

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: June 4, 2010]<sup>2</sup>

**Bill No. and sponsor:** S. 2581 (Mr. John Cornyn of Texas).

**Proponent name,<sup>3</sup> location:** J. C. Penney Corporation, Inc., Plano, TX.

**Other bills on product (111<sup>th</sup> Congress only):** None.<sup>4</sup>

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

**Retroactive effect:** None.

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

Because the article description in the provision set forth in the bill as drafted covers goods that, according to Customs officials, are classifiable in a different HTS subheading, two provisions are set forth here, but our technical comments explain why it appears the first one should be deleted.

Men's or boys' shirts, knitted or crocheted, of wool or fine animal hair, meeting the criteria of U.S. note 21(a) to this subchapter (provided for in subheading 6105.90.10).

Men's or boys' upper body garments (other than vests), knitted or crocheted, of wool or fine animal hair, meeting the criteria of U.S. note 21(a) to this subchapter (provided for in subheading 6110.11.00 or 6110.19.00).

Suggested language for U.S. note 21(a):

- (a) Headings [9902.01.00 through 9902.XX.XX]<sup>5</sup> cover only garments assembled from components that were knitted on flat knitting machines and have a stitch count exceeding 9 stitches per 2 cm but not over 18 stitches per 2 cm, measured on the outer surfaces of the fabric intended to form the exterior surface of the garment (after the components are assembled) in the direction on which the stitches are formed. Whenever such fabric is formed using both knit and purl stitches, the purl stitches will be disregarded and only the knit stitches on the outer surface of the fabric will be counted. In order to be eligible for entry under these headings--
- (1) all of the garment's component parts, including any collars, plackets, cuffs, waistbands and pockets, must comply with the criteria of this subdivision; and

<sup>1</sup> Industry analyst preparing report: Stephen Wanser (202-205-3363); Tariff Affairs contact: Jan Summers (202-205-2605).

<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.

<sup>4</sup> The U.S. note that would be added under this bill is also included in S. 2579-S. 2593 and S. 2602, along with the amended note on mechanics work gloves. Each of the other bills would add an HTS heading for particular classes of garments.

<sup>5</sup> This subdivision of the note is intended to cover only the 9902 headings referencing it, and not those created by the bills related to subdivision (b) of the note.

- (2) all of the garment's components must have been assembled by looping and linking, including the side seams.

**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 bill covers particular men's or boys' shirts of wool or fine animal hair. Under the terms of subdivision (a) of the proposed U.S. note, these shirts must be produced by assembling only component parts meeting the stitch count and assembly criteria set forth in the note. To be classified in HTS heading 6105, under note 4 to chapter 61 (an international legal provision), a garment must have an average of 10 or more stitches per linear centimeter "in each direction, counted on an area measuring at least 10 centimeters by 10 centimeters," and must have sleeves. Although the bill uses the term "knit to shape" to refer to these garments, it is unclear whether all of them would fit within the meaning set forth for that term in that statistical note or in the related Customs informed compliance publication concerning HTS heading 6110.<sup>6</sup> It is believed that China is the largest supplier of these garments.

An unrelated change would be made with respect to certain gloves, which had been eligible for benefits of a temporary duty suspension until the end of 2009. The bill would remove the first existing U.S. note 18 now set forth in subchapter II of HTS chapter 99 and replace it with new U.S. note 19 to modify the definition of "mechanics work gloves" relating to five HTS headings in chapter 99. The language of the proposed note is identical to the language included in S. 2237, which has been discussed in the Commission's memorandum on that bill (attached).

**Estimated effect on customs revenue for the subject product classifiable in HTS subheading 6105.90.10:**

	2010	2011	2012	2013	2014
Col. 1-General rate of duty	14.9%	14.9%	14.9%	14.9%	14.9%
Estimated value <i>dutiable</i> imports <sup>a</sup>	\$1,784,000	\$1,838,000	\$1,893,000	\$1,949,000	\$2,008,000
Customs revenue loss <sup>b</sup>	\$265,816	\$273,862	\$282,057	\$290,401	\$299,192

<sup>a/</sup> Dutiable import estimates were provided by industry sources. Although industry sources indicated that the subject goods were being imported under this HTS subheading, it is not clear whether Customs would consider all garments of interest to the proponents to be "shirts." However, it is not possible to ascertain the level of imports that might properly be classified in this subheading and the quantity that might fall into HTS subheading 6110.11.00 or 6110.19.00 (the provisions that would appear to cover any such garments).

