

June 10, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: H.R. 3294 (105th Congress), Representative Matsui (CA).

Companion bill: None.

Title as introduced: To modify the marking of certain silk products and containers.

Summary of bill:²

The bill would amend section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) by exempting silk fabrics and scarves from U.S. country-of-origin marking requirements. A primary purpose of section 304 is to permit the "ultimate purchaser" of imported goods to choose between domestic and foreign-made products, or between the products of different foreign countries. In general, the origin of a good is the country where it last underwent a significant manufacturing process or operation that resulted in a new article of commerce; U.S. courts have articulated the "substantial transformation" principle as the basis for ascribing origin.

Effective date: On or after the date of enactment of the legislation.

Retroactive effect: None.

Statement of purpose:

The sponsor made no statement regarding the bill in the *Congressional Record*.

The apparent purpose of the bill is to codify the terms of an agreement reached between the European Union (EU) and the United States.³ This agreement settled a dispute over a change in U.S. rules of origin⁴ for silk fabrics and scarves, which became effective on July 1, 1996, as required under section 334 of the Uruguay Round Agreements Act. Under these U.S. rules, the country of origin for silk fabrics and scarves is the country where the fabrics are made, even if they undergo dyeing, printing, cutting, sewing, and other

¹ Industry analyst: Jackie W. Jones (205-3466); attorney: Jan Summers (205-2605).

² See appendix A for definitions of tariff and trade agreement terms.

³ See *Inside U.S. Trade*, Feb. 27, 1998, p. 17-18, for text of the agreement.

⁴ Rules of origin are used to identify the source of a good, especially goods containing inputs from more than one country.

finishing operations in another country. Stating that the new rules adversely affected its exports of silk fabrics and scarves to the U.S. market, the EU filed a request with the WTO in May 1997 for formal consultations with the United States. The EU stated that, as a result of the U.S. rules change, its exports of silk fabrics and scarves are no longer recognized in the U.S. market. The U.S. rules of origin require that these goods be labeled as a product of the country where the fabric was made, mainly China, rather than where they are dyed, printed, or otherwise finished..

Under the agreement with the EU, the United States will exempt silk fabrics and scarves from country-of-origin marking requirements and will allow these products to be imported with appellations such as “Designed in Italy,” “Dyed and Printed in Italy,” “Cut and Sewn in Italy,” and “Fashioned in Italy” instead of “Product of China.”

Product description and uses:

Woven silk fabric: The bill covers all woven fabric of silk and of silk blended with other fibers, such as cotton and wool, the foregoing all classified in heading 5007 of the Harmonized Tariff Schedule of the United States (HTS). No distinction is made by value or by source country.

Silk scarves: The bill covers silk scarves, as well as silk shawls, veils, and similar articles, all classified in HTS subheading 6214.10.10. Again, the bill would not afford the exemption solely to the higher-value goods imported from the EU but would also grant it to low-end articles produced in developing countries.

Tariff treatment:⁵

<u>Product</u>	<u>HTS subheading</u>	Col. 1-general <u>rate of duty</u>
Woven fabrics of silk or of silk waste.....	5007	From 1%- 6.2% ad valorem
Shawls, scarves, mufflers, veils, and the like: Of silk or silk waste: Containing 70 percent or more by weight of silk or silk waste.....	6214.10.10	2.5% ad val.

Structure of domestic industry (including competing products):

Woven silk fabric: Production of silk fabric in the United States has declined significantly during the past 20 years. Although at historically low levels, U.S. production of silk fabric

⁵See appendix B for column 1-special and column 2 duty rates.

rebounded somewhat in 1997. After declining from 810,000 square meters in 1992, (the first year such data were collected on silk fabric), to 461,000 square meters in 1995, U.S. production of silk fabric rose to 807,000 square meters in 1997. Currently, there are fewer than 10 firms in the United States producing woven silk fabric. Many of these companies produce silk fabric for use in the manufacture of neckties and other apparel products and for use in home furnishings. Very few U.S. companies print silk fabrics domestically; most of the patterned silk fabrics made in the United States are made with yarns that have been dyed, and the design is created as part of the weaving process.

Silk scarves: The Commission staff has identified at least four U.S. producers of silk scarves and believes there are more. Generally, these companies market a wide range of apparel accessories, some of which they import and some of which they produce domestically. One firm reported that it imports the printed silk fabric and sews the scarves domestically.

Private sector views:

**Woven silk fabric
and silk scarves:**

The Commission contacted four trade associations which represent U.S. producers of these products; members of these trade associations also import these products.⁶ In addition, the Commission staff spoke with Ms. Deborah Swartz, Vice-President, Economic Consulting Services, Inc., and Mr. Jerry Anderson, Executive Director of the Neckwear Association of America, Inc.; these organizations represent U.S. necktie producers and support the legislation.⁷

The Commission also contacted 13 U.S. companies, many of which manufacture silk fabrics and scarves both domestically and abroad.⁸ Two of these firms oppose the legislation and submitted their opposition in writing.⁹

⁶The Commission contacted Mr. Robert DuPree, Associate Director of Government Relations, the American Textile Manufacturers Association; Mr. Patrick Kilbride, Director of Government Relations, the American Apparel Manufacturers Association; Mr. Jerry Anderson, Executive Director of the Neckwear Association of America; Ms. Deborah Swartz, Vice-President, Economic Consulting Services; and Mr. David Trumbull, the Northern Textile Association, Boston, MA.

