

June 11, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: S. 1863 (105th Congress), Senator Murray (WA).

Companion bill: H. R. 3430 (105th Congress), Congressman McDermott (WA).²

Title as introduced: To suspend temporarily the duty on certain polyethylene base materials.

Summary of bill:³

This bill would suspend import duties until December 31, 2000, on sintered and extruded polyethylene base materials under 250 millimeters (mm) in width for use in the manufacture of skis.

Effective date: The 15th day after enactment.

Retroactive effect: None

Statement of purpose:

The sponsor made no comments in the *Congressional Record* at the time this bill was introduced.⁴ According to the petitioner, K2 Corp., Vashon Island, WA, K2 has not found a suitable domestically- produced, sintered polyethylene base material having the performance requirements for its skis, recognized internationally as state-of-the-art equipment; thus, it is necessary for the firm to import all of its requirements for this material. K2 is the leading domestic manufacturer, and the only remaining major exporter of U.S. skis, principally because of the pressures of international competition and an ever-increasing atmosphere of global oversupply. International competition has resulted in the closure of five of eight U.S. ski manufacturers during the past ten years, leaving only three currently active domestic producers, including K2. The requested duty suspension is considered vital to continued economic competitiveness, and will potentially contribute significantly

¹ Industry analyst: Raymond Cantrell (205-3362); attorney: Leo Webb (205-2599).

² *Congressional Record*, H. R. 3430, Mar. 10, 1998, p. H1021.

³ See appendix A for definitions of tariff and trade agreement terms.

⁴ *Congressional Record*, S. 1863, Mar. 25, 1998, p. S2570.

to K2's future growth and expansion at Vashon Island.⁵ Senator Murray's and Representative McDermott's previous remarks pertaining to skis and snowboards, applicable to this bill, were published in the *Congressional Record* as noted.⁶

Product description and uses:

Polyethylene base materials under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis:

There are two basic types of polyethylene base materials cemented to the bottoms of skis which lower friction and produce a more lubricious, free gliding effect: sintered and extruded base materials. Sintered base materials are most commonly used for ski base and consist of fused polyethylene resin profiles made by compression molding under controlled temperature and pressure, while extruded base materials are formed from molten, homogenized polyethylene resin forced through a die to achieve the desired configuration. While both types are made predominately from an ultra high-molecular weight polyethylene (UHMWPE) having unique properties, sintered base materials are more expensive to produce but possess superior physical performance properties including toughness, durability, flexural strength, and porosity--integral to the maximum absorption of ski base waxes and smooth gliding characteristics. Sintered polyethylene base forms are found on the bottom surfaces of most skis where high-performance characteristics are intrinsic. Extruded polyethylene base materials are used primarily in less demanding, less expensive brands of skis produced for children, beginners, and the novice in general.

Tariff treatment:⁷

<u>Product</u>	<u>HTS subheading</u>	Col. 1-general
		<u>rate of duty</u>
Polyethylene base materials under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis:.....	3920.10.00	4.2% ad val.

⁵ "Public Comments" to the Commission, S. 1863: Duty suspension for Base Materials Used in the Manufacture of Skis, Mr. Tony H. Chow, K2 Corp., Vashon, WA, May 1, 1998.

⁶ *Congressional Record*, S. 788, May 22, 1997, P. S5007, and H. R. 540, Feb. 4, 1997, p. E156.

⁷ See appendix B for column 1-special and column 2 duty rates.

Structure of domestic industry (including competing products):

Polyethylene base materials under 250mm in width, sanded on 1 side and surface-treated for

use in the manufacture of skis: According to information provided by Mr. Gary R. Ellerhorst, Chief Operating Officer of Crown Plastics, Harrison, OH, there were no acceptable domestically-produced polyethylene base materials suitable for the quality demands of U.S. ski manufacturers available during 1995-97. Crown, however, dominates U.S. domestic production and sales of sintered polyethylene base material for snowboard manufacture, and supplies about 90% of the total domestic market. Both Crown and another smaller producer of sintered base polyethylene materials (Prulesco, Inc., Pawtucket, RI) have submitted samples to K2 for testing, but domestic products did not meet K2's quality and performance standards. There are currently only three known domestic producers of skis, K2 Corp., Vashon, WA, the domestic industry leader, followed by Volant Ski Corp., Wheat Ridge, CO, and Evolution Ski in Utah. All polyethylene base materials for skis, sintered and extruded, are imported, principally from Austria, Germany, and Switzerland because of high performance demand properties. Much of the UHMWPE resin for U.S. and European polyethylene base production is reportedly from Hoechst Celanese Corp., which produces this product at one location in the United States, Lake Charles, LA.

