



November 20, 2009

Honorable Max Baucus  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510-6200

Dear Chairman Baucus:

This letter is in regards to the 2009 Miscellaneous Tariff Bills ("MTBs"), introduced into the Senate during the 111<sup>th</sup> Congress. I am writing to express New Balance Athletic Shoe, Inc.'s opposition to four of the MTBs of which we have become aware.

New Balance Athletic Shoe, Inc. manufactures 6.8 million pairs of athletic shoes annually in the United States. New Balance produces footwear that fall into several Harmonized Tariff categories with duty rates that range from 8.5% to 20% plus .90 cents per pair. These duties help ensure New Balance can sell competitively priced domestic footwear and continue to produce athletic footwear in the United States. Duty suspensions on categories of footwear that we make in the United States would have an extremely negative impact on our ability to remain competitive on our US made products.

S. 2424 covers footwear in tariff number 6402.99.90 – other footwear with outer soles and uppers of rubber and plastics. The duty rate is 20%. New Balance makes many styles of footwear in the US in this category. We strongly object to the duty suspension on this category.

S. 1915, S. 1916 and S. 2107 all cover footwear in Heading 6405 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Heading 6405 embraces "other footwear", which for HTSUS purposes includes footwear with outsoles made of other than rubber, plastics, leather or composition leather. All three of these MTBs propose to suspend the current applicable duty (12.5% on the first two, 10% on the last) until 2011, which would enable products classifiable thereunder to be imported duty free. Shoes that can fall into these categories include those with textile outsoles. U.S. Customs has issued a number of rulings over the past several years that allow a flimsy textile outsole to be applied to a rubber/plastic outsole that will result in a shoe that falls into Heading 6405 because U.S. Customs views the footwear as having a textile outsole. We feel that importers can and do take advantage of that Customs created "loophole" to add a non-essential textile layer to the outsole, which textile is designed and intended to be worn away, to obtain significantly lower Heading 6405 duty rates on products that compete with footwear New Balance and others make in the U.S.



However, if these MTBs are passed, the situation would become even worse for domestic producers. By reducing Heading 6405 duty rates to 0%, importers would have even greater incentive to add a nonfunctional textile layer to the outsoles of their footwear, further damaging the competitive position of domestic producers. While New Balance does not make shoes that have textile outsoles in the U.S., imported shoes in the categories covered by these three MTBs with textile added to their rubber/plastic outsoles would directly compete with the footwear we produce here. New Balance is strongly opposed to passage of these three MTBs.

New Balance is not opposed to shoes that legitimately belong in 6405 from becoming duty free, as they do not compete with what we produce in the U.S. We are, however, opposed to footwear receiving duty free treatment that have had a textile layer added to a rubber/plastic outsole for no commercial purposes other than duty avoidance.

I appreciate your time and attention to this matter. Please feel free to contact me if further discussion is warranted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelly M. Callahan', written over a horizontal line.

Kelly M. Callahan

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