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

<sup>6</sup> U.S. Customs and Border Protection, "What Every Member of the Trade Community Should Know About: Classification of Knit to Shape Garments under HTSUS Heading 6110" (May 2008).

**Estimated effect on customs revenue for the subject product classifiable in HTS subheading 6110.11.00 or 6110.19.00:**

	2010	2011	2012	2013	2014
Col. 1-General rate of duty	16%	16%	16%	16%	16%
Estimated value <i>dutiable</i> imports <sup>a</sup>	n/a	n/a	n/a	n/a	n/a
Customs revenue loss <sup>b</sup>	\$0	\$0	\$0	\$0	\$0

a/ Dutiable import estimates were provided by industry sources with respect to the bill as drafted.

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)		
J. C. Penney Corporation, Inc. (Proponent) Nancy Parker White, 972-431-5631, nparkerw@jcpenney.com	02/26/2010	No	No	No
American Apparel & Footwear Association Kevin Burke, 703-797-9037, mrust@apparelandfootwear.org	02/26/2010	No	No	No
American Fiber Manufacturers Association Paul O'Day, 703-875-0432, oday@afma.org	02/26/2010	No	No	No
American Manufacturing Trade Action Coalition Augustine Tantillo, 202-452-0866, atantillo@amtacdc.org	02/26/2010	No	No	No
National Council of Textiles Organizations Cass Johnson, 202-822-8028, cjohnson@ncto.org	02/26/2010	No	No	No
National Retail Federation 202-783-7971 Eric Autor, 202-626-8104, cell: 202-250-9580 autore@nrf.com	02/26/2010	No	No	No
National Textile Association David Trumbull, 617-542-8220, dtrumbull@nationaltextile.org	02/26/2010	No	No	No
Outdoor Industry Association Alex Boian, 303-327-3509, aboian@outdoorindustry.org	02/26/2010	No	No	No

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
Retail Industry Leaders Association Stephanie Lester, 703-841-2300, stephanie.lester@rila.org	02/26/2010	No	No	No
Sorini, Samet, & Associates Fax: 202-393-4494 Ronald Sorini, 202-393-4481 ext. 206, cell, 630-561-1867, rsorini@ssa-dc.com Keith Jenkins, 202-393-4481, ext 201, kjenkins@ssa-dc.com	02/26/2010	No	No	No
U.S. Association of Importers of Textiles and Apparel Julia Hughes, 202-783-0720, j.hughes@ids-quota.com	02/26/2010	No	No	No

**Technical comments:<sup>7</sup>**

As noted above, although industry sources indicated that the subject goods were being imported under HTS subheading 6105.90.10 as “shirts,” the language of international legal note 4 to chapter 61 would appear to preclude all or nearly all imports from being classified there. We defer to Customs as to the need to delete the first proposed chapter 99 heading shown on page 1. We have suggested a possible provision to cover these goods (avoiding the use of the word “shirts” because it does not appear in heading 6110, a provision for sweaters, pullovers, and other similar garments), but we defer to Customs on the wording and the appropriate classification of these goods.

In order to avoid creating a second, different definition for a term that is already in use in the HTS, it is suggested that the proposed heading(s) should not use the phrase “knit to shape” and the language of the related legal note should be amended as shown on page 1. We note that verifying the stitch count of each component of each garment is likely to present enforcement and administrative burdens for Customs because it is a labor intensive process. These bills are likely to cause interpretive problems as well because of the complexity of the proposed note. Moreover, the term “knit to shape” as defined in this bill would relate only to garments of interest to the proponents, and not necessarily to the wider range of apparel articles produced worldwide. Suggested language for subdivision (b) of the new U.S. note is included in Commission memoranda pertaining to S. 2590 and other bills relating to that subdivision.

Subdivision (a) of the proposed legal note would cover garments with from 9 to 18 stitches per 2 centimeters. The drafting of this bill, particularly the inclusion of the entire new legal note (without the affected heading numbers) in each bill of the series, would present problems for the HTS if fewer than all of the bills are enacted and, in particular, if none of the bills creating headings related to subdivision (b) are enacted.

