

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 LEGISLATION ¹

[**Date approved:** July 23, 2001]²

Bill No.: H.R. 575; 107th Congress

Introduced by: Mrs. CHRISTENSEN

Similar and/or related³ bills: None.

Summary of the bill:⁴

The bill would amend the Harmonized Tariff Schedule of the United States⁵ with respect to the production incentive certificate program for watch and jewelry producers in the United States Virgin Islands, Guam, and American Samoa.

Effective date: The 15th day after the date of enactment. [**bill says April 1, 2002 with respect to goods imported into the customs territory of the United States on or after January 1, 2002**]

Through: December 31, 2005. [**bill says before January 1, 2016**]

Retroactive effect: None.

[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]

¹ International trade analyst: Scott Baker (202-205-3386); attorney: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

⁴ The product nomenclature is as set forth in the bill. See technical comments for suggested changes (if any).

⁵ See appendix A for definitions of tariff and trade agreement terms.

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ⁶
N/A			

Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N):

If “Yes,” provide location of this facility if different from above (city/state):

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): n/a

The imported product	
Description and uses	Country(s) of origin
N/A	

⁶ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

⁷ The phrase “further processing or handling” can include repackaging, storage or warehousing for resale, etc.

– EFFECT ON CUSTOMS REVENUE –

[*Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office “scoring” guidelines. If the indicated duty rate is subject to “staging” during the duty suspension period, the rate for each period is stated separately.*]

N/A

HTS number used in the bill: _____⁸					
	2002	2003	2004	2005	2006
General rate of duty ⁹ (AVE) ¹⁰					
Estimated value <i>dutiable</i> imports					
Customs revenue loss					

HTS number recommended by the Commission: <u>n/a</u>¹¹					
	2002	2003	2004	2005	2006
General rate of duty (AVE)					
Estimated value <i>dutiable</i> imports					
Customs revenue loss					

⁸ The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

⁹ See appendix B for column 1-special and column 2 duty rates.

¹⁰ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

¹¹ If a different HTS number is recommended, see technical comments.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations <i>other than the proponents</i>			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No) ¹²
N/A			

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]*

N/A

Statements concerning current U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
None.			

¹² Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

Statements concerning “future” or “competitive” U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
None.			

– TECHNICAL COMMENTS –

*[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to **eight digits**. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

None.

Recommended changes to any CAS numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

Basis for recommended changes to the HTS number used in the bill:¹³

n/a

¹³ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee’s consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

Other technical comments (if any):

The bill's sponsor stated (in extension of remarks) that the proposed legislation would aid producers in the USVI by allowing them to receive benefits on a quarterly basis rather than the annual basis currently. It would allow producers who did not have sufficient import duties to apply directly to the Treasury Department for the benefits rather than having to sell their certificates to another producer who did have sufficient import duties to apply for a refund. It eliminates the 750,000 unit limit on the number pieces of jewelry used in the calculation of an individual producer's PIC benefits. It extends the time limit on the transition rule for an additional 18 months to allow jewelry producers additional time to deal with administrative, technical, and business delays in setting up businesses. It facilitates long term planning by extending the authorized term of the program from 2006 to 2015. It provides a standby mechanism for providing the benefits in the event of a duty reduction or elimination on watch imports, such duties were the basis for funding the program. And it provides for payment of benefits from alternate sources of funds in the event that watch duties are not sufficient for such purposes. Finally, the bill would explicitly state that verified wages include the amount of any fringe benefits.

Specifically, the proposed bill would amend HTS chapter 91 by:

changing the dates the program applies in U.S. Note 5 (h) from after December 31, 1982, and before January 1, 2007 to after January 1, 2002 and before January 1, 2016

changing U.S. Note 5 (h) (i) (A) so that the program verifies wages paid for the preceding calendar quarter rather than the preceding calendar year and now includes the value of any fringe benefits

changes U.S. Note 5 (h) (i) (B) so that the program issues each producer a certificate of the applicable amount not later than 30 days after the end of the calendar quarter instead of issuing the certificate by March 1 of the calendar year

changing U.S. Note 5 (h) (ii) (A) so that the "applicable amount" is 90 percent of the producer's creditable wages (including the value of any fringe benefits) on watch assembly during the preceding calendar quarter rather than the amount being 90 percent of the producer's creditable wages (fringe benefits were not included previously) during the preceding calendar year

changing U.S. Note 5 (h) (ii) (B) so the applicable graduated declining percentage of the producer's creditable wages includes the value of any fringe benefits and changes the time from the preceding calendar year to the preceding calendar quarter

