

June 2, 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. 3430 (105th Congress), Congressman McDermott (WA).

Companion bill: S. 1863 (105th Congress), Senator Murray (WA).²

Title as introduced: To temporarily suspend the duty on certain polyethylene base materials.

Summary of bill:³

This bill would temporarily suspend import duties until on or before Dec. 31, 2000, on sintered and extruded polyethylene base materials under 250 millimeters (mm) in width for use in making skis.

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

The sponsor made no comments at the time this bill was introduced.⁴ Congressman McDermott's remarks regarding a previous similar bill appeared in the *Congressional Record*, as follows:⁵

K2 Corporation, Vashon Island, Washington, is the last remaining major U.S. manufacturer of skis in the United States. Virtually all K2 and Olin-brand skis sold throughout the world are individually crafted by more than 700 technicians on Vashon Island. To the extent possible, K2 purchases materials used in the manufacture of skis from companies based in Washington State and other regions of the country, especially in the Pacific Northwest. However, for a key ski component, i.e., polyethylene base materials, K2 has been unable to find a domestic supply source that can meet its requirements. Therefore K2 has been forced to import these products, which are subject to U.S. customs duties. This

¹ Industry analyst: Raymond Cantrell (205-3362); attorney: Leo Webb (205-2599).

² *Congressional Record*, S. 1863, Mar. 25, 1998, p. S2570.

³ See appendix A for definitions of tariff and trade agreement terms.

⁴ *Congressional Record*, H. R. 3430, Mar. 10, 1998, p. H1021.

⁵ *Congressional Record*, H. R. 540, Feb. 4, 1997, p. E156.

legislation provides for a temporary suspension of customs duty on polyethylene base raw materials which are vital to the U.S. production of skis and which are unavailable from domestic producers. K2 has endured as a U.S. ski manufacturer in the face of fierce price competition, while several other major ski companies no longer manufacture skis in the United States. This temporary duty suspension legislation would support jobs in the region, as well as help K2 preserve and increase its competitiveness in the global marketplace. K2 is the only major exporter of skis made in the United States. Thus, K2's exports of U.S. manufactured skis and snowboards represent a substantial percentage of U.S. skis sold worldwide. K2 strives to continue as a key player in the increasingly competitive international ski market. This duty suspension legislation will help enable K2 to compete and to continue supporting our Nation's economy by strengthening the U.S. ski industry and American jobs.

Product description and uses:

Polyethylene base: There are two basic types of polyethylene base materials cemented to the bottoms of skis which lower friction and produce a more lubricious, free gliding effect: sintered and extruded base materials. Sintered base materials are most commonly used for ski base and consist of fused polyethylene resin profiles produced by compression molding under prescribed conditions of temperature and pressure, while extruded base materials are formed from molten, homogenized polyethylene resin forced through a die under pressure to produce the desired configuration. While both types are produced predominately from a specialty ultra high-molecular weight polyethylene (UHMWPE) having unique properties, sintered base materials are more expensive to produce but possess superior physical performance properties including toughness, durability, flexural strength, and porosity--integral to the maximum absorption of ski base waxes and smooth gliding characteristics. Sintered polyethylene base forms are found on the bottom surfaces of most skis where high-performance characteristics are intrinsic. Extruded polyethylene base materials are used primarily in less demanding, less expensive brands of skis produced for children, beginners, and the novice in general.

Tariff treatment:⁶

<u>Product</u>	<u>HTS subheading</u>	Col. 1-general <u>rate of duty</u>
Polyethylene base materials that are under 250 mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis.....	3920.10.00	4.2% ad valorem.

⁶See appendix B for column 1-special and column 2 duty rates.

Structure of domestic industry (including competing products):

Polyethylene base: According to information provided by Mr. Gary R. Ellerhorst, Chief Operating Officer of Crown Plastics, Harrison, OH, there are currently no acceptable domestically produced polyethylene base materials suitable for the quality demands of U.S. ski manufacturers. Crown, however, dominates U.S. domestic production and sales of sintered polyethylene base material for snowboard manufacture, and supplies about 90% of the total domestic market. Both Crown and another smaller producer of sintered base polyethylene materials (Pru-lesco, Inc., Pawtucket, RI) have submitted samples to K2 for testing, but domestically produced products did not meet K2's quality and performance standards. There are currently only three known producers of skis in the United States, K2 Corp., Vashon, WA, the domestic industry leader, followed by Volant Ski Corp., Wheat Ridge, CO, and Evolution Ski in Utah. All polyethylene base materials for skis, sintered and extruded, are imported, principally from Austria, Germany, and Switzerland because of high performance demand properties. Much of the UHMWPE resin for U.S. and European polyethylene base production is reportedly from Hoechst Celanese Corp., which produces this product at one location in the United States, Lake Charles, LA.

