The original documents are located in Box 11, folder "Economy - Trade Textile Imports" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Economy

THE WHITE HOUSE

WASHINGTON

December 21, 1976

MEMORANDUM FOR: L. WILLIAM SEIDMAN

THROUGH: PHILIP W. BUCHEN

FROM: BOBBIE GREENE KILBERG

No objection to the request for USITC Study of the Basis for Classifying Textile Imports.

THE WHITE HOUSE

WASHINGTON

December 20, 1976

MEMORANDUM FOR: PHILIP BUCHEN
JOHN O. MARSH
JAMES M. CANNON
MAX FRIEDERSDORF
BRENT SCOWCROFT

FROM: L. WILLIAM SEIDMAN LWS

SUBJECT: Request for USITC Study of the Basis for Classifying Textile Imports

Ambassador Dent, the Special Representative for Trade Negotiations and Chairman of the Textile Policy Trade Group has requested that a request for a USITC Study of the basis for classifying textile imports be forwarded to the President as soon as possible.

A memorandum transmitting this request is attached. I would appreciate your comments and recommendations as soon as possible and no later than Noon, Tuesday, December 21.

Attachment

THE WHITE HOUSE

WASHINGTON

December 18, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN

SUBJECT: Request for USITC Study of the Basis for Classifying Textile Imports

This memorandum transmits a proposed letter from you to Chairman Minchew of the United States International Trade Commission (USITC) requesting a study by the USITC of the probable domestic impact of changing from a "chief value" to a "chief weight" basis for classifying blended textile imports. By law, you only can make such a request for the Executive Branch.

Background

On September 22, 1976, Senator Talmadge introduced a rider to a minor tariff bill that, in effect, would have changed the method of classifying imports of blended textile articles for duty purposes. The Talmadge amendment would have changed classification practices from the current "chief value" method, by which a blended textile article is identified as a "cotton" or a "man-made fiber" article according to its most valuable fiber component, to a method by which a cotton/man-made fiber blend containing less than 66 percent cotton by weight would be classified as a man-made fiber product.

The purpose of the Talmadge amendment was to halt the erosion of tariff rates that allegedly has occurred as a result of recent increases in cotton prices. Those price increases have increased the number of textile imports that are classified as "cotton," under the "chief value" method, and thus are dutiable at the lower rates applicable to cotton articles rather than at the higher man-made fiber rates.

The Talmadge amendment would, however, have created serious problems because it inadvertently would have forced the United States to violate eighteen bilateral textile restraint agreements that we have concluded under the auspices of the multilateral Arrangement Regarding International Trade in Textiles, and would have violated United States obligations under the GATT. These problems are described in the legal opinion

attached at Tab B, and are covered more fully in the study attached at Tab C.

In response to protests by Ambassador Dent and other members of the Administration, Senator Talmadge withdrew his amendment. Subsequently, he wrote Ambassador Dent requesting a major study of the problems created by the shifts of increasing quantities of textile imports into the "cotton" category and the "chief value" method of classification. Such a study was produced under the direction of the Textile Trade Policy Group, chaired by Ambassador Dent, and is attached at Tab C.

This study confirms the view that the Talmadge amendment would force the United States to violate international agreements and would disrupt the administration of our textile restraint program. It also suggests that a longer term, orderly change from a "chief value" to a "chief weight" basis would create a more stable, predictable, and easily administrable system for classifying textile imports. The study recommends that the President request the U.S. International Trade Commission to conduct an investigation in order to determine the domestic impact of such a change of classification methods.

A letter from you to the Chairman of the USITC requesting such a study is attached at Tab A. As stated in the letter, we anticipate that after the USITC has reported on the domestic effects of such a change, the Textile Trade Policy Group will review the legal and policy effects of making such a change, in particular the effects on U.S. international obligations. Thereafter, if warranted, the TTPG would consider recommending an appropriate program including legislation if necessary.

This proposed letter has been approved by the Textile Trade Policy Group, which requests that the letter be sent to the Chairman of the USITC as soon as possible, so that the study can begin at the earlier possible time, and so that the request for the study can be announced at the same time that the TTPG study attached at Tab C is submitted to the Senate Finance Committee.

Recommendation: That you sign the letter requesting a study by the USITC of the probable domestic impact of changing from a "chief value" to a "chief weight" basis for classifying blended textile imports.

A

Honorable Daniel Minchew
Chairman, U.S. International Trade Commission
Washington, DC 20436

Dear Mr. Chairman:

Most textile imports composed of two more fibers currently are classified for tariff purposes according to the value of the component fibers. For example, a cotton-polyester blended shirt is classified as a cotton shirt if the cotton component has a greater value than the polyester component. This practice is consistent with the current General Headnotes of the Tariff Schedules of the United States (TSUS).

The "chief value" method of classifying textile articles has been criticized on the grounds that it is unstable and unduly difficult to administer. It is argued that these problems would not exist if textile articles were classified on the basis of the weight of the component fibers, rather than on the basis of their value.

In order to assist the Executive Branch in deciding whether to recommend a change in the basis for classifying blended textile imports, I hereby request the USITC, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), to undertake a study of the probable domestic impact of changing from the current "chief value" method of classifying textile imports to a method by which textiles would be classified according to the fiber that constituted their chief weight. This study should include a consideration

of the probable impact of such a change on United States customs procedures, on rates of duty, on reliability of trade data, and on U.S. production, consumption, and marketing of textiles and apparel, as well as any other domestic effects of such a change that the USITC considers to be relevant.

It is understood that much of the basic data that the USITC will require for this study will have to be developed by the Customs Service in connection with the processing of import entries. I am, therefore, requesting the Secretary of the Treasury to ensure that the USITC has the assistance and cooperation of the Customs Service in the conduct of this study.

I further request that this study be completed as quickly as possible, and that the results be reported to Chairman of the TTPG, the Special Representative for Trade Negotiations, for receipt on the President's behalf. Following receipt of this report, the interagency Textile Trade Policy Group will review the legal and policy effects of changing to a "chief weight" method of classification, including the potential international effects of such a change upon U.S. obligations under the General Agreement on Tariffs and Trade, under the Arrangement Regarding

International Trade in Textiles, and under U.S. bilateral international textile agreements.

Sincerely,

Gerald R. Ford

Consistency of Textile Amendment with Textile Agreements Program and the GATT

The provisions that would modify the Tariff Schedules to change the basis for defining the term "of cotton", added yesterday as a rider to a minor tariff bill by Senator Talmadge, probably would violate the Multifiber Arrangement (MFA), almost certainly would be inconsistent with existing bilateral textile agreements, and probably would violate the GATT. These conclusions are discussed separately below.

Multifiber Arrangement

The proposed amendment appears to be inconsistent with two articles of the MFA, and may violate a third article. The two articles that appear to be rather directly in conflict with the proposed amendment are Article 3(1), which states -

> "Unless they are justified under the provisions of the GATT (including its Annexes and Protocols) no new restrictions on trade in textile products shall be introduced by participating countries nor shall existing restrictions be intensified, unless such action is justified under the provisions of this article". (emphasis added)

By maintaining the tariffs on many textile articles at a higher rate than would otherwise be applicable, and by throwing some products that should, under the bilateral textile agreements, be counted against restraint levels for cotton items into the restraint categories for man-made articles, the Talmadge amendment could reasonably be construed as the introduction of new restraints, and/or the intensification of existing restrictions.

Article 9(1) of the MFA states as follows:

> "In view of the safeguards provided for in this Arrangement the participating countries shall, as far as possible, refrain from taking additional trade measures which may have the effect of nullifying the objectives of this Arrangement." (emphasis added)

The objectives of the MFA are expressed in Article 1 as follows:

> "The basic objective shall be to achieve the expansion of trade, the reduction of barriers to such trade and the progressive liberalization of world trade in textile products . . .".

