

April 16, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES  
SENATE ON PROPOSED TARIFF LEGISLATION<sup>1</sup>

Bill no., sponsor, and sponsor's state: S. 1457 (105th Congress), Senator Moseley-Braun (IL)

Companion bill: H.R. 2498 (105th Congress), Representative Christian-Greene (V.I.)

Title as introduced: To amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States.

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

The bill would add a new additional U.S. note to chapter 71 of the Harmonized Tariff Schedule of the United States (HTS) pertaining to fine jewelry<sup>3</sup> that is the product of the U.S. insular possessions (mainly the U.S. Virgin Islands, Guam, and American Samoa). The bill would allow jewelry producers (assemblers) in the U.S. insular possessions to take advantage of the production incentives that have been granted to watch producers since 1983, as set forth in additional U.S. note 5 to HTS chapter 91. Jewelry and watch producers and assemblers would share the benefits that already exist; the bill would not increase or decrease benefits already in effect or alter quantitative limits on imports, and watch producers would not experience a reduction in their benefits. Presumably, jewelry producers would be able to take advantage of unused certificates and unfilled import quantities available after watch producers had made use of benefits available to them, and watch producers could also produce jewelry under the program. The production incentive certificate (PIC) program currently allows insular possession watch producers to import specified quantities of insular possession watches and watch movements free of duty and to claim duty refunds for watches, watch movements, or parts (except discrete cases) imported into the U.S. customs territory. This duty refund under subdivision (h)(v) of additional U.S. note 5 is determined by means of a formula taking into account wages paid to insular possessions workers, and the refund is not limited to watches produced in the insular possessions.

Effective date: Upon enactment.

Retroactive effect: None.

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<sup>1</sup> Industry analyst: Jennifer Rorke (205-3489); attorney: Jan Summers (205-2605).

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

<sup>3</sup> Heading 7113 covers articles of jewelry and parts thereof, of precious metal or of metal clad with precious metal.



Statement of purpose:

On November 8, 1997, Senator Moseley-Braun stated in the *Congressional Record* that the bill would extend the limited duty-free treatment and refunds under production incentive certificates or PICs<sup>4</sup> that U.S. watch producers currently receive to jewelry producers in the U.S. insular possessions. She indicated that the purpose of the bill is to develop economic opportunities for manufacturers and workers through increased employment and more flexible trade benefits in the U.S. Virgin Islands, Guam, and American Samoa.

Product description and uses:

Precious-metal jewelry is designed to be worn for adornment but may serve an additional function as a financial investment. This fine jewelry is differentiated from costume jewelry by price (a higher quality of metal is used in the manufacturing of precious-metal jewelry); however, they are often similar in product design and manufacturing. Fine jewelry includes such items as necklaces (rope, curb, cable, and chain, and related clasps), bracelets, and earrings manufactured from silver, gold, and/or platinum, as well as articles clad with such precious metals.

Tariff treatment:<sup>5</sup>

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
Articles of jewelry and parts thereof, of precious metals or of metal clad with precious metal .....	7113	5.3-16.3 percent ad val.

Currently, watch producers in the insular possessions receive an annual duty exemption allocation for watches and movements that are imported into the United States under additional note 5(b)-(g) to chapter 91 of the HTS. Under additional U.S. note 5 (h)(v), producers in the insular possessions holding PICs may also seek duty refunds on such products imported into U.S. customs territory, up to a certain aggregate quantity each year.

Structure of domestic industry (including competing products):

The U.S. precious jewelry industry encompasses a large number of relatively small, often family-owned, companies that manufacture a wide range of products. The majority of precious-metal jewelry manufacturers are located in New York, New Jersey, and Southern New England. Increasing competition within the United

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<sup>4</sup> The PIC program was implemented on Jan. 12, 1983 to stimulate the watch industry (assembly of both conventional and digital watches and watch movements) in the U.S. Virgin Islands following increased imports into the United States of inexpensive digital watches from the Far East. The program grants certificates equivalent to a calculated percentage of verified wages paid on other watch imports (that is, direct, duty-paid imports from third countries). The certificates can be used for one year to obtain refunds of duties paid on watches and movements imported during the two year period prior to the certificate's issuance.

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

States and sharply growing imports have reduced employment and forced the remaining manufacturers to improve productivity.

Private-sector views:

The Commission contacted the primary trade association for the industry, the Manufacturing Jewelers and Silversmiths of America (MJSA).<sup>6</sup> The bill was supported by MJSA's Government Affairs Office and Board of Directors. None of MJSA's members voiced any opposition. MJSA stated that Fantasy Diamond, primarily a watch manufacturer, and Princess Pride Creations, a company planning to invest in the U.S. Virgin Islands, were the principal supporters.<sup>7</sup> MJSA's support was contingent upon ensuring that any U.S.-based jewelry producer would have the ability to set up operations in the insular possessions and take advantage of these trade benefits.

