

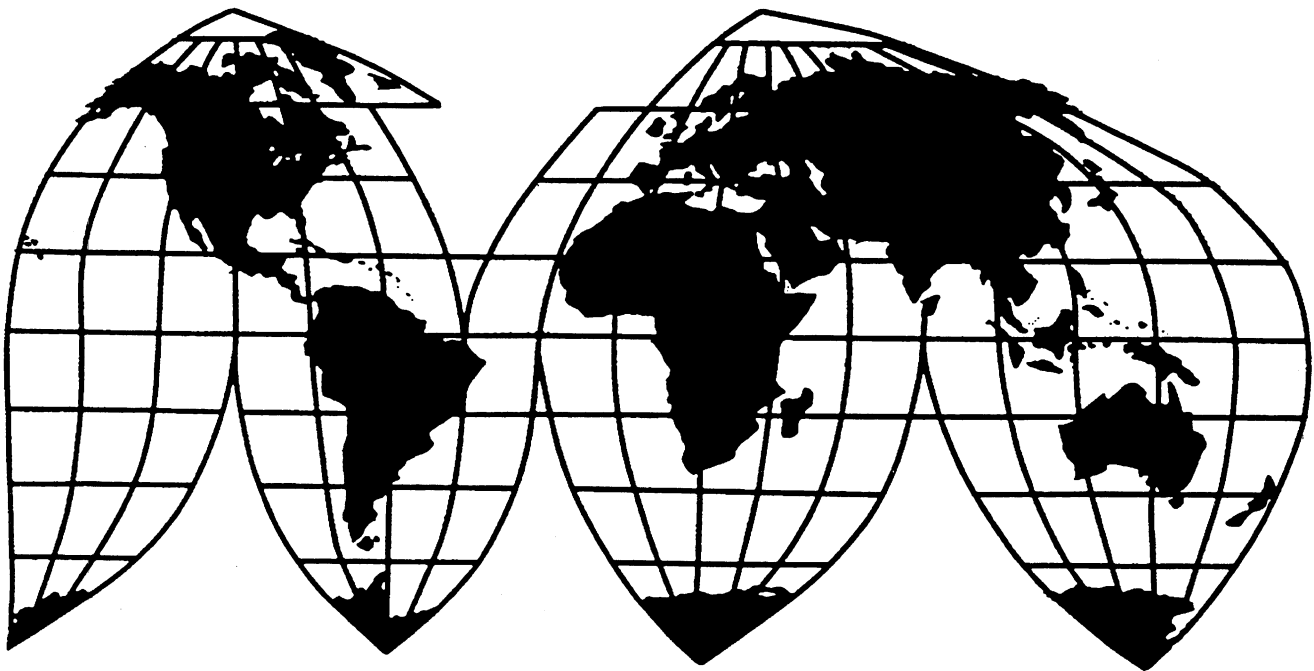
Proposed Modifications to the Harmonized Tariff Schedule of the United States

Addendum No. 2 to the Report on
Investigation No. 1205-3

Publication 3049

August 1997

U.S. International Trade Commission



U.S. International Trade Commission

COMMISSIONERS

Marcia E. Miller, Chairman
Lynn M. Bragg, Vice Chairman
Don E. Newquist
Carol T. Crawford

Robert A. Rogowsky
Director of Operations

Staff assigned:

Office of Tariff Affairs and Trade Agreements
Eugene A. Rosengarden, Director

With technical review by:

Fred Schottman
Leo Webb

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436

Proposed Modifications to the Harmonized Tariff Schedule of the United States

Addendum No. 2 to the Report on
Investigation No. 1205-3



Publication 3049

August 1997

PREFACE

On June 24, 1997, the Commission received a request from the United States Trade Representative (USTR), pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988, requesting the Commission to re-open investigation No. 1205-3, *Proposed Modifications to the Harmonized Tariff Schedule of the United States*, for the purpose of providing “advice in respect of certain phenols—metacresol, orthocresol, paracresol, and metaparacresol.” The Commission’s advice was requested by **July 28, 1997**.