Private-sector views:

The Commission contacted legal counsel for K2 Corp., Crown Plastics personnel, Volant Ski Corp. and Evolution Ski in conjunction with this bill.⁸ As of this date written responses had been received from three of the four firms contacted.⁹ More than 15 contacts were made in conjunction with previous bills related to this subject as cited.¹⁰

⁸Ms. Paula Smith, Coudert Bros., New York, NY, legal counsel for K2 Corp., Apr. 6, 13, 1998; Mr. Gary Ellerhorst, Chief Operating Officer, Crown Plastics, Harrison, OH, Mar. 30, 1998; Mr. Hank Kashiwa, CEO, Volant Ski Corp., Apr. 14, 1998, and Mr. Stephen Denkers, Evolution Ski, UT, Apr. 16, 1998.

⁹Appendix C.

¹⁰Mr. C. A. Lippincott, The Society of the Plastics Industry, Inc. (SPI), 6/97; Ms. Lisa Pierce, SnowSports Industries America (SIA), 7/97; Messrs. Gary & Peter Ellerhorst, Crown Plastics, 7/97; Ms. Mary Lee, Gage Industries, 7/97; Mr. Brent Fletcher, Tetraplastics, 7/97; Ms. Karen Bysiewicz, K2 legal counsel, Coudert Brothers, Attorneys at Law, New York, NY, 7/97; Mr. Jeff Grimshire, Option Snowboards, 7/97; Ms. Christine Muir, Volant Ski Corp., 7/97; Mr. Rudy VonWald., O'Brien International, Inc., 7/97; Ms. Tammy Hedrick, Burton Snowboards, 7/97; Management (Mgt.), Mervin Manufacturing, Inc., 7/97; Mgt., Miller Ski Co., 7/97; Mgt., Rossignol Ski Co./Snowboards, 7/97; Mgt., Lamar Snowboards, Inc., 7/97; Mgt., Dynastar Skis, Inc., 7/97; Mgt., Atomic Ski USA, Inc., 7/97.

U.S. consumption:¹

Polyethylene base materials under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis:

	<u>1995</u>	<u>1996</u>	<u>1997</u>
	-----(\$Million)-----		
U.S. production.....	0	0	0
U.S. imports ²	3.7	3.4	3.2
U.S. exports.....	0	0	0
Apparent U.S. consumption ²	3.7	3.4	3.2

¹Ski base materials only. Excludes material produced/imported for snowboard manufacture.

²Commission estimates based on industry aggregate information.

Principal import sources: Austria, Germany, and Switzerland.

Principal export markets: None.

Effect on customs revenues:¹¹

Future (1998-2000) effect: From an estimated import base of \$3.2 million in 1997, the Commission study indicates that sintered and extruded polyethylene ski base imports will probably continue to fall by an estimated \$0.3 million/year to \$2.3 million by the end of 2000, typical of that experienced during the period 1996-98. Prices are declining due to relative currency valuation and market forces (ethylene oversupply).

Estimated average annual revenue loss

	<u>1998</u>	<u>1999</u>	<u>2000</u>
	-----(\$1,000)-----		
Polyethylene base materials under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis.....	120	110	100

Retroactive effect: None

¹¹ Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. A duty drawback provision is in effect for polyethylene base materials, in which a U.S. firm is given equal monetary compensation for imported polyethylene base materials exported, in turn, on finished product skis and snowboards; less a 1% handling charge. This drawback is highly variable within the industry, ranging from over 40% of base material reexported in product to less than 10%.

Technical comments:

The 250mm maximum width specified for ski-grade material has been approved by U.S. Customs, although a “gray area” may exist between skis and snowboards at widths above 160mm. Approximately 99 percent of skis are reported to be 160mm or lower in width.¹² U.S. Customs can reportedly distinguish rolls of sintered polyethylene base for skis from that used for snowboards.¹³

¹²Crown Plastics, Mr. Gary Ellerhorst, Chief Operating Officer, Harrison, OH 45030.

¹³U.S. Customs National Import Specialist Joan Mazzola, New York, NY 10048.

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.)

APPENDIX C

OTHER ATTACHMENTS

(Appendix not included in the electronic version of this report.)

105TH CONGRESS
2D SESSION

S. 1863

To suspend temporarily the duty on certain polyethylene base materials.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 1998

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

A BILL

To suspend temporarily the duty on certain polyethylene base materials.

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. SUSPENSION OF DUTY ON CERTAIN POLY-**
4 **ETHYLENE BASE MATERIALS.**

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

“	9902.39.20	Polyethylene base materials that are under 250mm in width, sanded on 1 side and surface-treated for use in the manufacture of skis (provided for in sub-heading 3920.10.00)	Free	No change	No change	On or before 12/31/2000	”.
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1 (b) **APPLICABILITY.**—The amendment made by this
2 section applies to goods entered, or withdrawn from ware-
3 house for consumption, on or after the 15th day after the
4 date of enactment of this Act.

