

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION <sup>1</sup>

[**Date approved:** November 23, 1999 ]<sup>2</sup>

**Bill No.:** H.R. 2524; 106<sup>th</sup> Congress

Introduced by: Mr. WELDON

Similar and/or related<sup>3</sup> bills: None.

Summary of the bill:<sup>4</sup>

The bill would suspend the general rate of duty<sup>5</sup> on--

Trim and form for forming capacitor leads

Effective: The 15th day after the date of enactment.

Through: December 31, 2002.

Retroactive effect: None.

*[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]*

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<sup>1</sup> International trade analyst: Dennis Fravel (202-205-3404); attorney: Jan Summers (202-205-2605).

<sup>2</sup> Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

<sup>3</sup> "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

<sup>4</sup> The product nomenclature is as set forth in the bill. See technical comments for differences in recommended nomenclature.

<sup>5</sup> See appendix A for definitions of tariff and trade agreement terms.

**The proponent firm/organization(s)**

<u>Name</u>	<u>Location</u>	<u>Date Contacted</u>	<u>Written Response (Y/N)<sup>6</sup></u>
Porter, Wright, Morris, & Arthur, LLP, for Kemet Electronics Corp. Greenville, SC, and Vishay Intertechnology, Inc., Malvern, PA	Washington, DC	9/15/99 10/1/99	N

Location of the proponent's U.S. facility (if different from above):

Kemet Electronics Corporation:

Shelby, NC; Brownsville, TX; and Fountain Inn, Greenwood, Mauldin, and Simpsonville, SC.

Vishay Intertechnology, Inc.:

Tempe, AZ; Bridgeport, CT; West Palm Beach, FL; Sanford, ME; Hagerstown, MD; Statesville, NC; Columbus, NE; Norfolk, NE; Concord, NH; Niagara Falls, NY; Bradford, PA; Yankton, SD; El Paso, TX; and Roanoke, VA.

**The imported product**

Physical description of the imported product:

Two types of machines are suggested by the proposed article description in H.R. 2524. The first type of machine is used in the production of capacitors, and the second type of machine is used to process finished capacitors prior to assembly with other components. Several types of machines may actually be used in the manufacture of capacitors to trim and form leads and subsequently to place the capacitors on a tape reel or other conveyance system for further finishing operations. Different machines perform trimming, forming, and conveyance operations for capacitors with wire leads and for those that are surface mounted.<sup>7</sup>

Machines that trim and form capacitors for surface mounting first trim the capacitors from the lead-frame (a large sheet of thin metal cut in a repetitive pattern of rectangular leads attached to a frame to which individual capacitors are glued; later the capacitors and attached leads will be cut off from the frame), then form the lead by bending the flat lead wire to specified designs, including bends comprising angles from 0 degrees to 180 degrees, as appropriate, around the cases of the capacitors. The capacitors will then be ejected and transferred to a plastic tape carrier. These machines typically include a control panel and monitor, a barcode reader, a feed/load station, and a carrier tape roll.

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<sup>6</sup> Written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

<sup>7</sup> With regard to connections, there are two types of capacitors, i.e., those with leads (the wire that will connect the capacitor with the next level of assembly), and those without leads, i.e., surface mounted. During the manufacture of capacitors and other electronic components, lead wires are welded onto the core of the component and trimmed prior to receiving an epoxy coating and marking. Surface-mounted capacitors and other electronic components have a lead made of flat wire that is formed around each end of the electronic component, thus allowing contact to be made.

The second type of machine is used by capacitor manufacturers, electronic component distributors, and printed circuit board assemblers. Capacitor manufacturers and electronic component distributors typically offer a value-added service to customers, during which capacitor leads are trimmed and formed to the customer's specifications and the capacitors are put on a tape or other medium for easy retrieval during assembly. Printed circuit board assemblers will also use these machines to form and trim capacitor leads to their own specification prior to printed circuit board assembly.

This second type of machine can be powered by either a hand crank, a foot-actuated pneumatic press, or an electric motor. Capacitors are fed into the machine from a tape reel with the capacitors attached to the tape, or fed in loose to a vibratory feeder or through an air tube. Each capacitor is then put into a die, where the lead wires are trimmed and bent to specification. The capacitor is then ejected into a collection tray. These machines typically sit on a bench top. These machines may be used to trim and form leads not only on capacitors, but also on other electronic components with leads, such as transistors or light emitting diodes (LEDs).

Country of origin of the imported product: Japan, Italy, Germany, Korea, Sweden, the United Kingdom.

– EFFECT ON CUSTOMS REVENUE –

*[Note: This section is divided in two parts. The first part addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second part addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (where a different number has been recommended). Three year estimates (or four year estimates, etc.) are given based on the duration of the proposed duty suspension. If the indicated duty rate is subject to “staging” during the duty suspension period, the rate for each period will be stated separately.]*

**HTS Number in the Bill**

Estimated value of **dutiable** imports during the duration of the duty suspension:

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
\$15,000,000	\$15,000,000	\$15,000,000

HTS (8-digit) No. used in the bill: 8463.30.00

General rate of duty<sup>8</sup> (AVE) currently in effect for this HTS No.: 4.4 percent ad valorem

Calculated customs revenue loss (based on rate for the HTS number in the bill):

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
\$660,000	\$660,000	\$660,000

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<sup>8</sup> See appendix B for column 1-special and column 2 duty rates.

**HTS Number Recommended by the Commission<sup>9</sup>**

Estimated value of **dutiable** imports during the duration of the duty suspension:

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
\$15,000,000	\$15,000,000	\$15,000,000

HTS (8-digit) No. recommended by the Commission (where different): 8462.21.80 (numerically controlled machine tools for bending, folding, etc.) or 8462.29.80 (other machine tools for bending, folding, etc.)