Section 1205 requires the Commission to keep the *Harmonized Tariff Schedule of the United States (HTS)* under continuous review and, as circumstances warrant, to recommend to the President such modifications to the *HTS* as the Commission considers necessary or appropriate. The modifications to the *HTS* proposed in this report with respect to *certain phenols* are necessary and appropriate to properly implement the advice originally provided to the President in investigation No. 1205-3.

Investigation No. 1205-3 was re-opened on June 30, 1997. Notice of this re-opening and the proposed modifications were published in the *Federal Register* of July 3, 1997. The information contained in this report was obtained from (a) research by Commission staff, (b) the Commission’s files, and (c) other sources. Two submissions in support of the proposed modifications were received in response to the notice of investigation.

TABLE OF CONTENTS

	<i>Page</i>
Preface	i
Recommendations	1
Statutory authority	1
Scope of investigation	1
Background	2
Description and uses of the product	2
Investigation No. 1205-3	2
Proposed modifications	2
Views of interested parties	3
Appendixes	
A. Letter from the United States Trade Representative	A-1
B. Notice of the re-opening of investigation 1205-3	B-1
C. Proposed modifications to the <i>HTS</i>	C-1
D. Sections 1205 and 1206 of the Omnibus Trade and Competitiveness Act of 1988	D-1
E. Page 3, USITC Publication No. 2673	E-1
F. Tariff and trade agreement terms	F-1
G. Excerpt from 1993 edition of the <i>HTS</i>	G-1
H. Page B-3, USITC Publication No. 2673	H-1
I. Excerpts from Proclamation No. 6857	I-1
J. Excerpts from 1996 edition of the <i>HTS</i>	J-1
K. Written submissions from the private sector	K-1
L. <i>Explanatory Notes</i> , pp. 364-5	L-1

RECOMMENDATIONS

On June 30, 1997, the U.S. International Trade Commission (Commission) re-opened investigation No. 1205-3, *Proposed Modifications to the Harmonized Tariff Schedule of the United States*, pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (Act) (19 U.S.C. 3005). The Commission acted in response to a request from the USTR that the Commission "provide advice in respect of making a technical rectification to the [HTS] to address treatment of certain phenols — metacresol, orthocresol, paracresol, and metaparacresol of less than 75% purity [cresols of less than 75 percent purity]."¹ The Commission's notice of the re-opening of this investigation is reproduced in appendix B.²

Based on its investigation, the Commission recommends that the President proclaim the modifications to the *Harmonized Tariff Schedule of the United States* (HTS) with respect to the phenols which are set forth in appendix C of this report. The Commission considers these modifications to be necessary or appropriate to properly implement the advice originally provided to the President in investigation No. 1205-3. These modifications to the HTS are recommended pursuant to section 1205 of the Act.

STATUTORY AUTHORITY

Sections 1205 and 1206 of the Act (reproduced in appendix D) establish an administrative mechanism by which the President may proclaim various modifications to the HTS. Section 1205 requires the Commission to keep the HTS under continuous review and, as circumstances warrant, to recommend to the President such modifications to the HTS (including technical rectifications) as the Commission considers necessary or appropriate. Section 1205(a) specifically provides that the Commission—

"shall recommend to the President such modifications in the Harmonized Tariff Schedule as [it] considers necessary or appropriate—

* * * *

(2) to promote the uniform application of the Convention and particularly the Annex thereto; (and)

* * * *

(5) to make technical rectifications."

The phrase "technical rectifications" is defined in section 1202(6) of the Act to mean "rectifications of an editorial character or minor technical or clerical

¹ Letter from The United States Trade Representative, dated June 23, 1997, reproduced in appendix A.

² The notice was published in the *Federal Register* on July 3, 1997. (62 F.R. 36077-8)

changes which do not affect the substance or meaning of the text, such as—

- (A) errors in spelling, numbering, or punctuation;
- (B) errors in indentation;
- (C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and
- (D) other clerical or typographical errors."

