

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

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

[Date approved: September 11, 2006]²

Bill No. and sponsor: S. 3129 (Mr. Saxby Chambliss of Georgia)

Proponent name, location: Laminated Flooring Coalition, Washington, DC

Other bills on product (109th Congress only): S. 3190, S. 3229, H.R. 5567

Nature of bill: To clarify the classification of certain high-density fiberboard products and for other purposes.

Retroactive effect: On or after January 1, 1994, and prior to the effective date, upon importer request.

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

Laminate boards, tiles or panels, the foregoing bonded (in whole or in part), coated or impregnated with melamine or other synthetic resins

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:

These high-density fiberboard (HDF) core laminate products include laminate flooring and panels of various types. Laminate flooring was originally developed in Sweden in the 1980s as a variant of the high-pressure melamine laminates that had been widely used on kitchen counter tops, tables or wall paneling; the flooring was introduced to the U.S. market in the early 1990s. From top to bottom, such flooring typically consists of a surface wear layer to resist abrasion,³ a decorative layer that is often a printed photo designed to mimic the surface of a natural material,⁴ a core layer of HDF⁵ that is the central structural element, and a stabilizing layer on the bottom.

¹ Industry analyst preparing report: Fred Forstall (202-205-3443); 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.

³ Typically, the wear layer is a clear protective coat with aluminum oxide (often of melamine) that is bonded or coated to the floor.

⁴ The decorative layer may undergo a debossing process to accent the design and impart texture to the floor.

⁵ In general, fiberboard is manufactured from wood chips which have been mechanically defibered or steam exploded. The wood fibers are bonded together in a panel either by felting and their own adhesive properties (wet process) or by additional resins or other organic bonding substances (dry process). The density of fiberboard ranges from less than 5 g/c³ (31 lbs/ft³) to 1 g/c³ (60 lbs/ft³). Fiberboard of a density over .8 g/c³ (50 lbs/ft³) is also known as high density fiberboard.

Laminate flooring is manufactured by laminating the various layers onto HDF panels which are subsequently sawn into smaller pieces, either boards or tiles of a size that can be easily transported and handled by the floor installer. The edges and ends of individual boards or tiles are milled to create tongues and grooves.⁶ Laminate flooring ranges in thicknesses from 0.24 inches (6 millimeters) to 0.47 inches (12 millimeters) with the thicker flooring being more durable.

The industry estimates the size of the U.S. market for laminate flooring in 2005 at approximately 1.1 billion square feet, valued at \$1.35 billion. Total sales of laminate flooring have grown rapidly since its introduction into the U.S. market. Industry officials estimated that during 2000-2005, the U.S. market grew at a compound annual growth rate of 19 percent. They foresee annual growth during 2006-2009 of about 8 percent due to more moderate growth in the U.S. housing market, slower sales at retail stores, and generally lower growth rates relative to a larger base of sales.

Industry officials estimate that U.S. imports of laminate flooring were \$690 million in 2004 and \$810 million in 2005. The top six suppliers to the U.S. market are Belgium, Canada, Germany, Spain, Austria, and China. Imports are reportedly shifting away from Europe toward Canada and Asia (especially China and Malaysia).

Estimated effect on customs revenue:

This bill would establish a separate rate line for HDF core laminate products that has not previously appeared in the HTS. According to industry sources, these products have been entering the United States free of duty under subheading 4411.19.30, and this legislation would therefore result in a duty increase. Customs and Border Protection (CBP) officials state that the correct classification is HTS subheading 4411.19.40, with a duty of 6 percent ad valorem. This bill and other similar bills have resulted from ongoing litigation that began in 1996 between U.S. importers and CBP concerning the correct classification of HDF core laminate products. The U.S. Court of International Trade has reportedly stayed its proceedings pending the disposition of this legislation. We are unable to estimate the volume and value of imports that might be affected by any retroactive application of this provision, which is dependent on importer request.

⁶ Early laminate floors were designed for individual boards to be glued together, but glued connections are now generally being replaced by floors that feature a snap-lock fit between boards.

