly small, as the pants retail in higher end sports stores and are technical in design.

As proposed, such ankle-length pants would be qualified as "performance outerwear" if they meet two of the following characteristics: side openings, sealed seams at the front and back of the rise, insulation for cold weather protection, at least one pocket with a means of closure, scuff guards, elasticized or drawstring weather closure around the waist or ankles, articulated knees, or reinforcement in the seat or knees. According to industry sources, the principal supplier of the subject pants is China; additional suppliers include Indonesia, Thailand, and Vietnam.

¹ Industry analyst preparing report: Andrea Boron (202-205-3433); Tariff Affairs contact: Jan Summers (202-205-2605).

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

³ See technical comments for discussion of the nature of the note to be added to the HTS. These pants are subject to quantitative restrictions under category 647/648 of the *Memorandum of Understanding Between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products*; as of September 5, 2006, 42 percent of allowable imports had been entered.

Estimated effect on customs revenue:

HTS subheading: 6103.43.15					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty	28.2%	28.2%	28.2%	28.2%	28.2%
Estimated value <i>dutiable</i> imports	\$176,000	\$177,000	\$178,000	\$179,000	\$180,000
Customs revenue loss	\$49,632	\$49,914	\$50,196	\$50,478	\$50,760

Source of estimated dutiable import data: Industry estimates. Estimated value includes quota costs, which for the year to date average \$9.41 per dozen pairs.⁴

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)	
Outdoor Industry Association (Proponent) Alexander Boian, 303-327-3509	8/16/2006	No	No	No
GoLite, LLC Demetrius Coupounas, 303-546-6000	8/24/2006	No	No	No
Recreational Equipment, Inc. (REI) Lee Fromson, 253-437-7407	8/30/2006	No	No	No
National Council of Textile Organizations Cass Johnson, 202-822-8028	8/15/2006	No	Yes	Yes
American Apparel and Footwear Association Steve Lamar, 703-524-1864	9/6/2006	No	Yes	No
DLA Piper Rudnick Gray Cary US LLP (for SnowSports Industry Association) Katharine Mueller, 202-861-3407	8/16/2006	No	Yes	No
W. L. Gore & Associates, Inc. Brian Murphy, 410-506-2885	8/28/2006	No	No	No
American Manufacturing Trade Action Coalition Augustine Tantillo, 202-452-0866	8/14/2006	No	Yes	Yes
Columbia Sportswear Company Jeff Tooze, 503-985-4039	8/25/2006	No	No	No

⁴ Chinaquota.com, found at <http://www.chinaquota.com/en/cpsys/qcheck.asp>, accessed September 5, 2006.

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
National Textile Association David Trumbull, 617-542-8220	7/28/2006	No	No	No

Technical comments:⁵

It is suggested that the article description be modified as shown on page 1. Also, the text of the proposed statistical note 7 to chapter 61 in the U.S. Harmonized Tariff Schedule can properly be added to the tariff schedule only in the form of a U.S. note to subchapter II of chapter 99 or an additional U.S. note to chapter 61. The statistical provisions of the HTS are not part of its legal text and, as such, cannot be established or changed through legislation. These statistical provisions are administered by the interagency Committee for Statistical Annotation of Tariff Schedules; these provisions should not be considered available as a location of tariff language determining or affecting the duty or origin status of imported goods. The next available U.S. note number in subchapter II of chapter 99 is cited in the proposed modified description shown on page 1. Furthermore, conversations with U.S. Customs officials indicate that the term “performance outerwear” is ambiguous and would present interpretative problems as to what would be considered to be performance outerwear. We suggest that interested industry and government personnel discuss modifications to the language.

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.

Comments of the National Council of Textile Organization in opposition to legislation

August 15, 2006

The Honorable Charles Grassley
Chairman, Senate Finance Committee
219 Dirksen Office Building
Washington, DC 20510

RE: Opposition to Duty Suspension Legislation under Consideration by the Senate Finance Committee

Dear Mr. Chairman:

On behalf of the National Council of Textile Organization's (NCTO) and our member companies, I am writing to let you know of our strong opposition to the inclusion of the following measures in the proposed miscellaneous tariff bill currently being developed by the Senate Finance Committee

NCTO is a not-for-profit trade association established to represent the entire spectrum of the United States textile sector, from fibers to yarns to fabrics to finished products, as well as suppliers in the textile machinery, chemical and other such sectors which have a stake in the prosperity and survival of the U.S. textile sector. Our headquarters are in Washington, D.C., and we also maintain an office in Gastonia, NC.

S. 3071

Legislation to suspend the duty on fabric woven with certain continuous filament wholly nylon type-66 textured yarns.

NCTO strongly opposes this legislation as there are currently U.S. textile companies who make the fabric targeted by S. 3071. In addition to the fabric, there are also U.S. companies who produce nylon type-66 textured yarns. As a result, if this bill were enacted it would have a very damaging effect on two very important segments of the U.S. textile industry who are currently producing woven fabric with certain continuous filament wholly nylon type-66 textured yarns and its components in the U.S.

