

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: September 23, 2005]²

Bill No. and sponsor: H.R. 2288 (Ms. Harman)

Proponent name, location: Mattel, Inc.
El Segundo, CA 90245-5012

Other bills on product (109th Congress only): S. 1069.

Nature of bill: Temporary duty suspension through December 31, 2008.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Cases or containers (provided for in subheading 4202.92.90 and not including goods described in heading 9902.01.81) for transporting, storing or protecting toys or other articles classifiable in headings 9502 through 9504, inclusive.

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section; additional issues are noted).

Product information, including uses/applications and source(s) of imports:

The subject articles are cases or containers for toys, except those covered by an existing duty suspension in heading 9902.01.81 (applicable to cases for photo transparency reels for hand-held viewing toys). These cases and containers reportedly are specifically designed for transporting, storing and protecting particular games or toys; contain permanent or durable internal fittings shaped to hold the toys; and are frequently imported separately from the toys for which they are intended. The subject articles are manufactured in several colors and are often thematically decorated; they may or may not have printed information or tags on them indicating the names of the toys for which they are designed. Trade sources indicate that such articles are imported from China and Indonesia.

¹ Industry analyst preparing report: Andrea Boron (202-205-3433); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

Estimated effect on customs revenue:

Data from other possible importers are not available, and it is not possible to estimate the quantity of goods that might meet the terms of the proposed duty suspension, whether or not it is changed as shown on page 1. Total dutiable imports under this subheading were nearly \$370 million in 2004, with approximately \$322 million coming from China and \$1.2 million from Indonesia.

HTS subheading: <u>4202.92.90</u>					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty	17.6%	17.6%	17.6%	17.6%	17.6%
Estimated value <i>dutiable</i> imports	\$600,000	\$600,000	\$600,000	\$600,000	\$600,000
Customs revenue loss	\$105,600	\$105,600	\$105,600	\$105,600	\$105,600

Source of estimated dutiable import data: proponent's estimates.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
St. Maxens & Company (for Mattel, Inc.) Mr. Thomas St. Maxens 202-966-9000	8/02/2005	No	No	No
Flexible Packaging Association Ms. Marla Donahue 410-694-0800	8/08/2005	No	No	No
Toy Industry Association Mr. Gary Klein 202-207-3600	8/18/2005	No	No	No
Travel Goods Association Mr. Nate Herman 703-797-9062	8/08/2005	No	No	No

Technical comments:³

It is suggested that the description be worded “...headings 9502 through 9504, inclusive” to avoid confusion. In addition to this very minor problem, however, we note that the proposed description covers a potentially wide range of goods and may be burdensome for Customs officials to administer, because it can be quite difficult to determine if a given case or container that is imported separately from the toy it is designed to hold is in fact “specially designed” to do so—especially with the huge universe of toys being imported in any year. Moreover, Customs may have difficulty making determinations about how a particular container that is not imported with a toy might be “intended” to be used or how it will be “marketed.” Drafting the new heading as an “actual use” heading that would require Customs’ verification would seem to be the easiest way to reduce this ambiguity, so that the importer would need to prove within 3 years of the date of entry the association of the imported cases or containers with the related toys. The proposed article description on page 1 of this report has been written to impose this requirement.

A second alternative might be to name the precise types of toys for which each covered imported case or container is designed and/or to require the importer to provide supporting information to enable Customs to make that finding would seem to be the narrowest and clearest alternative. As a third option, the provision could merely require an importer claiming the advantages of the duty suspension must satisfy Customs concerning the precise toy for which each good is intended, or could require that the cases or containers appear on the same Customs entry document as the toys for which they are intended (which would limit the use of the provision to importers that could organize such filings). However, the importers of the cases or containers may not be the firms that import and package the toys concerned, which could bar unrelated importers from using it.

Last, we note as well that the actual revenue loss that might result from enactment of this provision—however it is drafted—could be much higher as additional importers could use it, and we have been unable to obtain precise information on these imports. Other importers may certainly be encouraged to attempt to import goods under such a suspension, given the relatively high existing general duty and the fact that Chinese goods—which now make up the bulk of dutiable imports—are not eligible for special tariff treatment under the permanent tariff classification.

³ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

109TH CONGRESS
1ST SESSION

H. R. 2288

To suspend temporarily the duty on certain cases for toys.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Ms. HARMAN introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To suspend temporarily the duty on certain cases for toys.

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. CERTAIN CASES FOR TOYS.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

“	9902.42.01	Cases or containers (provided for in subheading 4202.92.90 and not including goods described in heading 9902.01.81), specially designed, marketed or intended for transporting, storing or protecting toys or other articles provided for in headings 9502–9504, inclusive	Free	No change	No change	On or before 12/31/2008	”.
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1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to goods entered, or withdrawn from
3 warehouse for consumption, on or after the 15th day after
4 the date of enactment of this Act.

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