

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

Investigation No. 1205-8

**Certain Footwear: Recommendations for Modifying the Harmonized Tariff Schedule
of the United States**

AGENCY: United States International Trade Commission

ACTION: Notice of institution of investigation and opportunity to comment on proposed recommendations.

SUMMARY: Following receipt of a letter from the U.S. Department of the Treasury (Treasury), the Commission instituted investigation No. 1205-8, *Certain Footwear: Recommendations for Modifying the Harmonized Tariff Schedule of the United States*, pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3005), for the purpose of submitting recommendations to the President regarding the addition of an Additional U.S. Note and the amendment of certain classification provisions in Chapter 64 of the Harmonized Tariff Schedule of the United States (HTS) relating to certain footwear featuring outer soles of rubber or plastic to which a layer of textile material has been added.

DATES:

May 14, 2010: Deadline for filing written submissions relating to proposed

HTS changes requested by Department of Treasury.

May 28, 2010: Preliminary Commission report containing proposed recommendations posted on the Commission website at http://www.usitc.gov/tariff_affairs/modifications_hts.htm

June 25, 2010: Deadline for filing written submissions to be included in final recommendations.

July 12, 2010: Transmittal of final recommendations to the President.

ADDRESSES: All Commission offices are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this collection of proposals may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

FOR FURTHER INFORMATION, CONTACT: Donnette Rimmer, Nomenclature Analyst (202-205-0663, donnette.rimmer@usitc.gov), or Janis L. Summers, Attorney Advisor (202-205-2605, janis.summers@usitc.gov), of the Office of Tariff Affairs and Trade Agreements (fax 202-205-2616). The media should contact Margaret O'Laughlin, Office of External Affairs (202-205-1819, margaret.olaughlin@usitc.gov). Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet website (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

BACKGROUND: Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988

Act) (19 U.S.C. 3005(a)) provides that the Commission shall keep the HTS under continuous review and periodically recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate to accomplish five general objectives. Among these stated objectives, section 1205(a)(2) of the 1988 Act directs the Commission to consider changes to the HTS to promote the uniform application of the Harmonized System Convention and particularly the Protocol thereto, which contains the Harmonized System nomenclature structure and accompanying legal notes. Section 1205(a)(4) directs the Commission to consider changes to the HTS to alleviate unnecessary administrative burdens. Subsections (b) through (d) of section 1205 describe the procedures the Commission is to follow in formulating recommendations, including with respect to soliciting and considering views of interested Federal agencies and the public. Section 1205(b)(1) requires that the Commission give notice of proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing.

In a letter dated January 15, 2010, from Timothy E. Skud, Deputy Assistant Secretary of the Treasury for Tax, Trade, and Tariff Policy, Treasury asked that the Commission conduct an investigation under section 1205 for the purpose of making recommendations to the President regarding the addition of an Additional U.S. Note and the amendment of certain classification provisions in Chapter 64 of the HTSUS relating to certain footwear featuring outer soles of rubber or plastics to which a layer of textile material has been added. The letter included Treasury's proposed language for an Additional U.S. Note and proposed changes in various U.S. tariff rate lines at the 8-digit level that take into account decisions of the Harmonized System Committee of the World Customs Organization (WCO) on the classification of particular footwear for purposes of the Harmonized System. Treasury's letter provided additional background on the tariff classification of footwear and relevant decisions of U.S. Customs and Border Protection (Customs) and noted the decisions that are the basis of Treasury's request. A copy of

Treasury's letter is being posted on the Commission's web site at www.usitc.gov.

The Harmonized Commodity Description and Coding System (HS) nomenclature, which is maintained by the WCO, provides a uniform structural basis for the customs tariffs and statistical nomenclatures of all major trading countries of the world, including the United States. The HS establishes the broadest principles of classification and levels of categories in the HTS, comprising the General Rules of Interpretation, Section and Chapter titles, Section and Chapter legal notes, and heading and subheading texts to the 6-digit level of detail. Additional U.S. Notes, further subdivisions (8-digit subheadings and 10-digit statistical annotations) and statistical notes, as well as the entirety of chapters 98 and 99 and several appendixes, are national legal and statistical detail added for the administration of the U.S. tariff and statistical programs and are not part of the international HS.

An up-to-date copy of the HTS, which incorporates the international HS in its overall structure, can be found on the Commission's website (<http://www.usitc.gov/tata/hts/bychapter/index.htm>). Hard copies and electronic copies on CD can be found at many of the 1,400 Federal Depository Libraries located throughout the United States and its territories; further information about these locations can be found at <http://www.gpoaccess.gov/fdlp.html> or by contacting GPO Access at the Government Printing Office at this telephone number: 866-512-1800.

The Commission will prepare a preliminary report containing proposed recommendations in order to provide notice to the public of potential HTS changes and to solicit comment and input. In preparing these proposed recommendations, the Commission will take into account Treasury's request, as well as all other appropriate legal and technical considerations relating to HTS Chapter 64, and will include where appropriate the input submitted by other agencies and interested parties. The Commission will post its

preliminary report containing the proposed recommendations on its website at http://www.usitc.gov/tariff_affairs/modifications_hts.htm by May 28, 2010. The preliminary report will also include a non-authoritative cross-reference table prepared by Commission staff that will show the likely existing and future tariff classifications of the goods concerned. Any additional submissions from other agencies and the public based on the preliminary report must be filed by June 25, 2010, in order to be taken into account. The Commission will then prepare its final report and recommendations to submit to the President. Interested parties should be aware that Customs has domestic legal authority for tariff classification and that Customs may provide information, both before and after the proposed recommendations are posted, that indicates different or additional tariff classifications of some goods. Thus, the classifications that appear in the Commission's cross-reference table are subject to change during the investigation.

Written submissions should be filed in accordance with the procedures below. Interested parties should take into account the classification of the merchandise concerned under the international Harmonized System as well as domestic decisions and seek to further the goals set out by section 1205 of the 1988 Act and the Harmonized System Convention. No proposals for changes to existing U.S. rates of duty or to 10-digit statistical annotations or notes will be considered by the Commission during its review. However, the Commission will examine information concerning the rates of duty currently utilized by importers in liquidated and undisputed entries of specific footwear that is the subject of this investigation. The changes in the HTS that may result from this investigation are not intended to alter current tariff rates but instead are intended to ensure that existing tariff rates continue to be applicable following the implementation of new U.S. tariff provisions.

WRITTEN SUBMISSIONS: Interested parties and agencies are invited to file written submissions

relating to the recommendations that the Commission should propose based on Treasury's request. They may also file, following the posting of the Commission's proposed recommendations, submissions relating to the recommendations that the Commission must submit to the President. All written submissions should be addressed to the Secretary. Written submissions relating to Treasury's request should be received no later than May 14, 2010, and those relating to the final recommendations the Commission should submit to the President should be received no later than June 25, 2010. Submissions should refer to "Investigation No. 1205-8" in a prominent place on the cover page and/or the first page. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 C.F.R. 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. Confidential business

information received in the proposals may be made available to Customs and Census during the examination of these proposals. The Commission will not otherwise publish or release any confidential business information received, nor release it to other government agencies or other persons.

By order of the Commission.

Marilyn R. Abbott

Secretary to the Commission

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