by adding paragraph (C) to U.S. Note 5 (h) (ii) which provides that the "applicable amount" now includes the difference between the duties that would have been due on the producer's watches (excluding digital watches) imported into the customs territory of the United States during the preceding quarter if such watches had been imported from a country eligible for normal trade relations subject to duty at the rates set forth in column 1 of chapter 91 that were in effect on January 1, 2001, and the duties that would have been due on those watches if they had been imported from the same country under the tariffs in effect for the preceding calendar quarter

by amending U.S. Note 5 (h) (v) with three paragraphs, the first, paragraph (A), which provides that the Secretary of the Treasury may authorize refund of duties collected on jewelry under chapter 71 or any other duties that the Secretary determines are appropriate if there is an insufficient level of duties from watch and watch-related tariffs

by adding paragraph (B) to U.S. Note 5 (h) (v) which provides that a certificate holder may apply for and receive direct payment for the face value of the certificate, less a discount of not more than 2 percent, provided that the certificate holder certifies that the funds received will be reinvested or utilized to support or continue employment in the Virgin Islands

by adding paragraph (C) to U.S. Note 5 (h) (v) which provides that the Secretary of the Treasury is authorized to make the payments provided for in paragraph (B) to U.S. Note 5 (h) (v) from duties collected on watches, watch movements and, with the exception of discrete cases, parts therefor and the Secretary is authorized to make such payments from duties collected on jewelry under chapter 71 or any other duties that the Secretary determines are appropriate if there is an insufficient level of duties from watch and watch-related tariffs

The proposed bill would amend Additional U.S. Note [3] of HTS chapter 71 by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e) and (f), respectively and inserting a new paragraph that states that the 750,000 unit limitation in additional U.S. Note 5(h)(ii)(B) to chapter 91 shall not apply to articles of jewelry subject to this note. Also, it changes the time period in paragraph (f) from a 2-year period beginning 45 days after the date of enactment of this note to a time period of prior to February 9, 2004.

Staff comment:

Since the proposed legislation would change the PIC program from an annual to a quarterly basis it would result in increased administrative costs which would be necessary to cover the three additional time periods when certificates would be issued.

The proposed legislation includes fringe benefits as part of the verified wages but provides no indication as to what fringe benefits might be. This may lead to as much ambiguity as exists with the current law which is being modified to improve its clarity.

In section (b) Jewelry, the proposed legislation does not mention that it is Additional U.S. Note 3 to chapter 71 but rather mentions “Additional U.S. Note to chapter 71.” The number “3” should be added for clarification.

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 normal trade relations 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 listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam) plus Serbia and Montenegro, which are subject to the statutory rates set forth in column 2. Specified goods from designated general-rate 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 September 30, 2001. 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. Eligible products of qualifying sub-Saharan African countries may qualify for duty-free entry under the African Growth and Opportunity Act (AGOA), under the terms of general note 16 to the tariff schedule, through September 30, 2008, as indicated by the symbol "D" in the special subcolumn and as set forth in subchapter XIX of chapter 98.

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. Eligible products of qualifying beneficiary countries may qualify for duty-free or reduced-duty entry under the Caribbean Basin Trade Partnership Act (CBTPA), under the terms of general note 17 to the tariff schedule, through September 30, 2008, as indicated by the symbol "R" in the special subcolumn and in subchapter XX of chapter 98.

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 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. 5/9/01

APPENDIX B
SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

107TH CONGRESS
1ST SESSION

H. R. 575

To amend the Harmonized Tariff Schedule of the United States with respect to the production incentive certificate program for watch and jewelry producers in the United States Virgin Islands, Guam, and American Samoa.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2001

Mrs. CHRISTENSEN introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Harmonized Tariff Schedule of the United States with respect to the production incentive certificate program for watch and jewelry producers in the United States Virgin Islands, Guam, and American Samoa.

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. AMENDMENTS TO UNITED STATES INSULAR**
4 **POSSESSION PROGRAM.**

5 (a) PRODUCTION CERTIFICATES.—The additional
6 U.S. Note 5(h) to chapter 91 of the Harmonized Tariff
7 Schedule of the United States is amended—

1 (1) by amending subparagraphs (i) and (ii) to
2 read as follows:

3 “(i) In the case of each calendar quarter beginning after
4 January 1, 2002, and before January 1, 2016, the
5 Secretaries jointly, shall:

6 “(A) verify for the preceding calendar quarter both
7 the wages paid by each producer to permanent
8 residents of the insular possessions (including
9 the value of any fringe benefits) and the total
10 quantity and value of watches produced in the
11 insular possessions and imported into the cus-
12 toms territory of the United States; and

13 “(B) issue to each producer (not later than 30 days
14 after the end of the calendar quarter) a certifi-
15 cate for the applicable amount.