Last, because new U.S. note 20 to subchapter II of chapter 99 is already included in S. 2237 and covers unrelated products, it is suggested that subdivision (2) of this bill should be deleted.

<sup>7</sup> The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only Customs is authorized to issue a binding ruling on this matter. The Commission believes that Customs should be consulted prior to enactment of the bill.

ATTACHMENT

Commission Approved Memorandum

on S. 2237

111TH CONGRESS  
1ST SESSION

# S. 2581

To suspend temporarily the duty on certain knit-to-shape shirts of wool  
or fine animal hair.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2009

Mr. CORNYN 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 knit-to-shape  
shirts of wool or fine animal hair.

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 KNIT-TO-SHAPE SHIRTS OF WOOL OR**

4 **FINE ANIMAL HAIR.**

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	Knit-to-shape shirts of wool or fine animal hair, as de- scribed in U.S. note 21(a) to this subchapter (provided for in subheading 6105.90.10) ...	Free	No change	No change	On or before 12/31/2011	”.
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1 (b) AMENDMENTS TO U.S. NOTES.—

2 (1) IN GENERAL.—Subchapter II of chapter 99  
3 of the Harmonized Tariff Schedule of the United  
4 States is amended by adding at the end the fol-  
5 lowing new U.S. Note:

6 “21. (a) Headings **【9902.01.00 through**  
7 **9902.XX.XX】** cover only garments that were knit to  
8 shape on flat knitting machines with a stitch count exceed-  
9 ing 9 stitches per 2 centimeters but less than or equal  
10 to 18 stitches per 2 centimeters, measured on the outer  
11 surface of the fabric forming the exterior surface of the  
12 garment in the direction on which the stitches are formed.  
13 Whenever such fabric is formed using both knit and purl  
14 stitches, the purl stitches will be disregarded and only the  
15 knit stitches on the outer surface of the fabric will be  
16 counted. In order to be eligible for entry under these head-  
17 ings—

18 “(1) all of the garment’s component parts, in-  
19 cluding any collars, plackets, cuffs, waistbands and  
20 pockets, must have been knit to shape; and

21 “(2) all of the garment’s components must have  
22 been assembled by looping and linking, including the  
23 side seams.

24 “(b) Headings **【9902.01.00 through 9902.XX.XX】**  
25 cover only garments that were knit to shape on flat knit-

1 ting machines with a stitch count not exceeding 9 stitches  
2 per 2 centimeters, measured on the outer surfaces of the  
3 fabric forming the exterior surface of the garment in the  
4 direction on which the stitches are formed. Whenever such  
5 fabric is formed using both knit and purl stitches, the purl  
6 stitches will be disregarded and only the knit stitches on  
7 the outer surface of the fabric will be counted. In order  
8 to be eligible for entry under these headings—

9           “(1) all of the garment’s component parts, in-  
10           cluding any collars, plackets, cuffs, waistbands and  
11           pockets, must have been knit to shape; and

12           “(2) all of the garment’s components must have  
13           been assembled by looping and linking, including the  
14           side seams.”.

15           (2) TECHNICAL CORRECTION.—Such sub-  
16           chapter is further amended by striking the first U.S.  
17           note 18 to such subchapter (relating to headings  
18           9902.14.01 through 9902.14.05) and inserting after  
19           U.S. note 19, the following new U.S. Note:

20           “20. For the purposes of subheadings 9902.14.01,  
21           9902.14.02, 9902.14.03, 9902.14.04, and 9902.14.05, the  
22           term ‘mechanics’ work gloves’ means gloves having the fol-  
23           lowing characteristics: synthetic leather palms and fingers;  
24           fourchettes of synthetic leather or of fabric in part of  
25           nylon or elastomeric yarn; backs comprising either one

1 layer of knitted fabric in part of elastomeric yarn or three  
2 layers with the outer layer of knitted fabric in part of elas-  
3 tomeric yarn, the center layer of foam and the inner layer  
4 of tricot fabric, the foregoing whether or not including a  
5 thermoplastic rubber logo or pad on the back; and elastic  
6 wrist straps with molded thermoplastic rubber hook-and-  
7 loop enclosures.”.

8       (c) EFFECTIVE DATE.—The amendments made by  
9 this section apply to goods entered, or withdrawn from  
10 warehouse for consumption, on or after the 15th day after  
11 the date of the enactment of this Act.

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