Private-sector views:

The Commission contacted legal counsel for K2 Corp., Crown Plastics personnel, Volant Ski Corp. and Evolution Ski in conjunction with this bill.⁷ As of this date written responses had been received from three of the four firms contacted. More than 15 contacts were made in conjunction with previous bills related to this subject.⁸

⁷Ms. Smith, Coudert Bros., New York, NY, legal counsel for K2 corp., Apr. 6, 13, 1998; Mr. Ellerhorst, Chief Operating Officer, Crown Plastics, Harrison, OH, Mar. 30, 1998; Mr. Kashiwa, CEO, Volant Ski Corp., Apr. 14, 1998, and Mr. Denkers, Evolution Ski, UT, Apr. 16, 1998.

⁸Mr. Lippincott, The Society of the Plastics Industry, Inc. (SPI), 6/97; Ms. Pierce, SnowSports Industries America (SIA), 7/97; Messrs. Gary & Peter Ellerhorst, Crown Plastics, 7/97; Ms. Lee, Gage Industries, 7/97; Mr. Fletcher, Tetraplastics, 7/97; Ms. Bysiewicz, K2 legal counsel, Coudert Brothers, Attorneys at Law, New York, NY, 7/97; Mr. Grimshire, Option Snowboards, 7/97; Ms. Muir, Volant Ski Corp., 7/97; Mr. VonWald., O'Brien International, Inc., 7/97; Ms. Hedrick, Burton Snowboards, 7/97; Mervin Manufacturing, Inc., 7/97; Miller Ski Co., 7/97; Rossignol Ski Co./Snowboards, 7/97; Lamar Snowboards, Inc., 7/97; Dynastar Skis, Inc., 7/97; Atomic Ski USA, Inc., 7/97.

U.S. consumption:¹

Polyethylene base materials, sintered and extruded, under 250mm in width, sanded on one side and surface-treated for use in the manufacture of skis:

	<u>1995</u>	<u>1996</u>	<u>1997</u>
	-----(\$Million)-----		
U.S. production.....	0	0	0
U.S. imports ²	3.7	3.4	3.2
U.S. exports.....	0	0	0
Apparent U.S. consumption ²	3.7	3.4	3.2

¹Ski base materials only. Excludes material produced/imported for snowboard manufacture.

²Commission estimates based on information supplied by industry.

Principal import sources: Austria, Germany, and Switzerland.

Principal export markets: None.

Effect on customs revenues:⁹

Future (1998-2000) effect: From an estimated import base of \$3.2 million in 1997, the Commission believes that sintered and extruded polyethylene ski base imports will likely continue to fall by an estimated \$0.3 million/year to \$2.3 million by the end of 2000, typical of that experienced during the period 1996-98. Prices are declining due to changes in currency valuation and market forces (ethylene oversupply). The estimated average annual revenue loss during the period is expected to be about \$110,000.¹⁰

Retroactive effect: None

Technical comments:

The 250mm maximum width specified for ski-grade material has been reviewed by U.S. Customs, although a “gray area” may exist between what is considered skis versus snowboards at widths above 160mm. Approximately 99 percent of skis are reported to be 160mm or lower in width.¹¹ U.S. Customs reportedly can distinguish rolls of sintered polyethylene base for skis from that used for snowboards.¹²

⁹ Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. A duty drawback provision is in effect for polyethylene base materials, in which a U.S. firm is given equal monetary compensation for imported polyethylene base materials exported, in turn, on finished product skis and snowboards; less a 1% handling charge. This drawback is highly variable within the industry, ranging from over 40% of base material reexported in product to less than 10%.

¹⁰ Based on information supplied by industry

¹¹ Crown Plastics, Mr. Ellerhorst, Chief Operating Officer, Harrison, OH.

¹² U.S. Customs National Import Specialist Joan Mazzola, New York, NY 10048.

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.

Rev. 8/12/97

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. 3430

To suspend temporarily the duty on certain polyethylene base materials.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1998

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

A BILL

To suspend temporarily the duty on certain polyethylene
base materials.

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. SUSPENSION OF DUTY ON CERTAIN POLY-**
4 **ETHYLENE BASE MATERIALS.**

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:

“	9902.39.20	Polyethylene base materials that are under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis (provided for in sub- heading 3920.10.00)	Free	No change	No change	On or before 12/31/2000	”.
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1 (b) APPLICABILITY.—The amendment made by this
2 section applies to goods entered, or withdrawn from ware-
3 house for consumption, on or after the 15th day after the
4 date of the enactment of this Act.

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