S. 3123 S. 3125
S. 3126 S. 3127

Legislation to suspend the duties on ski and snowboard pants.

NCTO strongly opposes legislation to suspend the duties on ski and snowboard pants as there are currently U.S. textile companies who would be severely damaged if these proposals were

enacted.

Last year, the Committee for the Implementation of Textile Agreements (CITA) reimposed quotas on imports of man-made fiber trousers from China because of the damage that these imports were inflicting upon U.S. trouser fabric manufacturers. When the quota filled for this category in July 2005, U.S. importers and retailers were granted an exemption for ski and snowboard pants, and since November 1, 2005, these products have not been subject to quota.

NCTO strongly opposed this exemption because of the damage it would inflict on U.S. trouser fabric manufacturers. When exemptions are granted for any product, but especially commodity, high-volume products like trousers, the potential for illegal transshipment across these product lines becomes extremely high, and as expected, Chinese imports of these products are up significantly in 2006. If duties on these products were suspended, illegal transshipment in these products would only increase further as other types of trousers would be misclassified to avoid duties, which for manmade fiber trousers averages 26 percent.

Suspending duties on these products will only further erode business and opportunity for U.S. fabric manufacturers and seriously harm trouser production in this hemisphere. Eliminating duties on sensitive products, like trousers, would also seriously undermine U.S. negotiating authority in bilateral and multilateral negotiations by unilaterally disarming while requiring no concessions from our trading partners in return.

S. 3150

Legislation to suspend the duty on tarpaulins measuring 9-feet by 12-feet with a polyvinyl chloride (PVC) coating.

NCTO strongly opposes S. 3150 because of the damage it would cause to U.S. tarpaulin manufacturers. NCTO has several member companies who produce fabric for U.S. tarpaulin manufacturers and these producers would also be harmed by this proposal.

Furthermore, U.S. tarpaulin manufacturers depend on the commercial market for their products to help balance out the ebbs and flows of U.S. military purchasing. If the commercial market for these products is further eroded because of this legislation, the ability of these companies to continue to supply the U.S. military is also negatively impacted.

S. 3164

Legislation to suspend the duty on certain tents.

NCTO strongly opposes S. 3164. There is a well established tent manufacturing industry in the U.S. that provides employment to thousands of individuals and is the economic backbone for many small communities. These manufacturers and their employees would be severely impacted if this legislation is approved.

Most of the companies engaged in the manufacturing of tent fabrics for commercial use are also suppliers to the U.S. military. The loss of the commercial tent business would make it impossible for these companies to remain in business and therefore threaten the ability to adequately supply our military with one of its most basic needs. At a time when our military is already struggling to maintain its readiness posture, we do not believe it would be prudent to pass legislation which would eliminate a major supply chain for our nation's military.

S. 3217

Legislation to suspend the duty on certain viscose rayon yarn.

NCTO strongly opposes legislation to suspend the duty on certain viscose rayon yarn. There are currently U.S. yarn companies that are capable of producing the yarn targeted by this proposal. Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

S. 3227

Legislation to suspend the duty on certain twisted yarn of viscose rayon.

NCTO strongly opposes legislation to suspend the duty on certain twisted yarn of viscose rayon. There are currently U.S. yarn companies that are capable of producing the yarn targeted by this proposal. Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

S. 3241

S. 3242

Legislation to suspend the duties on certain backpacks.

NCTO strongly opposes legislation to suspend the duties on certain backpacks. The only difference in these two proposals is that S. 3241 is a backpack with a removable separate backpack or daypack and S. 3242 does not have a removable component.

NCTO has several member companies who produce fabric for U.S. backpack manufacturers and these producers would be harmed by this proposal. Most of the companies engaged in the manufacturing of backpacks for commercial use are also suppliers to the U.S. military. The loss of the commercial backpack business would make it impossible for these companies to remain in business and therefore threaten the ability to adequately supply our military with one of its most basic needs. At a time when our military is already struggling to maintain its readiness posture, we do not believe it would be prudent to pass legislation which would eliminate a major supply chain for our nation's military.

S. 3393 S. 3394
S. 3396 S. 3397
S. 3400 S. 3401
S. 3402 S. 3403

Legislation to suspend the duties on certain water resistant pants.

NCTO strongly opposes these eight bills to suspend the duty on certain water resistant pants. As with the ski and snowboard pants, U.S. trouser fabric manufacturers would be severely damaged if this proposal were enacted.

It is important to point out that most of the products targeted by this legislation are currently under quota from China as a result of the U.S.-China Textile Bilateral Agreement that was signed last November. Therefore, as a result of the government's own actions, these products have already been identified as import sensitive and should be managed carefully.

When duties are eliminated for specific subsets of commodity, high-volume products like trousers the potential for illegal transshipment across these product lines becomes extremely high. If duties on these products were suspended, illegal transshipment would only increase further as other types of trousers would be misclassified as water resistant to avoid duties, which for manmade fiber trousers averages 26 percent.