Section 1205(d) provides that the Commission may not recommend a modification to the HTS, unless such modification (1) is "consistent with the Convention or any amendment thereto recommended for adoption;" (2) is "consistent with sound nomenclature principles;" and (3) "ensure[s] substantial rate neutrality." Modifications that involve a change in any rate of duty must be consequent to, or necessitated by, recommended nomenclature changes. Finally, recommended modifications "must not alter existing conditions of competition for the affected [U.S.] industry, labor, or trade."

Pursuant to section 1206, the President may proclaim modifications to the HTS, on the basis of recommendations by the Commission under section 1205, if he determines that the modifications are in conformity with U.S. obligations under the HS Convention and do not run counter to the national economic interest of the United States. The President may proclaim such modifications only after the expiration of a 60-day³ period beginning on the date the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modifications and the reasons therefor. Modifications proclaimed by the President may not become effective before the 15th day after the text of the proclamation is published in the *Federal Register*.

SCOPE OF INVESTIGATION

The request from the USTR covers "cresols of less than 75 percent purity." The Commission's notice of the re-opening of Investigation No. 1205-3 describes "certain phenols—metacresol, orthocresol, paracresol, and metaparacresol having a purity of less than 75 percent (under 75 percent cresols) provided for in subheading 2707.60.20 of the" HTS as the subject of this investigation.

For ease of reference, this group of products, which is the subject of this investigation, will be referred to as "*certain phenols*" throughout this report.

³ The length of the "60-day" period is longer than 60 calendar days because the period is defined in section 1206(b)(2) as excluding—

"(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session."

BACKGROUND

Description and uses of the product

The subject products are relatively impure mixtures of chemicals derived by distillation from coal tars or similar residual products of the petroleum industry. Higher purity versions of the chemicals are classified in Chapter 29. The class of chemicals “phenols” takes its name from the specific chemical, phenol (also known as hydroxybenzene), which has a molecular structure consisting of a benzene ring with a hydroxyl group (OH) substituted for one hydrogen atom. Other chemicals in the phenol class (e.g., cresols, xlenols) have the basic structure of hydroxybenzene, but with further substitution for the remaining hydrogen atoms on the ring. Cresols are phenols with a single methyl (CH₃) group added to the hydroxybenzene molecule.

Important uses for phenols include the production of synthetic resins and plasticizers, and as disinfectants. Specific applications for cresols include an insulating enamel applied to copper wire for use in machinery such as motors and generators, and as a reagent in the flotation of ores.

Investigation No. 1205-3

Investigation No. 1205-3 was instituted on May 11, 1993. The report to the President which contained the recommendations of the Commission resulting from this investigation was published in August 1993.⁴ One section of the report dealt with “certain cresols ... [that is] ... certain polyphenols—metacresol, orthocresol, paracresol and metaparcresol, all the foregoing having a purity of 75 percent or more by weight” (75 percent or more cresols) and classified, at that time, in HTS subheading 2707.99 at the 6-digit (international) level of the Harmonized System (HS).⁵ The Commission recommended that the 75 percent or more cresols be transferred to subheading 2707.60 (at the 6-digit level) with no change in duty rate treatment. The report did not discuss or otherwise treat with *certain phenols*.

In 1993, 75 percent or more cresols were provided for explicitly in HTS subheading 2707.99.30 while *certain phenols* were provided for, by interpretation, in a residual (“Other”) category—subheading 2707.99.50. There was a significant duty rate differential between the two categories with the former subject to an MFN rate⁶ of 1.1 cent per kilogram plus 3.7 per cent ad valorem, and the latter subject to an MFN Free rate of duty.⁷

⁴ USITC Publication No. 2673.

⁵ See page 3, USITC Publication No. 2673, reproduced in appendix E; and see 1993 edition of the HTS in appendix G.

⁶ See appendix F for definitions of tariff and trade agreement terms.

⁷ The relevant page of the 1993 edition of the HTS is reproduced in appendix G.

The Commission’s report recommended the deletion of HTS subheading 2707.99.30 and the creation of a new subheading—2707.60.10—which explicitly provided for 75 percent or more cresols at the same rate of duty as former subheading 2707.99.30.⁸ The recommended modifications to the HTS were proclaimed by the President in substantially the same form as set out in the Commission’s report on December 11, 1995,⁹ and became effective on January 1, 1996.¹⁰ The tariff provisions covering these products remain unchanged in the 1997 edition of the HTS.