⁷See appendix C.

⁸The Commission contacted Mr. Jeffrey White, President, Shamash and Sons, New York, NY; Mr. James J. Xie, President, Fabri-X, Inc., Alhambra, CA; Mr. Mark Letterman, President, Kalkstein Silk Mills, Paterson, NJ; Mr. George Shuster, President and CEO, Cranston Print Works Co., Cranston, RI; Mr. John Sullivan, President, American Silk Mills, New York, NY; Ms. Becky Kopp, President, Loma Weaving, Wrightsville, PA; Mr. Seeherman, President, Cejon Assessories, New York, NY; Ms. Elaine Gold, CEO, Collection XVII, New York, NY; Ms. Camille Brande, President, Echo, New York, NY; Mr. Bauman, Senior Vice-President, Desco, Englewood Cliffs, NJ; Mr. John A. Hryncewich, President, Alex Silk Co., Inc., Hawthorne, NJ; Mr. Mark Bitter, President, Scalmandre, New York, NY; and Mr. Robert Davidson, Vice-President, Harry Bachrach, Inc., New York, NY.

⁹See appendix C for comments submitted in opposition to H.R. 3294 by Mr. Jeffrey White, President, Shamash & Sons, New York, NY, Apr. 24, 1998; and by Mr. John A. Hryncewich Jr., President/CEO, Alex Silk Co., May 2, 1998.

U.S. consumption:

Woven silk fabric :	<u>1995</u>	<u>1996</u>	<u>1997</u>
	------(Million dollars)-----		
U.S. production ¹	3.7	4.2	6.7
U.S. imports.....	295.5	311.3	320.3
U.S. exports.....	(²)	(²)	(²)
Apparent U.S. consumption ¹	299.2	315.5	327.0

¹Estimated by Commission staff.

²Not available.

Principal import sources: China, Italy, India, and Korea.

Principal export markets: Not available.

Silk scarves:	<u>1995</u>	<u>1996</u>	<u>1997</u>
	------(Million dollars)-----		
U.S. production.....	(¹)	(¹)	(¹)
U.S. imports.....	61.7	67.0	70.1
U.S. exports.....	(¹)	(¹)	(¹)
Apparent U.S. consumption.....	(¹)	(¹)	(¹)

¹Not available.

Principal import sources: Italy, China, Korea, France, and Japan.

Principal export markets: Not available.

Effect on customs revenue:

This bill would affect only the marking of the country of origin, not the classification of the products or their rates of duty, and as such is expected to have no direct effect on customs revenues. Moreover, the bill represents the enactment of an agreement already negotiated by the Administration.

Technical comments:

The title of the bill refers to the marking of containers but does not specify whether the intent is to affect immediate containers and holders (such as those in which the goods are sold at retail) or shipping containers (such as cartons in which the goods may reach wholesalers or retailers). It is suggested that this matter be clarified or that the phrase "and containers" be dropped from the bill's title.

Further, to reduce confusion, consideration might be given to preparing legislative language or history to conform section 334 of the Uruguay Round Agreements Act to this new measure, if enacted, to avoid apparently conflicting language.

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.)

APPENDIX C

OTHER ATTACHMENTS

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

105TH CONGRESS
2D SESSION

H. R. 3294

To modify the marking of certain silk products and containers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1998

Mr. MATSUI (by request) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To modify the marking of certain silk products and containers.

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. MARKING OF CERTAIN SILK PRODUCTS AND**
4 **CONTAINERS.**

5 (a) IN GENERAL.—Section 304 of the Tariff Act of
6 1930 (19 U.S.C. 1304) is amended—

7 (1) by redesignating subsections (h), (i), (j),
8 and (k) as subsections (i), (j), (k), and (l), respec-
9 tively; and

10 (2) by inserting after subsection (g) the follow-
11 ing new subsection:

1 “(h) MARKING OF CERTAIN SILK PRODUCTS.—The
2 marking requirements of subsections (a) and (b) shall not
3 apply either to—

4 “(1) articles provided for in subheading
5 6214.10.10 of the Harmonized Tariff Schedule of
6 the United States, as in effect on January 1, 1997,
7 which contain 70 percent or more by weight of silk
8 or silk waste, or

9 “(2) goods provided for in heading 5007 of the
10 Harmonized Tariff Schedule of the United States, as
11 in effect on January 1, 1997.”.

12 (b) CONFORMING AMENDMENT.—Section 304(j) of
13 such Act, as redesignated by subsection (a)(1) of this sec-
14 tion, is amended by striking “subsection (h)” and insert-
15 ing “subsection (i)”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section apply to goods entered, or withdrawn from
18 warehouse for consumption, on or after the date of the
19 enactment of this Act.

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