The proposed amendment can reasonably be called an "additional trade measure which may have the effect of nullifying the objectives of this Arrangement", in violation of article 9 of the MFA quoted above.

The third article of the MFA that may be in conflict with the proposed amendment is article 5, which states, in part:

> ". . . The participating importing country should take full account of such factors as established tariff classification and quantitative units based on normal commercial practices in export and import transactions, both as regards fibre composition and in terms of competing for the same segment of its domestic market." (emphasis added)

The proposed amendment appears to be inconsistent with the provisions of the MFA quoted above. More important, however, in terms of the immediate consequences of an inconsistency, are the individual bilateral restraint agreements concluded pursuant to the MFA. The consistency of the proposed amendment with those agreements is discussed below.

Bilateral Restraint Agreements

Article 11(c) of the Agreement between the United States and Korea, which apparently is representative of most or all bilateral textile agreements, states as follows:

> "For the purposes of this agreement, textile products shall be classified as cotton, wool or man-made fiber textiles if wholly or in chief value of either of these fibers. All other products /i.e. those not wholly or in chief value cotton, wool, or man-made textiles/ shall be classified as:

(i) cotton textiles - if containing 50% or more by weight of cotton, or if the cotton component exceeds by weight the wool and/or the man-made fiber component;

(ii) wool textiles - if not cotton, and the wool equals or exceeds 17% by weight of all component fibers; and

(iii) man-made fiber textiles - if neither of the foregoing applies."

The provisions quoted above sets forth two agreed bases for identifying cotton textiles: (a) chief value of cotton, or if the article is neither cotton, wool, nor man-made fiber in chief value, (b) 50% or more by weight of cotton. The proposed amendment, calling for the identification of cotton articles on the basis of their containing 65 percent or more of cotton, directly conflicts with this key standard provision in the bilateral agreements.

The effect of this conflict would be to establish, in the TSUS, a requirement that Customs assign articles to "cotton" or "man-made fiber" TSUS classifications on a basis that differs from the one required by the bilaterals to be used for administering the restraint agreements. As a practical matter, such an inconsistency would render the restraint agreements incapable of administration.

This result would occur because currently, with the TSUS and bilateral agreement criteria identical, the textile restraint categories are administered by Customs on the basis of TSUS classifications - that is, each restraint category is applicable to a specified list of TSUS item numbers. (see Schedule 3 Statistical Headnotes of the TSUS). By making the basis for assigning TSUS numbers different from the basis for assigning textile products to restraint categories, the Talmadge amendment would leave Customs with no means of identifying textile products subject to the differing restraint levels.

Three subsequent results are possible: (1) Customs would have to apply the restraints on the basis of product identifications that differ from those required by our bilateral commitments, thereby violating those commitments; (2) with a large expenditure of money and manpower, Customs may, over a period of a year or more, be able to develop a second set of

TSUS numbers for purposes of administering the textile restraints, although there would be no means of administering the restraints consistently with the bilateral agreements during the period that the new numbers were being developed; or (3) the administration of the restraint program would break down into chaos.

Another possible course of action would be to renegotiate the bilateral agreements to make them consistent with the TSUS. Not only would this be a long and difficult process, but also it would underscore the unilateral deviation from the agreements by the United States.

It is relevant to explore what other consequences might flow from that deviation from the bilateral agreements by the United States. There is a general principle of international law that a unilateral action by one party to an international agreement that constitures a material breach of the agreement gives the other party the right to reject the agreement as a whole. Whether the breach would be considered "material" in this case depends upon its overall effect. It is my understanding that, were the proposed amendment administrable, its effect would be far greater than merely the maintenance of the higher tariff rate for man-made fibers, but would also shift a large number of textile articles from cotton to man-made restraint categories, thereby causing a number of countries with which we have bilateral agreements to exceed their quotas for those categories. At a minimum, such countries probably would demand higher quotas as the price for their agreement to a renegotiated fiber-identification basis. At the maximum, affected countries may attempt to reject the textile restraint program as a whole.

In short, the potential consequences of the proposed amendment are so far-reaching that they should deter supporters of the amendment who also support the MFA program.

GATT Implications

A large number of the duty rates applicable to textile items subject to the MFA and bilateral agreements were bound in the Kennedy Round. These items are not identified individually here, because individual identification is not essential to the basic conclusions.

The arbitrary change of the basis for identifying "cotton" and "man-made" articles for the purpose of maintaining the higher rate applicable to man-made articles very probably would,

if challenged, be construed as a "nullification or impairment" of benefits derived by trading partners from GATT trade agreements. There are two principal ways of dealing with such an issue under the GATT.

First, it may be possible for the United States to renegotiate with trading partners the duty rates on textile items, pursuant to Article XXVIII of the GATT. Such an action is in the nature of an "amicable settlement", but no doubt would involve our granting compensatory concessions in return for the tariff concessions effectively withdrawn from trading partners.

Second, if there is no amicable settlement, other GATT Contracting Parties may bring an action against the United States under Article XXIII of the GATT. This probably would result in the formation of a panel, such as the ones formed in the DISC, MIPs, and Non-Fat Dry Milk cases.

The usual test for determining whether a nullification or impairment exists is to ask whether the action taken by a Contracting Party defeats the reasonable expectations that another contracting party had at the time a trade agreement was entered into. It is reasonable to conclude that the trading partners which entered into the Kennedy Round Protocol had reasonable expectations that the "chief value" basis for identifying cotton articles would not be changed, or more specifically would not be changed for the particular purpose of maintaining for most articles the higher rate of duty applicable to man-made fibers.

Accordingly, the proposed amendment probably would not be defensible if challenged under Article XXIII of the GATT, and may subject the United States to the requirement of compensating affected trading partners or possibly suffering retaliation through the withdrawal by them of substantially equivalent trade benefits.

C

TARIFF TREATMENT OF COTTON/MAN-MADE FIBER TEXTILE BLENDS

AN EVALUATION OF A PROPOSAL TO ALTER THE CHIEF-VALUE CLASSFICATION SYSTEM

Study Prepared by the
Office of Textiles, USDC
Under the Direction of the
Textile Trade Policy Group
Ambassador Frederick B. Dent,
Chairman

CONTENTS

I. INTRODUCTION

At the request of several textile trade organizations, Senator Herman E. Talmadge, on September 22, 1976, introduced an amendment to H.R. 2177 which, in effect, would change the method of classifying imports of certain cotton and man-made fiber blended articles for duty purposes. Whereas such articles are presently dutiable at rates based on the fiber component of chief value, the proposed legislation would amend the Tariff Schedules of the United States (TSUS) as follows:

> "Notwithstanding any other provision of law, for the purposes of the tariff schedules an article to which this schedule applies, 90 percent or more of the total fiber content of which consists, by weight, of cotton and man-made fibers--
>
> (a) Shall be treated as if it were in chief value of cotton if 65 percent or more of the total fiber content of the article consists, by weight, of cotton (whether the article is in chief value of cotton or not), and
>
> (b) Shall be treated as if it were in chief value of man-made fiber if less than 65 percent of the total fiber content of the article consists, by weight, of cotton (whether the article is in chief value of man-made fiber or not)."

The rationale and the intent of the amendment were to account for changes in the price relationship between cotton and polyester since the time the establishment of the TSUS was being considered, in the late 1950's and early 1960's. The price of polyester staple fiber was so much higher at that time than the price of cotton that a blend of the two

fibers in an article would have had to contain only a relatively small amount of polyester to make the article dutiable at the man-made fiber rates. In most cases the man-made fiber rates are higher than the rates applicable to articles in chief value of cotton. The increasing price of cotton and the decreasing price of polyester fibers in recent years have changed this relationship and have resulted in the possibility of a smaller amount of cotton being required in a blend to obtain the lower cotton rate of duty. It is contended by Senator Talmadge that this was contrary to the intent of Congress.