U.S. consumption:

	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$million dollars)-----		
U.S. production <sup>8</sup> .....	3,185	3,235	3,397
U.S. imports.....	3,337	3,428	3,652
U.S. exports.....	254	258	307
Apparent U.S. consumption.....	6,268	6,405	6,742
Principal import sources:	Italy, Thailand, Hong Kong, India, and Israel		
Principal export markets:	Canada, Switzerland, Japan, Peru, and France		

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

Future (1998-2000) effect: Any revenue loss would be limited by the quantitative limitation setting maximum duty-free imports that currently exists but is not being utilized. However, it is not possible to provide accurate and useful information concerning future revenue loss, because the wages being paid in the insular possessions and the quantity and value of goods for which duty-free entry is being claimed cannot be predicted, and the extent to which any jewelry might qualify under the program is unknown.

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<sup>6</sup> James F. Marquart, President and CEO, MJSA, Tulsa, OK, telephone interview with USITC staff, Feb. 4, 1998; and Brenda Gamba, Director of Research and Information, MJSA, Providence, R.I., telephone interview with USITC staff, Feb. 3, 1998.

<sup>7</sup> Hampden Watch company, which already assembles watches in the Virgin Islands, is also a supporter of HR 2498. Brian Modeste, legislative director for Rep. Christian-Greene, USITC staff telephone interview, Feb. 2, 1998.

<sup>8</sup> Estimated by staff of the U.S. International Trade Commission.

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

Retroactive effect: None, except to the extent a PIC's face value is determined by previously paid wages; again, no data are available concerning such PICs.

Technical comments:

We would suggest that a reference to the new note should be incorporated in additional U.S. note 5 to chapter 91, so that the coverage of fine jewelry is clear. Subdivision (a) of note 5 could be amended by inserting after "chapter" the phrase "and any article of jewelry of heading 7113 (under the terms of additional U.S. note 3 to chapter 71)." Subdivision (b) could be amended by inserting after "watches" the phrase "and any article of jewelry of heading 7113." We note in proposing this language that it is consistent with the new note as set forth in the bill in covering only finished articles of jewelry, and not component parts separately imported. We further note that it is not clear whether a watch producer that also assembles jewelry could count verifiable wages paid to the assembly workers in the insular possessions; nor is it clear that a jewelry assembler in the insular possessions would be required to use permanent residents in the assembly operations, as is the case with watch assemblers, or would receive any PICs based upon wages paid to such workers. Thus, the new language might present some uncertainty to the agencies charged with administering the present PIC program and to producers/importers as well.

## 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.)

105TH CONGRESS  
1ST SESSION

# S. 1457

To amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1997

Ms. MOSELEY-BRAUN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Harmonized Tariff Schedule of the United States to extend to certain fine jewelry certain trade benefits of insular possessions of the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       That the additional U.S. notes to chapter 71 of the Har-  
4       monized Tariff Schedule of the United States are amended  
5       by adding at the end the following new note:

6       “3.(a) Notwithstanding any other provision in addi-  
7       tional U.S. note 5 to chapter 91, any article of jewelry  
8       provided for in heading 7113 which is the product of the  
9       Virgin Islands, Guam, or American Samoa (including any

1 such article which contains any foreign component) shall  
2 be eligible for the benefits provided in paragraph (h) of  
3 additional U.S. note 5 to chapter 91, subject to the provi-  
4 sions and limitations of that note and of paragraphs (b),  
5 (c), and (d) of this note.

6 “(b) Nothing provided for in this note shall result in  
7 an increase or a decrease in the aggregate amount referred  
8 to in paragraph (h)(iii) of, or quantitative limitation other-  
9 wise established pursuant to the requirements of, addi-  
10 tional U.S. note 5 to chapter 91.

11 “(c) Nothing provided for in this note shall be con-  
12 strued to permit a reduction in the amount available to  
13 watch producers under paragraph (h)(iv) of additional  
14 U.S. note 5 to chapter 91.

15 “(d) The Secretary of Commerce and the Secretary  
16 of the Interior shall issue such regulations, not inconsis-  
17 tent with the provisions of this note and additional U.S.  
18 note 5 to chapter 91, as they determine necessary to carry  
19 out their respective duties under this note. Such regula-  
20 tions shall not be inconsistent with substantial trans-  
21 formation requirements established by the United States  
22 Customs Service but may define the circumstances under  
23 which articles of jewelry shall be deemed to be ‘units’ for

1 purposes of the benefits, provisions, and limitations of ad-  
2 ditional U.S. note 5 to chapter 91.”.

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