In May 1997, Commission staff were advised that an importer of *certain phenols*, Concord Chemical Co., Inc., (Concord) had been notified of a “rate advance” on these imports by the Customs Service.¹¹ Concord filed a protest of ten different entries of *certain phenols* on May 14, 1997.¹²

The available information indicates that the Customs Service changed the classification of *certain phenols* (the subject of this investigation) based upon their interpretation of the proclamation of December 11, 1995, which, in turn, is based upon the Commission’s 1993 investigation. The change in classification was based on the interpretation that the provision for phenols covered all phenols classified in heading 2707 not merely hydroxybenzene. Reclassification resulted in a rate increase for these products from Free to 2.9 cents per kilogram plus 12.5 percent ad valorem. It should be noted that there is no mention of *certain phenols* in the 1993 investigation. Moreover, the resulting “rate advance” would be beyond the Commission’s authority to recommend to the President under section 1205(d)(1)(C) of the Act even if the Commission had addressed *certain phenols* in the 1993 investigation.¹³

PROPOSED MODIFICATIONS

The recommendations in appendix C reflect the intention to restore the rates of duty in effect for *certain phenols* before the 1995 proclamation.

- ☐ New subheading 2707.60.05 is equivalent to subheading 2707.60.00 in the 1993 edition of

⁸ See page B-3, USITC Publication No. 2673, reproduced in appendix H.

⁹ Proclamation No. 6857, 60 F.R. 64817 at 64868 (Dec. 15, 1995), reproduced in appendix I.

¹⁰ The 1996 edition of the HTS set forth the changes concerning 75 percent or more cresols as proclaimed by the President. See appendix J.

¹¹ Letter from Jack Cram, President, Concord Chemical Co., dated May 8, 1997.

¹² Letter from James J. Eisenhower, III, representing Concord, dated June 3, 1997.

¹³ Section 1205(d)(1)(C) limits the authority of the Commission to propose modifications to those which “ensure substantial rate neutrality.”

the *HTS* when the article description for the 6-digit subheading 2707.60 ("phenols") was interpreted as limited to the specific chemical, hydroxybenzene, rather than as describing an entire class of chemicals.

- ☐ Current subheading 2707.60.10 remains unchanged from the subheading recommended in the 1993 investigation. The coverage of this subheading is the same as former subheading 2707.99.30 (in the 1993 edition of the *HTS*).
- ☐ The remaining phenols (including the cresols of less than 75 percent purity described in the request from USTR) which have been interpreted by the Customs Service as having been transferred by the 1995 proclamation from former subheading 2707.99.50 (in the 1993 edition of the *HTS*) to subheading 2707.60.20 (in the 1996 and 1997 editions of the *HTS*), are transferred to new subheading 2707.60.90, and the Free rate of duty from former subheading 2707.99.50 is restored.

Note.—The Harmonized System *Explanatory Notes* restrict the range of purity in new subheading 2707.60.05 to less than 90 percent hydroxybenzene, and in current subheading 2707.60.10 to less than 95 percent, all cresol isomers taken together.¹⁴

¹⁴ See, World Customs Organization, Harmonized System Committee, *Explanatory Notes*, pp. 364-5, reproduced in appendix L.

VIEWS OF INTERESTED PARTIES

The Commission received two submissions from the private sector resulting from its notice of June 30, 1997.¹⁵

In its submission, Concord states that the proposed changes are necessary and correct and that the previous actions exceeded the "authority ... of the Commission to significantly increase duties." Concord also opines that the proposed changes should be made retroactively¹⁶ "because the [1993] change was made without proper authority ... to increase duties."

In a submission on behalf of Concord, its attorney records their support for the proposed change to the *HTS* but notes "a format problem" as it appears in the *Federal Register*. The submission requests that "the format of this new section [of the *HTS*] be corrected to accurately reflect the ITC's intended change."¹⁷

¹⁵ The submissions are reproduced in appendix K.