The Honorable Frederick B. Dent, the Special Trade Representative, advised the Senate Finance Committee of his concern that the amendment proposed by Senator Talmadge could:

(1) Involve technical implementation problems and result in violation of most U.S. bilateral textile agreements, all of which depend for their implementation on the tariff classification of textile imports.

(2) Violate the rights under the General Agreement on Tariffs and Trade of foreign suppliers of textiles to the United States.

In a letter of September 29 to Ambassador Dent, Senator Talmadge stated that he had withdrawn his amendment to permit the government to study and evaluate his proposed legislation and to report back to the Senate Finance Committee. The Senator asked for such a report "at the earliest practicable date."

II. SUMMARY OF STUDY

The study is herewith submitted. Its principal findings are:

(1) An analysis of the various fiber prices and the types of blends being imported indicate that the changes in fiber prices up to the present time have had little effect on Customs' classification of blends for duty purposes.

(2) Based on discussions with fiber economists and such studies as are available, it does not appear that cotton can command in the market place for any extended period the premium prices over man-made fiber which would require large-scale change in classification practices for blends.

(3) Senator Talmadge's amendment, by changing the classification of a substantial number of cotton and man-made fiber blended textile products, would not only increase duties on these products but would also result in some trade now classified in cotton categories of the bilateral textile agreements being classified instead into man-made fiber categories. This skewing of the trade into man-made fiber categories could be considered as violating many of the bilateral

agreements. It could lead to legitimate requests by the bilateral partners to raise the restraint levels of man-made fiber categories and groups.

(4) Although, on a theoretical basis, this problem could be handled administratively, as a practical matter for textile import restraint agreement purposes incorrect classifications and statistics could not be avoided.

(5) A large number of textile duty rates were bound in the Kennedy Round and changes in classification practices which changed some of these duty rates would probably be construed as a nullification or impairment of benefits derived from GATT Trade Agreements. The United States would probably have to negotiate compensation or face retaliatory action under GATT.

(6) The study found that many of the problems inherent in the classification system which would be established by the amendment would be eliminated if a chief-weight system were applied for all textiles and apparel, that is, the blend would be classified simply on the basis of which

fiber component was greatest by weight. The study also indicated that such a system might also have a substantial number of other accompanying benefits.

Recommendation

Any major changes in the present classification system for textiles and apparel should be postponed until interested agencies could review a detailed study which would be made by the ITC, aided by other government agencies concerned, on the consequences of a complete change to a chief-weight classification concept for all textiles and apparel.

III. COTTON AND MAN-MADE FIBER MARKETS

Cotton's position in the world market for fibers has consistently declined as man-made noncellulosic fibers have captured an ever increasing share. Cotton's share declined from 62.3 percent of the total cotton, wool and man-made fiber market in 1964 to 53.5 percent in 1975 while non-cellulosic fiber increased its percentage from 9.9 percent to 29.5 percent. The shares held by wool and cellulosic man-made fibers also declined during this period.

Domestic Market

Mill consumption of noncellulosic fibers in the United States has grown rapidly, increasing at the expense of cotton, wool and cellulosic fibers. The following table provides data on the changes in cotton and noncellulosic man-made fiber market shares in the United States.

Cotton and Noncellulosic Fiber U.S. Market Shares, Selected Periods
(Percent of Fiber Market)

Period	Cotton	Noncellulosic Fibers	Other
1964	54.6	20.0	25.4
1968	43.4	35.3	21.3
1972	33.9	51.8	14.3
1973	30.1	57.4	12.5
1974	30.4	58.5	11.1
1975	29.2	61.8	9.0

SOURCE: Cotton and Wool Situation, USDA

Polyester staple has provided the most direct competition for cotton during the period under review. Cotton's direct losses to polyester staple occurred primarily in markets where durable-press blends replaced fabrics wholly of cotton due to the easy-care properties of the blends and to changed price relationships.

Cotton's losses were especially heavy in the shirt, blouse and nightwear markets, where 65% polyester/35% cotton blends substantially replaced 100 percent cotton fabrics and in the work clothing and in the sheet and pillowcase markets where 50% polyester/50% cotton blends have been increasingly substituted. Cotton producers, through their organization, Cotton Incorporated, have waged an extensive campaign to improve cotton's performance by developing and promoting blends which contain higher percentages of cotton than those mentioned above. Several of the major manufacturers of apparel and sheets and pillowcases are cooperating with Cotton Incorporated by producing and aggressively merchandising the so-called reverse blends, in which cotton predominates. Cotton Incorporated believes that this program can be successful if cotton supplies are adequate and prices are competitive.

There is little doubt that changed price[1/] relationships have contributed significantly to the shift in the domestic markets from cotton to polyester staple. The following table indicates the trends in the U.S. market for these two fibers:

U.S. Landed Mill Point Prices
- Cents Per Pound -

Period	Cotton 1/	Polyester 2/
1964	35	99
1968	35	56
1972	37	35
1973	61	37
1974	62	46
1975	52	48
Sept. 1976	78	53

1/ M 1-1/16" at group B mill point, net weight.
2/ Average market price for 1.5 denier polyester staple for cotton blending.

SOURCE: Cotton and Wool Situation, USDA

It should be noted that the above prices for cotton are based on spot prices and may or may not reflect actual mill costs since substantial portions of the cotton requirements were contracted for in advance at prices below the spot prices at delivery date.

1/ Prices and values hereinafter discussed are in terms of current dollars unless otherwise specified.

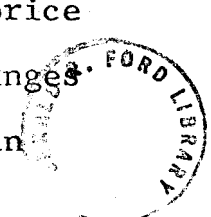
The present spread between the price of cotton and that of competing staple fiber, while characterized as abnormal, is certainly not unique. In 1973, for example, the price of cotton rose from 39¢ per pound in January to 88¢ per pound in September. The price of polyester staple, over the same period, rose from 35¢ per pound to 37¢ per pound. On the other hand, the price of cotton in 1974 decreased from 86¢ in January to 45¢ in December, while the price of polyester rose from 38¢ to 50¢ per pound.

Cotton prices as reported on the spot markets for the Fall of 1976 were unusually high in relation to those for polyester staple but it is expected that cotton will be more competitively priced in the future. One indication of the probable decline in the price of cotton is a middle of November report of the future's market which indicates that December 1977 contracts are being quoted at discounts of about 14 cents below the December 1976 contracts. This would indicate a spot price level of about 63 cents per pound for December 1977. Another indication of a possible decline in cotton prices is a report published in mid-1976 for member governments by an international organization which projected 1980 cotton prices at a level of 53.5 cents per pound based on constant 1974 dollars, or about 64 cents per pound based on 1976 dollars.

An internationally recognized consulting firm, under contract to the same international organization, prepared projections of polyester costs for certain countries. This study, based on 1976 constant dollars, and assuming $12 a barrel oil costs, indicated polyester staple costs for 1980 of 60¢ per pound in Korea, 58¢ in Taiwan, 73¢ in Japan and 74¢ in the United States; sales prices could be expected to be higher. While there have been and may in the future be periods when price relationships between cotton and polyester staple are abnormal due to temporary supply and demand situations, it is anticipated that the price levels of these two major raw materials of the textile industry will not be far apart over any extended period.

Foreign Market

Cotton has been more successful in retaining its share of markets abroad than it has in the United States. Much of the mill consumption of cotton abroad is in the developing or socialist countries where cotton is grown and man-made fiber production has lagged or is nonexistent. Also, the trends toward blends have been behind those in the United States because of consumer resistance and different price relationships. The following table indicates the changes in market shares of cotton and noncellulosic fibers in foreign areas:



Cotton and Noncellulosic Fiber Foreign Market Shares, Selected Periods (Percent of Fiber Market)

Period	Cotton	Noncellulosic Fibers	Wool & Cellulosic Man-Made Fibers
1964	63	7	30
1968	68	13	19
1972	58	19	23
1973	56	22	22
1974	58	22	20
1975	59	22	19

SOURCE: International Cotton Advisory Committee

Polyester staple prices in western Europe generally were about 10 cents per pound higher than in the United States until 1974 when the difference reached 20 to 25 cents above U.S. prices. ICI in England early in November 1976, announced a price increase of 12% for polyester staple. If this increase is followed by other European producers, the differences between United States and European prices will widen further unless U.S. producers also raise prices. Japanese polyester staple prices were also about 10 cents per pound higher than U.S. prices during most of the period but during the past two years have been 15 to 20 cents per pound higher.

