

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION  
of the 109<sup>th</sup> Congress<sup>1</sup>**

[Date approved: October 11, 2006]<sup>2</sup>

**Bill No. and sponsor:** S. 3240 (Mr. Lincoln Chafee of Rhode Island and Mr. Jack Reed of Rhode Island).

**Proponent name, location:** National Textile Association, Boston, MA.

**Other bills on product (109<sup>th</sup> Congress only):** None.

**Nature of bill:** Permanent HTS amendment.

**Retroactive effect:** None.

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

The bill as drafted would attempt to delineate the scope of international-level tariff headings by creating a “Note”; the Harmonized System’s implementing convention does not authorize national-level additions of legal notes pertaining to 4-digit or 6-digit tariff categories or their scope. See technical comments for additional information.

**Check one:**      Same as that in bill as introduced.  
                   Different from that in bill as introduced (see Technical comments section).

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

The affected product, cut pieces of fabric to be used as upholstery for furniture and seats for automobiles, is generally classified as furniture parts in chapter 94 of the Harmonized Tariff Schedule of the United States (HTS); such imports are eligible to enter the United States free of duty. The proponent suggests that some of the cut pieces may actually be fabric intended for other uses and that such imports thereby should receive the rate of duty applicable to most imports of fabric.<sup>3</sup> The proponent further states that “the design of this bill is to establish a reasonable definition of textile parts based on substantial transformation.”<sup>4</sup>

When asked about the draft bill, officials of U.S. Customs and Border Protection (CBP) indicated that they could not enforce or adequately implement this legislation. As drafted, the bill presents several questions/issues, according to CBP, including how much processing must occur prior to entry and what type of additional processing/attachment would need to be performed; whether the legislation covers certain automobile parts; and whether the redefinition of certain furniture parts would conflict with existing international definitions in the Explanatory Notes of the HS, past court cases, and binding rulings issued by CBP.

<sup>1</sup> Industry analyst preparing report: Elizabeth Nesbitt (202-205-3355); Tariff Affairs contact: Jan Summers (202-205-2605).

<sup>2</sup> Access to an electronic copy of this memorandum is available at [http://usitc.gov/tata/hts/other/rel\\_doc/bill\\_reports/index.htm](http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm).

<sup>3</sup> According to a binding ruling (NY J87202 of August 27, 2003) issued by CBP, cushion covers or shells intended to be back cushions for sofas once stuffed would be classified under HTS subheading 6307.90.89.

<sup>4</sup> Written submission by the National Textile Association to Senator Grassley, dated July 28, 2006.

**Estimated effect on customs revenue:**

Given a lack of information about the product mix that might be affected, the specific HTS subheadings concerned and corresponding duty rates, and the unit values of the imported products, we are not able to estimate the dutiable value of the imports of concern to the proponent. We would emphasize again that the United States is not authorized to reclassify goods into other HS headings or chapters. However, the affected goods would fall in a wide range of headings in chapters 50-60 and would be dutiable at various general rates.

The proponent estimates that in 2005 “the U.S. imported \$1.2 billion in textile parts for chairs and other furniture, of which \$811 million were of Mexican origin (for automobile seats) and \$336 million were of Chinese origin (for home furnishings). While it is not possible to calculate precisely the current loss in tariff revenue to the U.S. treasury due to this duty circumvention, it is undoubtedly several tens of millions of dollars annually.”<sup>5</sup> The Commission cannot verify this estimate and had no information from CBP regarding the proponent’s statement.

<b>HTS headings: 9401 and 9403</b>					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty	N/A	N/A	N/A	N/A	N/A
Estimated value <i>dutiable</i> imports	N/A	N/A	N/A	N/A	N/A
Customs revenue loss	N/A	N/A	N/A	N/A	N/A

Source of estimated dutiable import data: Not available.

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

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
National Textiles Association (Proponent) David Trumbull, 617-542-8220	07/28/2006 08/16/2006	No	No	No
National Council of Textile Organizations Missy Branson, 202-822-8026	08/28/2006	No	No	No

**Technical comments:<sup>6</sup>**

As an initial drafting matter, there appears to be an extra set of open double quotation marks in the

<sup>5</sup> David Trumbull, National Textile Association, e-mail correspondence to USITC staff, Aug. 16, 2006.

<sup>6</sup> 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.

proposed note (preceding the numeral "1" at the beginning of the revised note). The larger concern is the proposed reclassification of cut pieces of fabric into other HTS chapters. The appropriate course would be to provide one or more 8-digit tariff subheadings in chapter 94 to provide for the cut pieces of fabric wherever textile furniture parts might fall in the existing heading structure. Two possible approaches could be taken: one would be to add multiple 8-digit U.S. subheadings to set forth each possible duty rate that might apply to woven fabrics in chapters 50-60<sup>7</sup> (not very practical given the wide range of provisions) and a second would be to add individual tariff subheadings in chapter 94 that specify the goods covered and have as their general and column 2 duty rates something like "The rate provided in section XI of the tariff schedule for such fabric" (which presents confusion and administrative difficulties). It would then be appropriate to add an "Additional U.S. Note" in chapter 94 linked to the new 8-digit U.S. subheadings and to specify the types of goods covered. It would seem necessary to work with CBP and the proponents to arrive at a workable definition or description if this course is chosen. We note that any increase in duty from the free general rate currently available in chapter 94 could be viewed as a violation of U.S. commitments under the General Agreement on Tariffs and Trade of the World Trade Organization. Lastly, at present, we see no indication in the Harmonized System or its non-binding Explanatory Notes to support the proponent's assertion that these cut fabric pieces should be classified in the textiles chapters instead of chapter 94.

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<sup>7</sup> Depending on the nature of the imported goods, some of them might be made-up textile articles of chapter 63 of the HTS as well. All of the general duty rates for textile products (omitting cotton fibers, considered to be agricultural goods) are considered to be "bound" or ceiling duty rates under U.S. Schedule XX to the Marrakesh Protocol of 1994.

109TH CONGRESS  
2D SESSION

# S. 3240

To amend the Harmonized Tariff Schedule of the United States to clarify the tariff treatment of textile parts of seats and other furniture.

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IN THE SENATE OF THE UNITED STATES

MAY 25, 2006

Mr. CHAFEE (for himself and Mr. REED) 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 clarify the tariff treatment of textile parts of seats and other furniture.

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. CLARIFICATION OF TARIFF TREATMENT OF**  
4 **TEXTILE PARTS OF SEATS AND OTHER FUR-**  
5 **NITURE.**

6 (a) AMENDMENT TO THE HARMONIZED TARIFF  
7 SCHEDULE.—The Notes to chapter 94 of the Harmonized  
8 Tariff Schedule of the United States are amended by add-  
9 ing at the end the following Additional U.S. Note:

10 “ADDITIONAL U.S. NOTE

1       “1. For purposes of headings 9401 and 9403, articles  
2 of cotton or other textile fibers, but not of leather, shall  
3 be classified as parts of seats or other furniture only if  
4 they have been both cut and sewn to shape and have been  
5 permanently attached to furniture framing parts or sec-  
6 tions.”.

7       (b) EFFECTIVE DATE.—The amendment made by  
8 this section applies to articles entered, or withdrawn from  
9 warehouse for consumption, on or after the 15th day after  
10 the date of the enactment of this Act.

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