¹⁶ The Commission notes that section 1206(c) provides that the President may proclaim modifications to the *HTS* based upon the recommendations of the Commission under section 1205, to become effective on or after "the 15th day after the date on which the text of the proclamation is published in the *Federal Register*." The Commission also notes that the draft proclamation is, under section 1206(b)(2), subject to a 60-"legislative day" lay-over period in Congress prior to publication.

¹⁷ The Commission notes that its notice of June 30, 1997, which is reproduced in appendix B, accurately reflected the Commission's proposed changes as they existed on that date. Unfortunately, due to differences in printing formats, the tariff provision indentations in the notice were not correctly reproduced in the *Federal Register*.

APPENDIX A
LETTER FROM THE UNITED STATES
TRADE REPRESENTATIVE

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20508

JUN 23 1997

OFFICE OF THE
US TRADE REPRESENTATIVE
JUN 24 11:11 AM '97

'97 JUN 24 11:58

The Honorable Marcia E. Miller
Chairman
U.S. International Trade Commission
500 E Street, NW
Washington, D.C. 20436

Dear Chairman Miller:

In August 1993, the U.S. International Trade Commission (Commission) issued a report on "*Proposed Modifications to the Harmonized Tariff Schedule of the United States*", Inv. No. 1205-3. As part of that report, the Commission proposed reclassifying the provision and rate of duty for certain phenols--metacresol, orthocresol, paracresol and metaparacresol having a purity of 75 percent or more (cresols) from heading 2707.99 to 2707.60. The Commission concluded that there would be no consequent change in duty rate for these products.

When the United States implemented the proposed changes to the Harmonized Tariff Schedule of the United States (HTSUS) in December 1996, unanticipated results flowed from changing the rate line for these cresols of more than 75 percent purity with respect to the classification of cresols of less than 75 percent purity. Advice on the effects of the change in classification for cresols of less than 75 percent purity was not included in the August 1993 report. Moreover, this change was not required to implement the amendments to the international Harmonized System nomenclature. We understand from private sector interests that adverse effects on the U.S. industry could result from the December action.

Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 authorizes the Commission to provide advice to the President, when circumstances warrant, regarding technical rectifications to the HTSUS and for other reasons. Since no specific advice was provided on cresols of less than 75 percent purity, we request the Commission to provide advice in respect of making a technical rectification to the HTSUS to address treatment of these products. Please provide this advice as soon as possible, but in any event no later than July 28, 1997.

Thank you for your attention to this matter.

Sincerely,


Charlene Barshefsky

APPENDIX B
NOTICE OF THE RE-OPENING OF
INVESTIGATION 1205-3

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

Proposed Addendum to Investigation No. 1205-3

AGENCY: United States International Trade Commission

ACTION: Request for comment.

SUMMARY: The Commission requests comment with respect to a request from the United States Trade Representative (USTR) to provide advice concerning a proposed addendum to Commission Investigation No. 1205-3 affecting the tariff treatment of certain phenols--metacresol, orthocresol, paracresol, and metaparacresol having a purity of less than 75 percent (under 75 percent cresols) provided for in subheading 2707.60.20 of the Harmonized Tariff Schedule of the United States (HTS).

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs & Trade Agreements (O/TA&TA) (202/205-2592) or Fred Schottman, Nomenclature Analyst, O/TA&TA, (202/205-2077), U.S. International Trade Commission, Washington, D.C. 20436. The O/TA&TA fax number is: 202/205-2616. Messrs. Rosengarden and Schottman may also be reached via Internet e-mail at erosengarden@usitc.gov and fschottman@usitc.gov, respectively.

BACKGROUND: Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 directs the U.S. International Trade Commission (Commission) to conduct studies and make recommendations on modifications to the HTS. In August 1993, the Commission issued a report *Proposed Modifications to the Harmonized Tariff Schedule of the United States*, Inv. No. 1205-3, Publication No. 2673. In the report, the Commission proposed reclassifying certain phenols--metacresol, orthocresol, paracresol, and metaparacresol, all having a purity of 75 percent or more (75 percent cresols)--from subheading 2707.99 to subheading 2707.60. The change was proposed to achieve international uniformity in customs classification for these products under the Harmonized System. The existing rate of duty was carried over to the new classification.