Cotton prices abroad generally ranged at about or slightly above the level which prevailed in the United States. This stems in part from the fact that most foreign cotton importing countries were able to acquire a substantial portion of their

cotton needs from foreign suppliers at lower than U.S. prices, in part offsetting the additional freight costs of U.S. cotton. Since most of the blends produced abroad are 65% polyester/35% cotton and since the per pound costs for polyester staple and cotton are not greatly different, it can be assumed that such blends would be in chief value of polyester.

For those blends which are 50% polyester/50% cotton, cotton costs are likely to be below polyester, since advances in spinning technology now permit the increased use of shorter staple cotton which is available at a considerable discount from the prices of the cotton used in the 65%/35% blend. Looking into the future after assuming that the international organization's projections for cotton prices are reasonable, it would appear that the cotton component will be valued below polyester staple for those blended fabrics which are manufactured for export to the United States as fabrics or finished goods.

Chief-value calculations for polyester/cotton blends. --Using the U.S. price data on page 7 in a simple arithmetic exercise which disregards waste, manufacturing and other costs, the percentage of polyester fibers in a polyester/cotton blend would have had to be about 26.5 percent in 1964 (the first full year of operations under the provisions of the

TSUS) to constitute the fiber component of chief value. The polyester ratio would have had to be about 39.5 percent in 1968 (the first year of Kennedy Round reductions) to achieve chief value. These are necessarily rough calculations because there are so many factors other than price that affect the fiber ratios in blends, such as end-use requirements, consumer acceptance, differences here and abroad in raw material and manufacturing costs, and fiber shortages caused by unforeseen adverse economic and climatic conditions.

After 1968 the price of cotton fluctuated widely, although trending upward, and the price of polyester, although increasing in the past two or three years, did not trend as sharply upward as cotton. Consequently, the percentage relationships of polyester and cotton in blends have undergone substantial changes.

IV. TEXTILE BLENDS

A definitive discussion of the production and consumption of articles comprised of blends of man-made fibers and cotton is made difficult by the limitations of statistical data. Some assumptions can be made and some conclusions can be drawn, however, from information that is available.

Domestic Market

For many years the United States has been in the forefront of the development of blended textile materials as well as being a leading producer of cotton and of man-made fibers. Prior to the advent of the noncellulosic fibers, beginning with nylon in about 1939, and for some time thereafter, the principal blends were of cotton and rayon and/or acetate. The shortages of fibers for civilian use engendered by the defense needs of World War II stimulated the search for newer and better man-made fibers and resulted in a phenomenal growth in the development and production of such fibers, particularly the noncellulosics, which became the principal fibers for blending with cotton.

Precise data on blend ratios are not available, but market information indicates that 50-50 and 65-35 percent polyester/cotton are and have been the most popular in recent years. The 50-50's are consumed to a considerable extent in domestics, such as sheets and pillowcases, and in heavy outerwear, and the 65-35's are consumed mostly in lightweight

apparel. Because of the recent high price of cotton, there has been a trend toward increasing the percentage of polyester in blends, and this has been at the expense of the 50-50's.

The following table shows the production of spun weaving and machine-knitting yarns over a period of years and gives an acceptable indication of the growth in the production and consumption of the blended articles because these two types of yarn represent the bulk of the spun yarn consumed in textile blends. It may be noted that the yarns chiefly of polyester blended with cotton far outstripped any of the other types and in 1975 amounted to over 70 percent of the total shown as compared with about 24 percent in 1964. Blends chiefly of cotton also increased over the period, but not nearly as much as the blends chiefly of polyester. Blends chiefly of rayon and/or acetate declined drastically. Based on projections by the man-made fiber producers as to future capacity for the production of man-made staple fiber, especially polyester, it would appear that a continuing increase in the U.S. consumption of textile blends is anticipated.

Foreign Market

The United States is and has been the world's leading producer of polyester staple fiber, the fiber most used in

Spun Weaving and Spun Machine-Knitting Yarns (except carpet yarns) Composed of Blends Chiefly Cotton Or Chiefly Man-Made Fibers: U.S. Production, 1964, 1968 and 1972-75

Item	1964	1968	1972	1973	1974	1975
	In Millions of Pounds					
Chiefly cotton containing:						
Rayon	108	106	70	64	44	32
Other fibers	69	155	184	200	207	179
Chiefly rayon and/or acetate	212	223	149	173	121	85
Chiefly polyester containing:						
Cotton	149	626	953	1,098	1,073	1,159
Wool	14	39	27	13	5	5
Other fibers	31	87	84	121	165	92
Chiefly acrylic or modacrylic	39	25	28	35	30	28
Chiefly nylon	1/	9	1/	1/	6	9
Chiefly other noncellulosic fibers	3	4	25	45	47	36
TOTAL	625	1,274	1,520	1,749	1,698	1,625

1/ Included in other, if any

Source: U.S. Department of Commerce

blends with cotton. Of the world production in 1975 of 1,726,000 metric tons, the United States accounted for 697,000 metric tons or 40 percent. Other large producing areas were Japan, West Europe, and East Europe. Most of the foreign producing countries are not as deeply into blends for home consumption as is the United States. The principal foreign suppliers of blended textile articles generally follow the U.S. pattern in the blend ratios of their exports to this market.

U.S. Imports

Fabrics, general.--As stated earlier, specific data on the quantity and fiber content of textile blends is lacking. This applies to imports as well as to production. Some idea of the quantity and fiber mix of imported blends can be derived from data on imports of woven, knit, and pile fabrics in chief value but not wholly of cotton and of fabrics in chief value of man-made fibers. It is in these categories that the cotton and man-made fiber blends would be included.

Fabrics of cotton, woven.--Imports of woven fabrics comprised only of blends of cotton and man-made fibers are dutiable and are recorded under TSUS items 326.00 through 331.00 if in chief value of cotton. Imports of such fabrics, as shown in the tabulation below, increased substantially

from 4.6 million square yards in 1964 to 36.4 million square yards in 1973, trended drastically downward to 10.3 million square yards in 1975, and then increased markedly in the first half of 1976. If the six-month trend continues throughout 1976, imports in that year would exceed those in the peak year of 1973. Information obtained from Customs indicates that a substantial proportion of the growth in 1976 of these imports is comprised of cotton/rayon blends in which cotton predominates by weight as well as by value which have been substituted for fabric imports wholly of cotton.

Certain Cotton-Fabric Imports by Type

Year	Woven 1/	Knit	Pile
	1,000 Sq. Yds.	1,000 Pounds	1,000 Sq. Yds.
1964	4,646	385	6,459
1968	25,511	259	7,709
1972	36,263	392	13,883
1973	36,403	246	9,178
1974	22,890	150	4,693
1975	10,271	165	2,360
Jan.-June			
1975	5,305	74	872
1976	27,840	231	2,548

1/ In chief value, but not wholly of cotton containing (in addition to cotton) silk or man-made fibers, or both, but not containing other fibers.

SOURCE: U.S. Department of Commerce

Fabrics of cotton, knit.--Imports of knit fabrics wholly or in chief value of cotton, including blends, did not follow exactly the trend of the imports of cotton woven fabrics over the same period. They fluctuated rather widely from year to year during 1964-72. They were 392 thousand pounds in the latter year and subsequently decreased to 165 thousand pounds in 1975. A substantial increase is indicated for 1976. The proportion of imports of knit cotton fabric which is comprised of 100 percent cotton fibers or of blends of cotton and other fibers cannot be determined from available data.