16 “(ii) For purposes of subparagraph (i), except as provided
17 in subparagraphs (iii) and (iv), the term ‘applicable
18 amount’ means an amount equal to the sum of:

19 “(A) 90 percent of the producer’s creditable wages
20 (including the value of any fringe benefits) on
21 watch assembly during the preceding calendar
22 quarter (but only the first 300,000 units per
23 calendar year); plus

24 “(B) the applicable graduated declining percentage
25 (determined each year by the Secretaries) of the

1 producer's creditable wages (including the value
2 of any fringe benefits) on the assembly during
3 the preceding calendar quarter for units in ex-
4 cess of 300,000 that calendar year, but not in
5 excess of 750,000 that calendar year; plus

6 “(C) the difference between the duties that would
7 have been due on the producer's watches (ex-
8 cluding digital watches) imported into the cus-
9 toms territory of the United States during the
10 preceding quarter if they had been imported
11 from a country eligible for normal trade rela-
12 tions subject to duty at the rates set forth in
13 column 1 under this chapter that were in effect
14 on January 1, 2001, and the duties that would
15 have been due on those watches if they had
16 been imported from the same country under the
17 tariffs in effect for the preceding calendar quar-
18 ter.”; and

19 (2) by amending subparagraph (v) to read as
20 follows:

21 “(v)(A) Any certificate issued under subparagraph (i)
22 shall entitle the certificate holder to secure the refund
23 of duties equal to the face value of the certificate on
24 watches, watch movements and, with the exception of
25 discrete cases, parts therefor imported into the cus-

1 toms territory of the United States by the certificate
2 holder. Such refunds shall be made under regulations
3 issued by the Treasury Department. Not more than
4 5 percent of such refunds may be retained as a reim-
5 bursement to the Customs Service for the administra-
6 tive costs of making the refunds. If the Secretary of
7 the Treasury determines that there is an insufficient
8 level of duties from watch and watch-related tariffs,
9 the Secretary may authorize refunds of duties col-
10 lected on jewelry under chapter 71 or any other du-
11 ties that the Secretary determines are appropriate.
12 “(B) At the election of the certificate holder and upon
13 making the certification described in this clause, the
14 Secretary of the Treasury shall pay to the holder the
15 face value of the certificate, less the value of (1) any
16 duty refund claimed by the holder under the certifi-
17 cate, plus (2) a discount of not more than 2 percent
18 of the face value of the certificate, as determined by
19 the Secretary of the Treasury. A certificate holder
20 shall not be eligible for direct payment under this
21 clause unless the certificate holder certifies to the
22 Secretaries that the funds received will be reinvested
23 or utilized to support and continue employment in the
24 Virgin Islands.

1 “(C) The Secretary of the Treasury is authorized to make
2 the payments provided for in clause (B) from duties
3 collected on watches, watch movements and, with the
4 exception of discrete cases, parts therefor. If such du-
5 ties are insufficient, the Secretary of the Treasury is
6 authorized to make those payments from duties col-
7 lected on jewelry under chapter 71 or any other du-
8 ties that the Secretary determines are appropriate.”.

9 (b) JEWELRY.—Additional U.S. Note to chapter 71
10 of the Harmonized Tariff Schedule of the United States
11 is amended—

12 (1) by redesignating paragraphs (b), (c), (d),
13 and (e) as paragraphs (c), (d), (e), and (f), respec-
14 tively;

15 (2) by inserting after paragraph (a) the fol-
16 lowing new paragraph:

17 “(b) The 750,000 unit limitation in additional U.S. Note
18 5(h)(ii)(B) to chapter 91 shall not apply to articles
19 of jewelry subject to this note.”; and

20 (3) by striking paragraph (f), as so redesign-
21 nated, and inserting the following:

22 “(f) Notwithstanding any other provision of law, prior to
23 February 9, 2004, any article of jewelry provided for
24 in heading 7113 that is assembled in the Virgin Is-
25 lands, Guam, or American Samoa shall be treated as

1 a product of the Virgin Islands, Guam, or American
2 Samoa for purposes of this note and General Note
3 3(a)(iv) of this Schedule.”.

4 **SEC. 2. EFFECTIVE DATE.**

5 The amendments made by this Act shall take effect
6 on April 1, 2002, with respect to goods imported into the
7 customs territory of the United States on or after January
8 1, 2002.

○