Following implementation of the modification in December 1995, it was recognized that there was a collateral movement of under 75 percent cresols between subheadings of the HTS that resulted in a significant increase in the rate of duty applicable to this product. Under Section 1205, modifications to the HTS must have substantial duty-rate neutrality and not alter existing competitive conditions. As a consequence, the Commission has received a request from the USTR requesting "advice in respect of making a technical rectification to the [HTS] to address treatment of [under 75 percent cresols]." The USTR has requested the Commission's advice by July 28, 1997.

In order to restore the rate of duty previously applied to under 75 percent cresols, the Commission proposes to amend the advice in Inv. No. 1205-3 to include creation of a new subheading for this product, HTS 2707.60.15, carrying the pre-implementation rate of duty (Free in column 1 and column 2), as follows:

The HTS is modified by striking subheadings 2707.60.10 and 2707.60.20 and inserting the following in lieu thereof:

[2707 Oils and other products of the distillation]			
[2707.60 Phenols:]			
	Metacresol, orthocresol, paracresol and metaparacresol:		
2707.60.10	Having a purity of 75 percent or more by weight.....	1¢/kg + 3.3%	Free (A,CA,E,IL,J, MX) 15.4¢/kg + 42.5%
2707.60.15	Other.....	Free	Free
2707.60.30	Other.....	2.9¢/kg + 12.5%	Free (A,CA,E,IL,J, MX) 7.7¢/kg + 29.5%

REQUEST FOR COMMENT: Accordingly, the Commission is seeking comments concerning this proposed technical rectification to the HTS.

DEADLINE: Comments must be received no later than the close of business **July 11, 1997**, in order to be considered by the Commission.

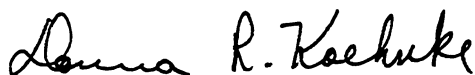
WRITTEN SUBMISSIONS: All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. S.W., Washington, D.C. 20436.

Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons.

TDD Access: Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

WORLD WIDE WEB Access: This notice, and any subsequent notices published pursuant to section 1210 of the 1988 Act, may be obtained from the ITC Internet web server:
<http://www.usitc.gov>.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Donna R. Koehnke". The signature is fluid and cursive, with the first name "Donna" being more prominent.

Donna R. Koehnke
Secretary

Issued: June 30, 1997

APPENDIX C
PROPOSED MODIFICATIONS
TO THE *HTS*

PROPOSED MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

The *HTS* is modified as provided below, with bracketed matter included to assist in the understanding of the proclaimed modifications. The following supersedes matter now in the *HTS*. The subheadings and superior texts are set forth in columnar format, and material in such columns is inserted in the columns of the *HTS* designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective with respect to articles that are entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of publication of a proclamation in the Federal Register.

1. Subheadings 2707.60.10 and 2707.60.20 are deleted and the following new subheadings are inserted in lieu thereof at the same level of indentation as subheading 2701.19.00:

[2707	Oils and other products of the distillation]			
[2707.60	Phenols:]			
2707.60.05	Containing more than 50 percent by weight of hydroxybenzene	2.9¢/kg + +12.5%	Free (A,CA,E, IL,J,MX)	7.7¢/kg + 29.5%
2707.60.10	Metacresol, orthocresol, paracresol and metaparacresol, all the foregoing having a purity of 75 percent or more by weight	1¢/kg + 3.3%	Free (A,CA,E, IL,J,MX)	15.4¢/kg + 42.5%
2707.60.90	Other	Free		Free

APPENDIX D
SECTIONS 1205 AND 1206 OF THE
OMNIBUS TRADE
AND COMPETITIVENESS ACT OF 1988

19 USC 3005.

SEC. 1205. COMMISSION REVIEW OF, AND RECOMMENDATIONS REGARDING, THE HARMONIZED TARIFF SCHEDULE.