Fabrics of cotton, pile.--Imports of pile fabrics wholly or in chief value of cotton were 6,459 thousand square yards in 1964, increased to 13,883 thousand square yards in 1972, and decreased in each succeeding year to 2,360 thousand square yards in 1975. As is the case with the woven and the knit cotton fabrics, cotton pile fabric imports are expected to show a large increase in 1976. Again, the quantity of these imports which consisted of 100 percent cotton fibers cannot be determined.

Fabrics of man-made fibers, woven.--Imports of woven fabrics in chief value of polyester fibers blended with cotton are included in the TSUS with woven spun-yarn polyester fabrics (TSUSA items 338.3065 and 338.3085). As is shown in the

tabulation below, imports of such fabrics increased from 3 million square yards in 1964 to 33.5 million square yards in 1968, but were only about 8 million square yards in 1975. In the first six months of 1976, imports were more than double those in the same period of 1975. The quantity of blended fabrics involved is unknown but it is certain that it would be much less than the totals shown.

Certain Man-Made Fiber Fabric Imports by Type

Year	Woven Polyester Fabrics 1/ 1,000 Sq. Yds.	Knit Polyester Fabrics 2/ 1,000 Pounds	Pile Fabrics of Man-Made Fabrics 3/ 1,000 Sq. Yds.
1964	2,892	4/	1,238
1968	33,518	1,229	3,846
1972	7,808	6,658	17,659
1973	8,271	2,939	11,335
1974	15,198	1,713	6,136
1975	8,018	2,091	3,685
Jan.-Jun.:			
1975	4,211	995	1,626
1976	9,658	1,444	2,716

1/ Wholly of spun yarns (TSUSA items 338.3065 and 338.3085).
2/ Other than wholly of continuous fibers (TSUSA items 345.5068 and 345.5088).
3/ TSUSA items 346.6045-.6060.
4/ Less than 500 pounds.

SOURCE: U.S. Department of Commerce

Fabrics of man-made fiber, knit.--Imports of knit fabrics of polyester fibers, other than wholly of continuous fibers, (TSUSA items 345.5068 and 345.5088) which would include

blends, were negligible in 1964. They increased from 1.2 million pounds in 1968 to 6.7 million pounds in 1972, then decreased to 2.1 million pounds in 1975. A substantial increase is indicated for 1976, but it does not appear that the total for the year will reach the level of 1972.

Fabrics of man-made fiber, pile.--Total imports of pile fabrics of man-made fibers, which include fabrics wholly of man-made fibers as well as those in chief value but not wholly of man-made fibers, increased very substantially from 1.2 million square yards in 1964 to 17.7 million square yards in 1972. Subsequently they dropped to 3.7 million square yards in 1975. Although an increase is indicated for 1976, it probably will not exceed the 1974 level.

Apparel.--The lack of data on imports of blended articles is particularly evident in the apparel field. While it is true that the foreign exporters of apparel to the U.S. market generally follow the trend of the blend ratios popular at the time orders are taken, the breakdown of such blends in specific quantities and end uses is not available. A study made by an independent research organization, which involved a sampling of imports of certain types of apparel in the first half of 1976, by blend ratios, indicated that nearly three-fourths

of the polyester, cotton, and polyester/cotton-blend articles sampled consisted either of 100 percent polyester (42 percent) or 100 percent cotton (30 percent). The 50-50 blends of polyester and cotton accounted for only 6 percent, and the blends chiefly of polyester, which were predominantly 65 polyester and 35 cotton, accounted for 17 percent. The reverse blends, consisting chiefly of cotton, only accounted for 5 percent. These figures seem to indicate that the area of controversy, mainly the 50-50 blends, is relatively small. This conclusion is substantiated by estimates provided by the U.S. Customs Service. Its import specialists at the New York Port estimated, based on recent entries, the following percentages of imports which were wholly of cotton and cotton blends:

Estimates of U.S. Imports of Selected Products By Fiber Content 1/

- Percent -

Item	Wholly Cotton	Man-Made Fiber/Cotton Blends 65%/35%	Man-Made Fiber/Cotton Blends 50%/50%
M & B Dress shirts, woven	30	70	Nil
M & B Sportshirts, woven	45	55	Nil
M & B Sportshirts, knit	50	30	20
M & B work shirts, woven	90	Nil	10
M & B trousers	95	5	Nil
M & B pajamas, woven	65	30	5
WGI blouses, woven	75	15	10
WGI nightwear, woven	98	2	Nil
Sheets & pillowcases	100	Nil	Nil

1/ Imports of wholly cotton and man-made fiber blends; do not include other imports.

SOURCE: U.S. Customs import specialists' estimates in response to inquiry by U.S. Department of C

V. CUSTOMS TREATMENT OF TEXTILES AND APPAREL

Imports of textiles and apparel have for many years been classified for duty purposes on the basis of the fiber component of chief value. General headnote 10(f) of the TSUS defines chief value as follows: "an article is in chief value of a material if such material exceeds in value each other single component material of the article." For example, if the value of the polyester fibers in a 50-50 polyester/cotton blend article exceeds the value of the cotton fibers in the blend, the article would be subject to the pertinent rates of duty applicable to man-made fiber articles. The chief-value concept existed long before the implementation of the TSUS in 1963.

Imports of blended man-made fiber and cotton articles have generally had blend ratios prevalent in domestic production. The bulk of the man-made fiber/cotton blend imports from 1964 through 1967 contained 65% polyester and 35% cotton. This blend ratio has continued to prevail for lightweight goods, but 50-50 man-made fiber/cotton blends have become increasingly important for heavier-weight goods since 1967. Customs has consistently classified both the 65/35 and the 50/50 blends as being in chief value of man-made fiber. The rationale for this is that the man-made fiber duties are usually higher and it is the responsibility of the importer to submit acceptable data to

prove that his goods should be subject to the lower cotton duties. According to information from Customs, only in a few instances have importers been able to submit adequate proof to justify the application of the lower cotton duties for the 50/50 blends. Customs' experiences indicate that even though cotton spot prices might indicate that the cotton cost of a 50/50 blend would be higher than the man-made fiber cost, the actual costs of cotton are usually lower than the spot markets indicate, and thus cotton should not be considered to be the material of the chief value.

Customs officials indicate that these procedures will continue to be followed unless the cotton price, over a long period, consistently exceeds the price level of the competing man-made fibers. If this should occur, Customs would have to reevaluate its classification procedures, at least with regard to the 50/50 blends. Since it is doubtful that cotton will, over an extended period, command a price level substantially higher than man-made fiber, it is not expected that Customs' present classification procedures will have to be changed, at least in the foreseeable future.

Passage of the proposed legislation would complicate the present Customs procedures inasmuch as it would apply only to certain textile articles. It would undoubtedly encourage other special-interest groups to seek to obtain similar treatment for

their commodities and thus seriously interfere with the intent and the orderliness of the existing tariff schedules.

CHIEF WEIGHT VS. CHIEF VALUE.

The U.S. Tariff Schedules, including the TSUS, have for many years been based on the chief-value concept, i.e., the fiber component in a blended textile article which exceeds in value each other fiber component in the article would determine the classification and the applicable rate of duty for that article. Because of wide fluctuations in fiber prices and because of the varying economic conditions prevailing in the various countries of the world, it is possible for imports of blended textiles into the United States of exactly the same types and fiber content to be classified in different parts of the TSUS at different rates of duty. The chief value method of classification thus presents serious customs administrative problems and results, in many cases, in unreliable statistical compilations.

