

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION  
of the 111<sup>th</sup> Congress<sup>1</sup>**

[Date approved: April 16, 2010]<sup>2</sup>

**Bill No. and sponsor:** S. 2360 (Mr. George Voinovich of Ohio et al.).

**Proponent name,<sup>3</sup> location:** Freudenberg Non-Wovens, West Chester, OH.

**Other bills on product (111<sup>th</sup> 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 fabric consisting of two layers of needleloom felt, such fabric weighing less than 250 g/m<sup>2</sup> and having a thickness not exceeding 3.7 mm, certified by the importer as of a blend of all of the following staple fibers each with filament decitex measuring 3.5 or less: fire retardant rayon staple fibers, fire retardant modacrylic staple fibers, fire retardant para-aramid staple fibers and polyester staple fibers (provided for in subheading 5602.10.90).

**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 nonwoven fabric is made of two very thin layers of felt fabric that are combined to make a product used as a fire retardant layer in mattresses to meet required safety standards. The first layer extinguishes or slows down any flames. The second layer blocks oxygen from getting to the interior of the mattress, also retarding flames.

According to the proponent, the product is very thin, which is unusual for fire retardant fabrics used in mattresses. Unlike thicker fabrics, it reportedly does not change the inherent feel of the mattress it covers with fire retardant protection. In addition, because of very fine fibers used in the fabric, it is also very soft, so that it flexes nicely with the surface of the mattress underneath a sleeping person. The proponent indicates that the subject fabric is made in Canada of the following fibers: polyester staple fiber from the United States, fire retardant rayon staple fiber from Japan or China, fire retardant modacrylic staple fiber from Japan, and fire retardant para-aramid staple fiber from Netherlands.

<sup>1</sup> Industry analyst preparing report: Don Sussman (202-205-3331); Tariff Affairs contact: Donnette Rimmer (202-205-0663).

<sup>2</sup> Access to an electronic copy of this memorandum is available at [http://www.usitc.gov/tariff\\_affairs/congress\\_reports/](http://www.usitc.gov/tariff_affairs/congress_reports/).

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

Because of the pertinent rule of origin under the North American Free Trade Agreement, the product is ineligible for duty-free entry.<sup>4</sup>

**Estimated effect on customs revenue for the subject product classifiable in HTS subheading 5602.10.90:**

	2010	2011	2012	2013	2014
Col. 1-General rate of duty	10.6%	10.6%	10.6%	10.6%	10.6%
Estimated value <i>dutiable</i> imports <sup>a</sup>	\$755,000	\$800,000	\$1,000,000	\$1,000,000	\$1,000,000
Customs revenue loss <sup>b</sup>	\$80,030	\$84,800	\$106,000	\$106,000	\$106,000

a/ Dutiable import estimates were provided by industry sources.

b/ At the request of Congress, customs revenue loss is provided for 5 years, although the effective period of the proposed legislation may differ.

**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)		
Freudenberg Non-Wovens (Proponent) Nicole Bivens Collinsen, 202-471-3232	01/19/2010	No	No	No
Association of the Nonwoven Fabrics Industry Jessica Franken, 703-521-0545	01/19/2010	No	No	No
Milliken & Company Joseph M. Salley, 202-775-0084	01/22/2010	Yes	Yes	Yes
National Council of Textile Organizations Sarah Pierce, 202-822-8026	01/22/2010	No	No	No

**Technical comments:<sup>5</sup>**

As shown on page 1, Commission staff has suggested that adding an importer certification about the nature of the fibers included in the subject fabrics (in particular to verify their constituent materials and fire retardant properties) to simplify the administration of this proposed provision by Customs officials. In addition, a slight alteration of the punctuation of the provision is suggested to make it clearer that the thickness requirement pertains to the fabric as a whole and not to each layer.

<sup>4</sup> See HTS general note 12(t)/56.2 (which makes all man-made fiber inputs of chapter 54 or 55 ineligible for inclusion in a good for which NAFTA status might be claimed).

<sup>5</sup> 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.

November 17, 2009

Chairman Max Baucus  
Senate Finance Committee  
219 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Baucus:

RE: Opposition to S. 2360

Thank you for the opportunity to comment on the bills included in the Miscellaneous Tariff Bill.

We are very supportive of the MTB process as a way to help U.S. domestic manufacturers become more competitive. However, S. 2360, introduced by Senator Voinovich, would suspend the duty on a needle-punched nonwoven product used in mattress formation – a product that directly competes with Milliken’s non-woven mattress barrier, called Paladin.

Milliken & Company is a leading provider of flame resistant barrier materials to the mattress and upholstery markets. Our nonwoven barriers provide inherently flame retardant solutions that allow properly designed mattresses and foundations to comply with the national 16 CFR 1633 regulation that governs all mattresses sold in the United States. Our offering to the mattress market includes thermal bonded high-loft nonwovens, needle-punch nonwovens, and multi-layer composites that combine our barriers with other materials (typically the ticking fabric).

Again, thank you for your efforts to move this important legislation and for the chance to weigh in on S. 2360; a bill which would suspend the duty on imports of FR nonwoven mattress barriers, seriously disadvantaging Milliken & Company in the mattress marketplace.

Sincerely,

Joseph M. Salley  
Chief Executive Officer

111TH CONGRESS  
1ST SESSION

# S. 2360

To suspend temporarily the duty on certain fire retardant materials used  
to make mattresses.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2009

Mr. VOINOVICH (for himself and Mr. BROWN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To suspend temporarily the duty on certain fire retardant  
materials used to make mattresses.

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 FIRE RETARDANT MATERIALS USED**

4 **TO MAKE MATTRESSES.**

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

“	9902.01.00	Nonwoven fabric consisting of two layers of needleloom felt, the fabric weighing less than 250 g/m <sup>2</sup> , of a thickness not exceeding 3.7 mm, of a blend of all of the following staple fibers each with filament decitex measuring 3.5 or less: fire retardant rayon staple fibers, fire retardant modacrylic staple fibers, fire retardant para-aramid staple fibers and polyester staple fibers (provided for in sub-heading 5602.10.90) .....	Free	No change	No change	On or before 12/31/2011	”.
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1           (b) **EFFECTIVE DATE.**—The amendment made by  
2 subsection (a) applies to goods entered, or withdrawn from  
3 warehouse for consumption, on or after the 15th day after  
4 the date of the enactment of this Act.

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