(a) **IN GENERAL.**—The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

(1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;

(2) to promote the uniform application of the Convention and particularly the Annex thereto;

(3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;

(4) to alleviate unnecessary administrative burdens; and

(5) to make technical rectifications.

(b) **AGENCY AND PUBLIC VIEWS REGARDING RECOMMENDATIONS.**—In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

(1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and

(2) may provide for a public hearing.

(c) **SUBMISSION OF RECOMMENDATIONS.**—The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

(d) **REQUIREMENTS REGARDING RECOMMENDATIONS.**—The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

(1) The modification must—

(A) be consistent with the Convention or any amendment thereto recommended for adoption;

(B) be consistent with sound nomenclature principles; and

(C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

Reports.

SEC. 1206. PRESIDENTIAL ACTION ON COMMISSION RECOMMENDATIONS. 19 USC 3006.

(a) **IN GENERAL.**—The President may proclaim modifications, based on the recommendations by the Commission under section 1205, to the Harmonized Tariff Schedule if the President determines that the modifications—

(1) are in conformity with United States obligations under the Convention; and

(2) do not run counter to the national economic interest of the United States.

(b) **LAY-OVER PERIOD.**—

(1) The President may proclaim a modification under subsection (a) only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor.

President of U.S.
Reports.

(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) **EFFECTIVE DATE OF MODIFICATIONS.**—Modifications proclaimed by the President under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

APPENDIX E
PAGE 3, USITC PUBLICATION NO. 2673

appendix E; summaries of the written views of nongovernment interested parties are included in appendix F; and a summary of the hearing testimony is included in appendix G.

The recommendations in appendix B reflect principally decisions taken by the HSC during its 4th through 11th sessions (i.e., from October 1989 to June 1993) and are divided into two groups, discussed below.

Modifications to Conform U.S. Customs Practice to HSC Decisions not Affecting the International HS Nomenclature

Certain cough drops

According to Customs,⁸ that agency has consistently classified medicated cough drops—those containing a minimum of 5 mg of menthol, eucalyptol, or other antitussive “flavoring” agent as the sole active ingredient—as medicaments in HTS subheading 3004.90.30, with a most-favored-nation (MFN) duty rate⁹ of 3.9 percent ad valorem. However, the HSC decided that such products are classifiable as confectionery in subheading 1704.90. Customs expressed its desire to conform to the HSC decision, as proposed by the Commission, but it was necessary to propose a new additional U.S. legal note (a) to exclude these products from chapter 30 and (b) to distinguish them from so-called cough drops already classified by Customs in subheading 1704.90 because they lack the required minimum amount of active-ingredient flavoring agent per dose to be considered medicaments. The Commission, therefore, added a proposal for a new additional U.S. note 7 to limit the coverage of proposed new subheading 1704.90.25.

⁸ See Customs’s written submission, appendix E.

⁹ At the time of this writing, MFN duty rates are applicable to nonembargoed imports from all foreign countries except from Afghanistan, Cuba, Kampuchea, Laos, North Korea, Romania, Vietnam, and the former Soviet republics of Tajikistan, Azerbaijan, Uzbekistan, Georgia, and Turkmenistan. MFN rates apply unless eligibility is established for special duty treatment under the preferential duty programs described in general note 3(c) to the HTS.

Certain cresols¹⁰

In the HTS, certain polyphenols—metacresol, orthocresol, paracresol and metaparacresol, all the foregoing having a purity of 75 percent or more by weight—are specified in a single rate line under subheading 2707.99 rather than under subheading 2707.60, which covers phenols (including polyphenols). The Commission proposes to transfer the rate line provision to subheading 2707.60 to achieve uniformity of classification of these products under the HS. There is no consequent change in duty rate.