The concept of classifying textile-blend imports on a chief-weight basis is more logical, would cause fewer administrative problems, and would result in more reliable trade data. The case for the substitution of chief weight for chief value is aptly expressed by R.N. Shewmaker, General Counsel of the International Trade Commission, in a memorandum he prepared for Congressman Phil Landrum. A copy of this memorandum is attached hereto as

Annex A. In this regard, the United States is the only major trading nation of the world that classifies imports for tariff purposes on a chief-value basis. Most of the other nations classify their imports in accordance with the Brussels Tariff Nomenclature (BTN), which is now referred to as the Customs Cooperation Council Nomenclature (CCCN).

The United States is not presently a signatory to this nomenclature.

Section note 2 section XI of the CCCN provides in pertinent part as follows:

> 2.--(A) Goods classified in any heading in Chapters 50-57 and of a mixture of two or more different textile materials are to be classified according to the following rules:
>
> * * *
>
> (b) All other goods are to be classified as if consisting wholly of that one textile material which predominates in weight (emphasis added) over any other single textile material.

From the above it is clear that should the United States become a signatory to the nomenclature, consideration will have to be given to a changeover to the chief-weight basis. The U.S. Tariff Commission (now the International Trade Commission), in its "Draft Conversion of the Tariff Schedules of the United States into the Format of the Brussels Nomenclature," stated

as follows:

> "It is to be noted that under the Tariff Schedules of the United States, textile articles containing two or more different textile fibers (e.g., cotton, vegetable fiber other than cotton, wool, man-made fibers, and silk) are generally classified according to the textile fiber which exceeds in value each other single textile fiber in the article. Under the preliminary draft conversion for chapters 50 through 57, the chief-value basis of classification has been eliminated in favor of classification according to the textile fiber which predominates by weight (except for certain articles in which silk constitutes more than 10 percent, by weight, of the textile component). Pending the completion of a study on the economic impact of this change, TSUSA numbers which may be affected by, or the rate changes which may result from, this shift in the basis of classification will not be identified in the cross-reference tables."

The study mentioned above has not been completed and no definite date has been set for its completion.

An additional factor involving the possibility of changing to a chief-weight concept has to do with Section 608 of the Tariff Act of 1974. This section amends Section 484(e) of the Tariff Act of 1930 to read, in part, as follows:

> (e) STATISTICAL ENUMERATION.-- The Secretary of the Treasury, the Secretary of Commerce and the United States International Trade Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgement may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production, to establish the comparability thereof with such enumeration of articles.

In order to achieve such comparability, a change in the present chief-value concept for the tariff schedules would appear to be necessary. Whereas imports are classified on a

chief-value basis, production and exports are classified by weight as being wholly or chiefly of a particular fiber component. The ITC, Customs, and Census are studying the comparability situation and the sections pertaining to textiles are expected to be published in the near future. These sections do not, however, face up to the problems involved in or the desirability of changing over to a chief-weight basis.

VI. IMPACT OF LEGISLATION ON IMPLEMENTATION AND ADMINISTRATION OF TEXTILE BILATERAL AGREEMENTS

The United States has existing bilateral textile agreements with 18 countries, 6 of which involve cotton only and 12 of which involve cotton, wool and man-made fibers. These agreements were negotiated under the Arrangement Regarding International Trade in Textiles (MFA). Article 12 of the MFA defines the fiber coverage on either a chief-value or on a 50%-or-more by weight basis. The U.S. bilateral agreements provide for the chief-value criteria except in those cases where (1) the textile component in chief value is other than cotton, wool, or man-made fibers or (2) where the 50%-or-more by weight provision applies. The United States negotiated and implemented the agreements on this basis. A change to a concept of classification based on the specified weights of the component fibers, as proposed in the Talmadge amend, would represent a significant departure from the above ground rules.

The proposed amendment would eliminate chief-value as the method of determining whether a blended textile import would be classified as a cotton textile or a man-made fiber textile. Regardless of value, an imported blended article would be dutiable in the cotton schedule if it contained 65% or more cotton by weight. A blend of 64% cotton/36% polyester would be dutiable in the man-made fiber schedule. Under the 90% requirement of the amendment, a blend of 64% cotton/26% polyester/10% wool would also be classified as a man-made fiber article.

The implementation and administration of the multifiber bilaterals are entirely dependent on the TSUSA items involved. Every category is comprised of a number of specific TSUSA's and changing the coverage of a TSUSA item, as would be required by the amendment, therefore, would change the coverage of a category. Changing the coverage of a number of categories would change the coverage of an entire bilateral agreement. Even the addition by administrative means of numerous TSUSA items to take care of the distortions of trade would be inadequate to reflect the information required by the amendment.

As a practical matter, the conflicts and inconsistencies involved with regard to certain articles of the bilaterals would make some restraint agreements incapable of administration as constituted. The amendment would result in a shift of classification of trade from cotton categories to man-made fiber categories, thus skewing the data to show a more rapid filling of the man-made fiber categories. These inaccuracies could not be handled adequately by administrative changes. This would lead to requests for renegotiation of the agreements by our bilateral partners to raise the levels of man-made fiber categories and groups. Because the amendment would create a violation of our bilateral agreements as originally negotiated, the United States would not be in a strong posotion for any renegotiations.

VII. IMPACT OF LEGISLATION ON GATT NEGOTIATIONS

Most of the column 1, MFN duty rates specified in Schedule 3 of the TSUS, covering items subject to the MFA and bilateral restraint agreements, were established as a result of bound concessions to trading partners, made in the Kennedy Round or earlier rounds of trade negotiations. By establishing such bindings, the United States undertook to maintain the agreed effective rates of duty. The failure to maintain a bound rate, or the undermining of a bound rate, will subject the United States to the obligation to compensate our trading partners by granting other trade concessions of value substantially equivalent to the ones nullified or impaired. This obligation is enforceable by our trading partners by means of the dispute-settlement mechanism in Article XXIII of the GATT.

A unilateral change by the United States in the basis for identifying cotton and man-made fiber articles for the purpose of maintaining the higher duty rate applicable to man-made articles almost certainly would, if challenged, be construed as a nullification or impairment of benefits derived by trading partners from GATT trade agreement concessions. This breach of GATT obligations is independent of any effect that the Talmadge Amendment would have on the MFA and textile bilaterals, and would not be cured if somehow a way were discovered to administer the bilaterals under the Talmadge Amendment.

The usual test for determining whether a nullification or impairment exists is to ask whether the action taken by a

Contracting Party defeats the reasonable expectations that another Contracting Party had at the time a trade agreement was entered into. It is reasonable to conclude that the trading partners which entered into the Kennedy Round Protocol and earlier trade agreements had reasonable expectations that the chief-value basis for identifying cotton articles would not be changed, or more specifically would not be changed for the particular purpose of maintaining for most articles the higher rate of duty applicable to man-made fiber textiles.

In periods between major rounds of trade negotiations, there are two principal ways of dealing with such nullifications or impairments under the GATT. First, the United States could attempt to renegotiate with trading partners the duty rates on textile items, pursuant to Article XXVIII of the GATT. Such an action is in the nature of an amicable settlement, but no doubt would require the United States to grant compensatory concessions on other textiles or on articles other than textiles, in return for the textile tariff concessions that were effectively withdrawn from trading partners.

Second, if there were no amicable settlement, other GATT Contracting Parties could bring an action against the United States under Article XXIII of the GATT. This probably would result in the formation of a panel, such as the panels formed in the DISC and MIPs cases. Because the proposed amendment would not be defensible if challenged under GATT Article XXIII,

the United States probably would be subjected through the panel procedures to the requirement of compensating affected trading partners, or of being subjected to retaliation through the withdrawal by trading partners of substantially equivalent trade benefits.

Because we currently are engaged intensely in the Multilateral Trade Negotiations (MTN), however, it is unlikely that either of the two methods described above would be used to pay the "debt" that would result from our sudden switching to less than chief-weight basis for identifying man-made fiber textile articles in the TSUS. Instead, our trading partners probably would demand compensation in the MTN (and possibly in Tropical Products), so that the United States would be forced to grant tariff concessions of considerably greater value than the concessions that we received from trading partners.

