

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

Investigation No. 1205-7

Proposed Modifications to the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission

ACTION: Notice of institution of investigation and request for public comment.

SUMMARY: On February 26, 2010, the Commission instituted Investigation No. 1205-7, Proposed Modifications to the Harmonized Tariff Schedule of the United States, pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act). Section 1205 directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend to the President modifications thereto, (1) when amendments to the international Convention on the Harmonized Commodity Description and Coding System (Harmonized System), and the Protocol thereto, are recommended by the World Customs Organization (WCO) (formerly known as the Customs Cooperation Council) for adoption; and/or (2) as other circumstances warrant. The Commission's report will set forth the proposed changes to the HTS that would be needed to maintain conformity between the HTS and the international Harmonized System. The report will also include appropriate explanatory information on the proposed changes. In accordance with section 1206 of the 1988 Act, the President may proclaim the tariff modifications recommended by the Commission, following Congressional layover and consultation.

DATES:

April 9, 2010: Publication of preliminary report on the USITC website

May 21, 2010: Deadline for public comments on preliminary report

June 25, 2010: Submission of final report 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://edis.usitc.gov>.

FOR FURTHER INFORMATION, CONTACT: David Beck, Director, Office of Tariff Affairs and Trade Agreements (202-205-2603, fax 202-205-2616, david.beck@usitc.gov). 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 at <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)(1) of the 1988 Act directs the Commission to conform the Harmonized Tariff Schedule with amendments made to the Harmonized System Convention, of which the United States is a signatory. Section 1205(a)(2) directs the Commission 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. Subsections (b)-(d) of section 1205 set out procedures to be utilized in formulating recommendations and the requirements that the Commission must observe with respect to the HTS modifications it may recommend.

The proposed changes included in this investigation are set out in a Recommendation promulgated by the World Customs Organization (WCO) on June 26, 2009, in order to update and clarify the international Harmonized System nomenclature. The Recommendation--the fourth in a series--is part of the WCO's long-term program to review periodically the HS nomenclature structure. In accordance with Article 16 of the Harmonized System Convention, the WCO has recommended the adoption of certain modifications to the Harmonized System nomenclature, which are scheduled to become effective on January 1, 2012. The WCO Recommendation of 26 June 2009 can be viewed on the Commission's website: http://www.usitc.gov/tariff_affairs/modifications_hts.htm.

The Harmonized System nomenclature 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 Harmonized System comprises the broadest principles of classification and levels of categories in the HTS, that is, 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 Harmonized System.

An up-to-date copy of the HTS, which incorporates the international Harmonized System 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 of 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/fdhp.html> or by contacting GPO Access at the Government Printing Office, telephone 866-512-1800.

The Commission will prepare and make available a preliminary report and a final report. The preliminary report will be forwarded to the President via the United States Trade Representative on or about April 9, 2010. It will also be made available for public inspection (with the exception of any confidential business information) through the Commission's electronic docket (EDIS) and posted on the USITC website (<http://www.usitc.gov>).

The preliminary report will include proposed HTS modifications to conform the HTS to the WCO Recommendation of 26 June 2009. **The public is invited to submit any comments until May 21, 2010.** To assist the public in understanding the proposed changes and in developing comments, the Commission will include, in the preliminary and the final reports, a non-authoritative cross-reference table linking the proposed tariff codes to corresponding current tariff codes. Persons using the successive versions of this table should be aware that the cross-references shown are subject to change during the course of preparing for implementation of the January 2102 amendments to the HTS. U.S. Customs and Border Protection has domestic legal authority for tariff classification and may provide information, both during the course

of the investigation and after the Commission's final report is submitted, that indicates different or additional tariff classifications of some goods. Moreover, the WCO Secretariat will eventually issue its own advisory cross-reference table between the 2007 HS and the 2012 HS. If necessary, the Commission's report will provide an explanation for any differences between the WCO's and the Commission's cross-reference tables; such differences would typically result from differences between WCO decisions and established U.S. customs classification of goods.

The Commission's final report, incorporating any public comments received, will be sent to the President (through USTR) on or about June 25, 2010. It will also be made available for public inspection (with the exception of any confidential business information) through the Commission's electronic docket (EDIS) and posted on the USITC website (<http://www.usitc.gov>). Following Congressional layover and consultation, the President may proclaim the tariff modifications recommended, effective not before the 30th day after the date on which the text of the proclamation is published in the *Federal Register*.

WRITTEN SUBMISSIONS: No public hearing is planned, but interested parties are invited to submit written comments, which should be addressed to the Secretary and received no later than May 21, 2010. Submissions should be marked to refer to "Investigation No. 1205-7". 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/docket_services/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 the public. Any confidential business information that might be received in the comments may be made available to Customs, Census, or the President 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.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: March 04 , 2010