Of equal concern is the fact that the definition for "performance outerwear pants" is very broad and could lead to unforeseen problems for U.S. producers of similar products. Suspending duties on these products will only further erode business and opportunity for U.S. fabric manufacturers and seriously harm trouser production in this hemisphere. For example, trade in water resistant pants in the NAFTA/CBTPA region totaled \$229 million last year. The benefits of these agreements would be completely nullified if proposals such as this are allowed to move forward.

Eliminating duties on sensitive products, like trousers, would also seriously undermine U.S. negotiating authority in bilateral and multilateral negotiations by unilaterally disarming while requiring no concessions from our trading partners in return.

S. 3641

Legislation to suspend the duty on certain woven fabrics of cotton, containing less than 85 percent by weight of cotton.

NCTO strongly opposes efforts to suspend the duty on certain woven fabrics of cotton containing less than 85 percent by weight of cotton. We have several member companies who are currently producing this fabric as well as members who manufacture the yarns that go into this product.

U.S. manufacturers of this fabric are currently supplying this fabric to their customers

throughout the NAFTA/CAFTA region and can easily meet the demand of the U.S. market. Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

S. 3642

Legislation to suspend the duty on knitted or crocheted fabrics of cotton, printed.

NCTO strongly opposes efforts to suspend the duty on knitted or crocheted fabrics of cotton, printed. We have several member companies who are currently producing this fabric as well as members who manufacture the yarns that go into this product.

U.S. manufacturers of this fabric are currently supplying this fabric to their customers throughout the NAFTA/CAFTA region and can easily meet the demand of the U.S. market.

Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

S. 3643

Legislation to suspend the duty on certain woven fabrics of cotton containing less than 85 percent by weight of cotton, mixed mainly or solely with man-made fibers, weighing not more than 200 g/m.

NCTO strongly opposes efforts to suspend the duty on certain woven fabrics of cotton containing less than 85 percent by weight of cotton, mixed mainly or solely with man-made fibers, weighing not more than 200 g/m. We have several member companies who are currently producing this fabric as well as members who manufacture the yarns that go into this product.

U.S. manufacturers of this fabric are currently supplying this fabric to their customers throughout the NAFTA region and can easily meet the demand of the U.S. market.

Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

S. 3644

Legislation to suspend the duty on weft pile fabrics of cotton, other than uncut weft pile fabrics or cut corduroy.

NCTO strongly opposes efforts to suspend the duty on weft pile fabrics of cotton, other than uncut weft pile fabrics or cut corduroy. We have several member companies who are currently producing this fabric as well as members who manufacture the yarns that go into this product.

U.S. manufacturers of this fabric are currently supplying this fabric to their customers throughout the NAFTA/CAFTA region and can easily meet the demand of the U.S. market.

Due to the negative impact this legislation would have on these companies, we oppose its inclusion in the miscellaneous tariff bill currently under consideration by the Committee.

In closing, we strongly encourage you to prevent the inclusion of the measures outlined above from any miscellaneous trade bill or other relevant legislation considered by the Senate.

Thank you for your consideration of these comments and concerns.

Sincerely,

Cass Johnson
President
cjohnson@ncto.org

109TH CONGRESS
2^D SESSION

S. 3394

To suspend temporarily the duty on certain men's water resistant pants.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2006

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

A BILL

To suspend temporarily the duty on certain men's water resistant pants.

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 MEN'S WATER RESISTANT PANTS.**

4 (a) IN GENERAL.—

5 (1) Chapter 61 of the Harmonized Tariff
6 Schedule of the United States is amended by insert-
7 ing in numerical sequence, the following statistical
8 note:

9 “7. For the purposes of subheadings 6103.43.15,
10 6104.63.20, and 6113.00.90, the term ‘performance out-
11 erwear pants’ means ankle length pants of water resistant

1 synthetic fabrics, containing at least two of the following
 2 characteristics: side openings, sealed seams at the front
 3 (up to the zipper or other means of closure) and the back
 4 rise, insulation for cold weather protection, at least one
 5 pocket with a means of closure (zippered or hook and loop
 6 enclosed pockets or other type of enclosed pockets), scuff
 7 guards, elasticized or drawstring weather closure around
 8 the waist or ankles, articulated knees, or reinforcement
 9 in the seat or knees. The term ‘water resistant’ means
 10 a garment, notwithstanding classification, that would oth-
 11 erwise pass the test for water resistance described in U.S.
 12 note 2 to chapter 62. The term ‘sealed seams’ means a
 13 seam that is sealed by means of taping, gluing, bonding,
 14 cementing, or similar processes for the purpose of water-
 15 proofing the seam.”.

16 (2) Subchapter II of chapter 99 of the Har-
 17 monized Tariff Schedule of the United States is
 18 amended by inserting in numerical sequence the fol-
 19 lowing new heading:

“	9902.61.01	Men’s performance outerwear pants de- scribed in statistical note 7 to chapter 61 (provided for in subheading 6103.43.15)	Free	No change	No change	On or before 12/31/2009	”.
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20 (b) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) applies to goods entered, or withdrawn from

- 1 warehouse for consumption, on or after the 15th day after
- 2 the date of the enactment of this Act.

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