At a critical point in the MTN, such a result would cast doubt among trading partners about our intentions to adhere to trade agreements and our commitment to tariff liberalization, would tie our hands in advance of serious tariff bargaining on specific products, and may raise serious political questions about our giving away United States tariff concessions in order to compensate trading partners for U.S. actions to help a particular industry. Together with several major "escape clause" import relief cases under Section 201 of the Trade

Act, the Talmadge Amendment could turn the U.S. side of the MTN into essentially a large compensation negotiation. Thus, the amendment would have a severely adverse effect upon United States efforts in the MTN.

VIII. IMPACT OF LEGISLATION ON U.S. LEGAL OBLIGATIONS

The effect of the Talmadge Amendment upon United States GATT bindings is described in the preceding section. The factors that are described in that section might also be relevant in a shift to an overall chief-weight system for classifying various types of textile articles: whenever such a shift caused articles that previously would have been in lower duty-rate categories to be shifted to higher duty-rate categories, the United States would owe compensation to trading partners as a result of the nullification or impairment of trade agreement concessions. An overall shift to a chief-weight basis, however, may also cause articles to be shifted from higher to lower duty-rate categories thereby automatically compensating partially or entirely for any shifts in the other direction.

IX. CONCLUSIONS AND RECOMMENDATION

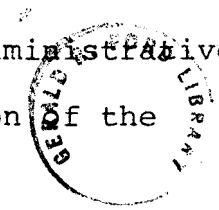
Man-made fibers have consistently increased their overall share of the fiber market both in the United States and abroad. Most of this increase is at the expense of 100% cotton products and has been due to substitution for them of man-made fiber/cotton blends. Such substitution is more prevalent in the U.S. than abroad. Blends of 65% polyester/35% cotton have taken a significant share of the U.S. market for light-weight apparel. Blends of 50% polyester/50% cotton are important in some of the heavy-weight apparel and for sheets and pillowcases. Blends are not as important in U.S. imports as they are in domestic production and consumption. Further, imports of 50%/50% blended articles are of minor importance.

Despite periodic but temporary high spot cotton prices, there have been no significant shifts in the classification of textile and apparel items from the man-made fiber TSUS numbers to the cotton TSUS numbers. The U.S. Customs Service classifies 65%/35% blends as being in chief value of man-made fiber. In addition, Customs assumes that a 50%/50% blend is in chief-value man-made fiber unless proof is submitted to the contrary. Customs view is that the overseas costs of man-made fibers are higher on the average than the costs of cotton in a 50%/50% blend, and that the chief-value of such a blend is man-made fiber. Customs recognizes that the costs of raw cotton to the textile mill are based on a contract price and not on spot prices.

Although spot prices for cotton reached very high levels in late 1973 and in the Fall of 1976, the higher levels occurred

after most cotton had been sold, at lower prices, creating a temporary spot shortage. If cotton prices should continue to be at levels considerably above those for man-made fiber over an extended period, the chief value likely would shift for a 50%/50% blend to cotton. However, it is not likely that cotton can command, in the market place, a premium over polyester staple for any extended period.

Unilateral modification of the basis on which imports are classified would be inconsistent with and possibly in violation of the Multifiber Arrangement Regarding International Trade in Textiles (MFA) and the twelve multifiber bilateral textile and apparel restraint agreements negotiated under it. To avoid this conflict, the United States might attempt to adopt a dual classification system under which imports would be classified in accordance with the Talmadge proposal for duty-collection purposes while classification would continue under the current chief-value system in the administration of the textile program. This would require the addition of approximately 1,500 TSUSA numbers, would almost double the work of the Customs import specialists, and would be impracticable. It would result in inaccurate classifications and statistics for textile program purposes. Without reliable import data, the textile program cannot be properly administered. The amendment would result in a shift in classification of trade from cotton categories to man-made fiber categories which could not be handled adequately by administrative changes. This would lead to requests for renegotiation of the



bilateral agreements by our bilateral partners to raise the restraint levels of man-made fiber categories and groups. Because the amendment would consitute a violation of the bilateral agreements as originally negotiated, the United States would not be in a strong position for any renegotiation. Exporting countries with bilateral agreements covering cotton and man-made fiber textiles could consider their agreements void since the United States had unilaterally abridged the basis on which they were negotiated.

A large number of duty rates applicable to textile items were bound in the Kennedy Round tariff reductions and the arbitrary change in classification very probably would be construed as a nullification or impairment of benefits derived from GATT trade agreements. The United States probably would have to negotiate compensation pursuant to Article XXVIII of the GATT or face retaliatory action under Article XXIII.

The study found that many of the problems inherent in a classification system established by the proposal would be eliminated if the United States applied to all textile and apparel imports a chief-weight system that based its classification simply on which fiber component was the greatest by weight. Such a system would greatly simplify Customs' classification work. It would constitute an important step toward harmonization of the U.S. import system with the production and export classification systems. It would also bring the U.S. import system into conformity with the import classification

systems of all major trading nations. At present the United States is the only major trading nation on a chief-value basis on imports.

A chief-weight system by covering all fibers would probably affect the duties on blended textile products in both directions, raising some and lowering others. The impact on the bilateral agreements can be expected to be comparatively light, compared with that of the Talmadge amendment, possibly even of minor significance, since in most instances it would, as a practical matter, continue the present classification of cotton/polyester blends. At the same time, a chief-weight classification system would be welcomed by exporting countries because it would simplify their implementation of the textile agreements by putting classification on the same basis as their classification of all textile exports to other countries.

Recommendation

Any major changes in the present classification system for textiles and apparel should be postponed until interested agencies could review a detailed study which would be made by the ITC, aided by other government agencies concerned, on the consequences of a complete change to a chief-weight classification concept for all textiles and apparel.

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

ANNEX A

MEMORANDUM

August 27, 1976
(with revised attachment, as of 9/24/76)

TO: REP. PHIL M. LANDRUM

FROM: R. N. Shewmaker
General Counsel

SUBJECT: Substitution of "chief weight" for "chief value" concept in TSUSA treatment of textile imports.

This memorandum is submitted in response to your oral request that I provide you with my views as to the merits of certain proposed legislation which would amend the Tariff Schedules of the United States (TSUS) by substituting a "weight concept" for the "chief value" concept in the provisions of the textile schedule for articles made of fiber blends in part of cotton and/or man-made fibers.

At the present time, articles (except certain fabrics of wool) 1/ made of blends of fibers are generally classified in the textile provisions of the TSUSA for duty and statistical purposes on the basis of the component fiber of chief value. In addition, the quantitative restraints on textile imports 2/ are administered in accordance with the 7-digit statistical classes of the TSUSA and, thus, such restraints are also governed by the "chief value" concept.

1/ Such wool fabrics are classified basically on a chief weight concept.

2/ Imposed pursuant to the Arrangement Regarding International Trade in Textiles administered by the Committee for the Implementation of Textile Agreements.

The classification of composite articles according to their component of chief value is a product nomenclature technique that invariably presents customs administrative burdens and also results in inconsistent, fluctuating and, therefore, uncontrollable product classifications and, derivatively, in the development of avoidance practices to obtain lower duties or to circumvent import quotas. In addition, the current chief value system results in the collection of statistical data of poor quality generally unsuited to reliable, discriminating trade analysis. The broad applicability of the "chief value" concept in the classification of articles in the textile schedule is not only unsound but is also not in conformance with industry and commercial practice. 1/

The enactment of legislation providing for an across-the-board substitution of "chief weight" for "chief value" in the textile provisions of the TSUS has obvious merit and, in my opinion, is long overdue. It would ease considerably the administrative burdens of customs officers by eliminating the more vexatious ones associated with "chief value". It would stabilize product classifications by making them accord with the realities of commercial practice. It would result in the collection of reliable trade data and improved trade analysis.

