

November 6, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

REVISED MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE  
UNITED STATES HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION<sup>1</sup>

Bill no., sponsor, and sponsor's state: H.R. 1973 (105th Congress), Representative Gutknecht (MN)

Companion bill: None

Title as introduced: To amend the Harmonized Tariff Schedule of the United States (HTS) to provide for duty-free treatment of oxidized polyacrylonitrile fibers for use in aircraft brake components.

Summary of bill:<sup>2</sup>

The bill would amend chapter 55 of the HTS to subdivide a six-digit Harmonized System subheading into two U.S. subheadings, one of which would eliminate the column 1-general duty on certain fibers imported for use in the production of aircraft brake components. Subheading 5501.30.00 now covers acrylic or modacrylic filament tow.

Effective date: The 15th day after enactment

Retroactive effect: None

Statement of purpose:

A member of the sponsor's staff stated that the purpose of the bill is to eliminate the current 10 percent duty on certain fibers used to produce fabric subsequently used to produce aircraft brake components.<sup>3</sup> This change reportedly would allow the single U.S. firm that makes the fabric used in these components to continue to make the components competitively. The firm contends that without the duty elimination they would need to purchase the fabric from European manufacturers (as do all other U.S. producers of the components), thus reducing U.S. jobs.<sup>4</sup>

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<sup>1</sup> Industry analyst: Mary Elizabeth Sweet (205-3455); attorney: Jan Summers (205-2605).

<sup>2</sup> See appendix A for definitions of tariff and trade agreement terms.

<sup>3</sup> Jon Peterson, conversation with USITC staff, July 31, 1997.

<sup>4</sup> Jennifer Heth, Fiberite, conversation with USITC staff, July 31, 1997.

Product description and uses:

Oxidized polyacrylonitrile tow: The product covered by the bill is oxidized polyacrylonitrile fibers for use in aircraft brake components. These fibers are imported in the form of tow, which is a large strand of continuous man-made fiber filaments without twist that are collected in loose, rope-like form. The subject tow, once formed, is heated to the appropriate temperature to convert it to filaments that are at least 90 percent carbonized.

The oxidized tow is purchased by firms that break it into short fibers, which are then either spun into yarn for weaving fabric or used to make a nonwoven fabric. The fabric is then cut to shape and several layers are consolidated into “preforms” to make the final brake assembly. A few U.S. firms make the preforms that other firms use to produce the actual brake.

Tariff treatment:<sup>5</sup>

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty (1997)</u>
Acrylic or modacrylic filament tow	5501.30.00	9.2 %

Structure of domestic industry (including competing products):

Oxidized polyacrylonitrile tow: Only two firms in the United States are known to make oxidized acrylic tow; consequently, production data are considered confidential business information.<sup>6</sup> The tow produced by one of these firms is not qualified for aircraft use. Domestic production is believed to be quite small compared with total production of man-made fibers. Three U.S. firms make the carbon aircraft brakes, and they have only a few suppliers of the preforms.<sup>7</sup>

Private-sector views:

Commission staff contacted one consumer of the subject fiber and the trade association that represents the man-made fiber industry. No written comments were received by the Commission as of the date of preparation of this report.<sup>8</sup>

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<sup>5</sup> See appendix B for column 1-special and column 2 duty rates.

<sup>6</sup> Because safety is an important consideration with respect to aircraft brakes, they must be made of materials that fit very precise specifications dictated by the aircraft producer. To qualify for approval, a supplier generally must complete comprehensive testing that takes from one-and-a-half to two years and can cost \$2 million. Memorandum from Jennifer Heth to Jon Peterson, May 12, 1997.

<sup>7</sup> Other than U.S. production, only two other firms in the world make carbon aircraft brakes.

<sup>8</sup> Jennifer Heth, conversation with USITC staff, July 31, 1997, and Stan Snowman, Fiber Economics Bureau, conversation with USITC staff, Aug. 1, 1997.

U.S. consumption:

Oxidized polyacrylonitrile tow:	<u>1994</u>	<u>1995</u>	<u>1996</u>
	----(million dollars)---		
U.S. production.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
U.S. imports ( <sup>2</sup> ).....	17.8	19.9	13.4
U.S. exports.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Apparent U.S. consumption.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

(<sup>1</sup>) Not available.

(<sup>2</sup>) Import data are for HTS subheading 5501.30.00, which covers all acrylic and modacrylic tow and not solely the subject oxidized tow.

Principal import sources: United Kingdom (Scotland)

Principal export markets: None.

Effect on customs revenue:<sup>9</sup>

Future 1998 effect:	1996 imports ( <sup>2</sup> ).....	\$570,500
	1998 rate of duty.....	9% ad valorem
	Duty loss.....	\$51,345

(<sup>2</sup>) Estimated by the purchaser of the subject tow.

Retroactive effect: None.

Technical comments:

We note that the article description in new subheading 5501.30.10 contains an “actual use” provision, which would require that the importer/broker be able to verify that each shipment of imported material will in fact be used by a manufacturer to make aircraft brake components--though at the time of entry the importer may not have that information. Accordingly, it is suggested that the words “fibers for use in the production of aircraft brake components” should be dropped from the proposed description; despite the fact that removal of the actual use language would apparently serve the purpose of narrowing the bill’s scope, the criterion is not useful from an administrative or compliance standpoint. In addition, we note that the bill as drafted does not provide for the continuation of scheduled staged duty reductions, already accorded by proclamation to the general rate of duty in subheading 5501.30.00, to the general duty rate under new subheading 5501.30.30.

Consideration of international obligations: None.

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<sup>9</sup> Actual revenue loss may be understated in the event of a significant increase in imports.

## 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 most-favored-nation (MFN) 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 enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible 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 June 30, 1998. 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 or 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.

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**APPENDIX B**

**SELECTED PORTIONS OF THE  
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1973

To amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment of oxidized polyacrylonitrile fibers for use in aircraft brake components.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 1997

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

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## A BILL

To amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment of oxidized polyacrylonitrile fibers for use in aircraft brake components.

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. DUTY-FREE TREATMENT FOR CERTAIN FIBERS**

4 **USED IN AIRCRAFT BRAKE COMPONENTS.**

5 (a) IN GENERAL.—Chapter 55 of the Harmonized  
6 Tariff Schedule of the United States is amended by strik-  
7 ing subheading 5501.30.00 and inserting the following  
8 new subheadings, with the article description for sub-

1 heading 5501.30 having the same degree of indentation  
 2 as the article description for subheading 5501.20.00:

5501.30	Acrylic or modacrylic:				
5501.30.10	Oxidized polyacrylonitrile fibers for use in the production of air- craft brake components .....	Free			45%
5501.30.20	Other .....	9.2%		Free (CA, IL, MX)	45%

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 this section applies to goods entered, or withdrawn from  
 5 warehouse for consumption, on or after the 15th day after  
 6 the date of the enactment of this Act.

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