HTS subheading: 4411.19.35 1/					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty 2/	2.74%	2.74%	2.74%	2.74%	2.74%
Estimated value <i>dutiable</i> imports	\$875,000,000	\$945,000,000	\$1,020,000,000	\$1,102,000,000	\$1,190,000,000
Customs revenue gain	\$28,525,000	\$30,807,000	\$33,252,000	\$35,952,200	\$38,794,000

1/ HTS 4411.19.35 is the 8-digit subheading set forth in the proposed legislation. These products are correctly classified in subheading 4411.19.40, according to CBP officials, with a general duty rate of 6 percent. Accordingly, the estimated customs revenue loss shown here reflects the difference between the rate Customs applies and the proposed provision's duty rate.

2/ This rate represents the ad valorem equivalent of the bill's proposed rate of duty for HDF core laminate products and is identical to the existing compound duty rate of \$0.19 per kilogram + 1.5 percent ad valorem for MDF core laminate products classified in HTS subheading 4411.29.20.

Source: Based on industry estimates of size and growth of the U.S. market for laminated MDF products.

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)	
Laminated Flooring Coalition (Proponent) 1/ Ms. J. Nicole Bivens Collinson, 202-216-9307	06/20/2006	Yes	No	No
North American Laminated Flooring 2/ Association (NALFA) Ms. Melanie Durian, 202-785-9500	06/21/2006	Yes	No	No

1/ The coalition supporting this bill collectively represents 75 percent or more of U.S. sales of laminated products. The coalition includes some but not all NALFA members.

2/ NALFA is the industry association for the U.S. producers; the association has not taken a position on pending litigation in the Court of International Trade. The four firms known to have U.S. production facilities (Mannington, Kronotex, Pergo, and Unilin/Mohawk) are members.

Technical comments:⁷

Two changes to the article description are suggested: 1) the term "tile" should be inserted because, according to industry officials, laminate flooring is sometimes cut into shapes more resembling floor tiles than boards; and 2) the term "coating" should be inserted because, according to the industry, the method used to apply the wear layer to laminate flooring varies by manufacturer and it may be applied through a coating process rather than bonding or impregnating.

⁷ 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
2^D SESSION

S. 3129

To clarify the classification of certain high-density fiberboard and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2006

Mr. CHAMBLISS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To clarify the classification of certain high-density fiberboard and for other purposes.

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. HIGH DENSITY FIBERBOARD.**

4 (a) IN GENERAL.—Chapter 44 of the Harmonized
5 Tariff Schedule of the United States is amended by insert-
6 ing in numerical sequence the following new subheading
7 with the article description for subheading 4411.19.35
8 having the same degree of indentation as the article de-
9 scription for subheading 4411.19.30:

“ 4411.19.35	Laminate boards or panels bonded in whole or in part, or impregnated, with melamine or other synthetic resins.	1.9¢/kg + 1.5%	Free (A, AU, CA, CL, E, IL, J, JO, MA, MX, SG)	33¢/kg + 25%	”.
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1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) applies with respect to goods entered,
4 or withdrawn from warehouse for consumption, on
5 or after the 15th day after the date of the enact-
6 ment of this Act.

7 (2) RETROACTIVE APPLICATION TO CERTAIN
8 ENTRIES.—Notwithstanding section 514 of the Tar-
9 iff Act of 1930 (19 U.S.C. 1514) or any other provi-
10 sion of law, upon proper request filed with the Bu-
11ureau of Customs and Border Protection before the
12 90th day after the date of the enactment of this Act,
13 any entry, or withdrawal from warehouse for con-
14sumption, of any goods described in subheading
15 4411.19.35 of the Harmonized Tariff Schedule of
16 the United States (as added by subsection (a)) that
17 was made—

18 (A) on or after January 1, 1994; and

19 (B) before the 15th day after the date of
20 the enactment of this Act;

1 shall be liquidated or reliquidated as though the
2 amendment made by subsection (a) applied to such
3 entry or withdrawal.

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