While it is true that some changes in the application of the duties and the quantitative restraints to textile imports would

1/ See treatment of this subject on pages 12-13 of the attached copy of the Commission's Tariff Classification Study, Submitting Report, of November 15, 1960.

occur, it is believed that it is futile to attempt to anticipate them with particularity owing to the inadequacy of available data for that purpose. 1/ However, after the "chief weight" concept is in effect, it would then be possible by virtue of the better data it would yield to make realistic appraisals of the impact on domestic producers of imports of textile articles made of blends of fibers. Moreover, the existence of the flexibly administered quantitative limitations on imports makes it possible, in my view, to effectuate the change in concept without the risk of uncontrollable dramatic surges of injurious imports that might benefit from significant rate reductions.

In the circumstances, I would give my unqualified support to the prompt enactment of legislation which would embody the substitution of "chief weight" for "chief value" across-the-board in the provisions of the TSUS for textile articles, i.e, schedule 3 and certain parts of schedule 7. I have attached hereto a draft bill which would accomplish this result. 2/

If I can be of further assistance, please let me know.

1/ The duties would be higher in some instances and lower in other instances. The immediate effect on the quotas would be to stabilize them.

2/ The alternate drafts furnished to me did not involve an across-the-board approach. Their limited approach would, in my opinion, make them susceptible to controversy as essentially rate-increasing measures.

was derived directly or indirectly from, products provided for in IRC sections 4511, 4561, and 4571. In assimilating the provisions of IRC section 4581 into the proposed schedules, they have been reflected in connection with only those articles known to be directly involved, and the rate increment added on account thereof was adjusted on an estimated basis so as to apply to the total weight of the article involved rather than the quantity by weight consisting of, or derived directly or indirectly from, products provided for in IRC sections 4511, 4561, and 4571.

2. Existing temporary and collateral provisions

As previously indicated, the appendix to the proposed revised tariff schedules is designed for the incorporation of all legislation, proclamations, and administrative actions which, because of their temporary or collateral nature, are not assimilable into the main body of the tariff schedules. At the present time, these provisions are scattered and are available in consolidated form only at such times as the Tariff Commission or the Bureau of Customs is able to bring them together in an unauthoritative compilation.

E. CHANGES IN EXISTING TARIFF DESCRIPTIONS

Specific attention is given in part III of the interim report to certain anomalies, complexities, and uncertainties in the existing tariff classification law.[20] The succeeding paragraphs of this report are concerned with the treatment in the proposed schedules of problems associated with some of the more commonly used tariff terms and descriptive methods.

1. Descriptions based on component material

In the existing tariff provisions, rate descriptions depending on component material are stated in any number of ways. In some few instances the weight of the particular component material determines the tariff status of the article and in other instances it is required that the article be "wholly of" or "in part of" the specified material, but in the vast majority of instances the tariff status of the article depends upon whether it is "in chief value of" the specified material. Although the existing tariff laws are pervaded by tariff descriptions based on component material, as pointed out in the interim report,[21] the only related term defined in the existing tariff act is the term "component of chief value" which is defined in paragraph 1559(b) but is rarely used in the tariff schedules and is rarely cited in the disputes centering on the chief-value concept.

(a) "*Wholly or in chief value of*".—Depending upon the context and past interpretations, the terms "of," "made of," "composed of," or "manufactures of," followed by the name of a specified material may mean that the article must be "wholly of" or, on the other hand, that it must be "wholly or in chief value of" the material in question. Moreover, words such as "composed of," "made of," and "manufactured from" are held to require that the material preexist as such before it is made into the article. Sometimes the chief-value description presents troublesome questions as to the order and nature of the

[20] P. 45 et seq.
[21] Pp. 48, 49.

processing steps involved abroad in the production of the article. Differences in production techniques and changing cost factors from time to time or from producer to producer (especially in different countries) may result in like articles being classified differently.

In the proposed schedules, the problems associated with the chief-value concept have been reduced substantially, but have not been entirely eliminated. However, a material improvement has been brought about by standardization of language. Also, the incidence of such descriptions has been significantly and realistically curtailed by the proposed shift from the chief-value concept to weight as the basis for classifying metal alloys and composite articles of two or more base metals, and by "carving out" from the various existing "basket" provisions based on component material of chief value many new classes of articles and providing for them at a single compromise rate wherever possible regardless of the component material. Another device employed in the proposed schedules to stabilize classifications based on component material of chief value is, by means of appropriate headnotes, to narrow the field of competing materials.[2] Also, words connoting the preexistence of component materials have been avoided.

One notable exception to this attempt to avoid the "chief value" concept in the proposed classification study should be mentioned. The increased importance of blended textile fibers raises a serious problem of product description, a matter which was touched on briefly in the testimony adduced at the public hearing in connection with proposed schedule 3. From the point of view of practical customs administration and industry practice, it would be most desirable if descriptions based on component material of chief value with its confusion and uncertainties could be abandoned in favor of descriptions based on the relative quantities by weight of the various textile fibers used in textile products. However, this change has not been incorporated generally in the textile provisions of the proposed schedules, both because the implications thereof would be so far reaching in view of the great range and diversity of rates involved and because of the total absence of data showing the probable effect thereof. It is believed that conversion to a weight basis can be better made at some future date after the proposed revisions have been in effect for a while, since the systematic provision for textile fibers and textile products in proposed schedule 3 will furnish a much better statistical base regarding imports for conducting such a study than now exists.

(b) "*In part of*" or "*containing*".—This type of component material description has produced problems and complaints. The concept is expressed in a variety of ways such as "wholly or in part of," "partly manufactured of," "in substantial part of," and "composed in part of." Some descriptions are based on the absence of a material, e.g., "not containing gold, silver, or platinum." Depending on the context and past interpretations, the various descriptions of the type here considered may or may not be subject to the rule of *de minimis*. Also, this type of description sometimes gets involved with the question of the preexistence of the material involved. The primary objection to this type of description is its tendency to classify articles on

[2] See, for example, headnote 3, pt. 3A, schedule 3, which in connection with textile floor coverings provides that "rubber, plastics, or other nontextile materials incorporated into a floor covering as a backing or underlay or to hold the pile in place shall be disregarded in determining the component material of chief value in the floor covering."

GLOSSARY OF TECHNICAL TERMS

ANNEX B

Man-Made Fibers:

- Cellulosic.....Fiber produced from cellulose obtained from wood pulp or cotton linters and regenerated into fiber form
  - Rayon.....A fiber made by forcing a viscous solution of modified cellulose (usually viscose) through minute holes and drying the filaments
  - Acetate.....Generic term for man-made fibers composed of cellulose acetate, a substance derived from cellulose by the action of acetic acid and other chemicals
- Noncellulosic.....A synthetic fiber produced from chemicals derived mainly from petroleum and coal
  - Polyester.....The generic name for man-made fibers made of an ester of ethylene glycol and terephthalic acid
  - Nylon.....The generic name for man-made fibers composed of long-chain polyamides
  - Acrylic.....The generic name for man-made fibers derived from acrylic resins (minimum of 85% acrylonitrile units)
- Staple Fibers.....Fibers that have been deliberately cut to definite spinning lengths from continuous filaments

Spot Cotton.....Cotton available for immediate delivery after sale

Futures Market.....Market where cotton contracts are traded with delivery months specified

Forward Contract....Purchase or sale of cotton for delivery at a specified later date

Durable Press.....Articles manufactured from fabric which has been treated to provide easy-care characteristics, such as wrinkle-resistance and shape retention

Pile Fabrics.....Fabrics with raised loops, cut interlacings of double cloths or tufts (cut loops), and other erect yarns or fibers deliberately produced on the cloth, which form all or part of the surface of the fabrics. Velvets, plushes, velours, corduroys, velveteens, and terry cloth are examples of pile fabrics

Reverse Blends.....Blended articles in which cotton predominates