General rate of duty<sup>10</sup> (AVE) currently in effect for this HTS No.: 4.4 percent ad valorem

Calculated customs revenue loss (based on rate for the Commission's HTS number):

<u>First year</u>	<u>Second year</u>	<u>Third year</u>
\$660,000	\$660,000	\$660,000

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Following is a list of contacts by the Commission in connection with this memorandum with firms or organizations **other than** the proponents.

<u>Name</u>	<u>Location</u>	<u>Date Contacted</u>	<u>Written Response (Y/N)<sup>11</sup></u>
Montena America	Worcester, MA	9/29/99	N
Winter-Wolff International, Inc.	Jericho, NY	10/4/99	N
Illinois Capacitor Electronic Components, Assemblies, Equipment & Supplies Association	Lincolnwood, IL	10/4/99	N
U.S. Customs Service	Arlington, VA	10/15/99	N
Automated Production Systems, Inc.	New York, NY	10/8/99	N
Hepco, Inc.	Huntingdon Valley	10/6/99	N
General Production Devices, a division of LIFT Industries, Inc.	Sunnyvale, CA	10/6/99	N
Manix Manufacturing, Inc.	Grand Junction, CO	10/8/99	N
	Huntingdon Valley	10/13/99	N

<sup>9</sup> If a different HTS number is recommended, see technical comments.

<sup>10</sup> See appendix B for column 1-special and column 2 duty rates.

<sup>11</sup> Written responses received prior to approval of this report by the Commission, if any, will be included in appendix D.

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission prior to approval of this report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]*

APS, GPD, Hepco, and Manix Manufacturing produce trim and form machines in the United States, and Manix also imports machines from a subsidiary in the United Kingdom. The machines produced by these companies are not used in the manufacturing process, but are used to customize electronic components after manufacture. However, we note that the proponent is seeking a temporary duty suspension for machines used in the production process. The Commission believes that there are no U.S. manufacturers of this machinery.

**Statements concerning current U.S. production**

<u>Name of Product</u>	<u>Name of Firm</u>	<u>Location of U.S. Production Facility</u>	<u>Date Received</u>
n/a			

**Statements concerning “future” or “competitive” U.S. production**

<u>Name of Product</u>	<u>Name of Firm</u>	<u>Location of U.S. Production Facility</u>	<u>Date Received</u>
n/a			

– TECHNICAL COMMENTS –

Recommended changes to the nomenclature in the bill:

The proposed article description is ambiguous, in that it does not even specify that the subject good is a machine or instrument or other type of apparatus. We suggest that the proposed article description be changed to read “Trimming-and-forming machines used in the manufacture of surface-mounted electronic components, other than semiconductors, prior to marking.” The language was developed as a result of contacts with Kemet Electronics Corp., one of the proponents of this bill. This change in nomenclature would reflect Kemet’s desire to focus the bill on machines that trim and form leads for surface-mounted capacitors. The suggested language would require that each machine do both functions; if that is not the intent, then the expression “Trimming or forming machines...” can be substituted.

We would note that the article description as drafted is an “actual use” provision requiring importers to certify that their shipments will be put to the intended use and Customs to verify that this indeed occurs. This sort of tariff provision can present administrative and compliance burdens, and may present problems for some importers (given that importers of record are often customs brokers, who may not know the eventual use of goods). If the standard presents too much difficulty, the words “designed” or “suitable” (the latter being broader than the former) could be inserted before “for forming” in the description. Furthermore, the proposed nomenclature specifically refers to the production of capacitor leads. However, leads on capacitors and lead-frames used in the production of surface-mounted capacitors are virtually identical to those found on and used in the production of other electronic components. Therefore, if the current description limited to capacitor leads is used, both importers and the U.S. Customs Service may have difficulty differentiating between machines for use in trimming and forming leads on capacitors and those used in trimming and forming leads of other electronic components. The article description suggested above would expand the coverage to include machines for trimming and forming leads of any electronic components for surface mounting.

Recommended changes to any C.A.S. numbers in the bill (if given) n/a.

Recommended changes to any Color Index names in the bill (if given): n/a

Basis for recommended changes to the HTS number used in the bill<sup>12</sup>:

Based upon discussions with the Customs National Import Specialist responsible for this type of machinery, the subject machines should be classified under machinery for bending metal, HTS subheadings 8462.21.80 or 8462.29.80, depending upon whether each machine is numerically controlled (see attached pages).

Other technical comments (if any):

We would note that, to the extent the article description is modified to cover more or a different group of products, the revenue loss estimates provided above could change.

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<sup>12</sup> The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee’s consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

## 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 (now referred to as normal trade relations) 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 listed 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 general-rate 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, 1999. 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 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. 10/26/98



**APPENDIX B**

**SELECTED PORTIONS OF THE  
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

*[Note: Appendix may not be included in the electronic version of this memorandum.]*

## **APPENDIX C**

### **STATEMENTS SUBMITTED BY THE PROPONENTS**

*[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]*

## **APPENDIX D**

### **STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS**

*[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]*

106TH CONGRESS  
1ST SESSION

# H. R. 2524

To suspend temporarily the duty on trim and form.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1999

Mr. WELDON of Pennsylvania introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To suspend temporarily the duty on trim and form.

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. TRIM AND FORM.**

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

“	9902.84.40	Trim and form for forming ca- pacitor leads (provided for in subheading 8463.30.00) ....	Free	No change	No change	On or before 12/31/2002	”.
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1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply with respect to goods entered, or  
3 withdrawn from warehouse for consumption, on or after  
4 the 15th day after the date of enactment of this Act.

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