Certain jewelry boxes

At its 4th Session, October 1989, the HSC adopted a modification of the Explanatory Notes to heading 4202 in order to clarify that point-of-purchase jewelry presentation boxes were included in HS heading 4202. The revised Explanatory Note reads as follows:

The term “jewellery boxes” covers not only boxes specially designed for keeping jewellery, but also similar lidded containers of various dimensions (with or without hinges or fasteners) specially shaped or fitted to contain one or more pieces of jewellery and normally lined with textile material, of the type in which articles of jewellery are often presented and sold and which are suitable for long-term use.¹¹

The HSC’s inclusion of point-of-purchase jewelry presentation boxes in heading 4202 was counter to prior headquarters advice by Customs. In ruling HQ 081456, dated August 17, 1988, Customs stated that a small, cylindrical earring box of plastics, covered with woven cotton cloth, was not a jewelry box and, therefore, the box must be classified by its essential character, i.e., as an article of plastics or of textile material. In that case, the plastics was deemed to impart the essential character and the box was classified in HTS subheading 3923.90 as an article of plastics for the conveyance or packing of goods. Because this ruling was issued before implementation of the HTS, Customs warned that the advice may be subject to change.

¹⁰ Cresols are mixed chemical isomers obtained from coal tar or petroleum and used as intermediates in the production of disinfectants, certain plastics resins, cleaning preparations, pesticides, surfactants, flavorings and other finished products.

¹¹ Customs Cooperation Council, “Report to the Customs Cooperation Council on the Fourth Session of the Harmonized System Committee,” CCC Doc. 35.700, Oct. 26, 1989, Annex D/6 and Annex U/15.

APPENDIX F TARIFF AND TRADE AGREEMENT TERMS

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 (MFN) 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 enumerated 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 MFN-eligible 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, applied to merchandise imported on or after January 1, 1976 and before the close of May 31, 1997. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provided 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 or 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.

APPENDIX G
EXCERPT FROM 1993 EDITION OF
THE *HTS*

HARMONIZED TARIFF SCHEDULE of the United States (1993)

Annotated for Statistical Reporting Purposes

v
27-3

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
2701		Coal; briquettes, ovoids and similar solid fuels manufactured from coal:				
		Coal, whether or not pulverized, but not agglomerated:				
2701.11.00	00	Anthracite.....	t.....	Free		Free
2701.12.00		Bituminous coal.....	.....	Free		Free
	10	Metallurgical coal.....	t			
	50	Other.....	t			
2701.19.00	00	Other coal.....	t.....	Free		Free
2701.20.00	00	Briquettes, ovoids and similar solid fuels manufactured from coal.....	t.....	Free		Free
2702		Lignite, whether or not agglomerated, excluding jet:				
2702.10.00	00	Lignite, whether or not pulverized, but not agglomerated.....	t.....	Free		Free
2702.20.00	00	Agglomerated lignite.....	t.....	Free		Free
2703.00.00	00	Peat (including peat litter), whether or not agglomerated.....	t.....	Free		Free
2704.00.00		Coke and semicoke of coal, of lignite or of peat, whether or not agglomerated; retort carbon.....	.....	Free		Free
		Coke and semicoke of coal:				
		Commercially suitable for use as fuel:				
	05	In briquettes.....	t			
	15	Other.....	t			
	20	Other.....	t			
	50	Other.....	t			
2705.00.00	00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons.....	thousand m ³ kg	Free		Free
2706.00.00	00	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars.....	liters..	Free		Free
2707		Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents:				
2707.10.00	00	Benzene.....	liters..	Free		Free
2707.20.00	00	Toluene.....	liters..	Free		Free
2707.30.00		Xylenes.....	.....	Free		Free
	10	m-Xylene.....	liters			
	20	o-Xylene.....	liters			
	30	p-Xylene.....	liters			
	40	Other.....	liters			
2707.40.00	00	Naphthalene.....	kg.....	Free		Free
2707.50.00	00	Other aromatic hydrocarbon mixtures of which 65 percent or more by volume (including losses) distills at 250°C by the ASTM D 86 method.....	kg.....	Free		Free
2707.60.00	00	Phenols.....	kg.....	2.9¢/kg + 12.5%	Free (A,CA,E,IL,J)	7.7¢/kg + 29.5%
		Other:				
2707.91.00	00	Creosote oils.....	liters..	Free		Free
2707.99		Other:				
2707.99.10	00	Light oil.....	liters..	Free		Free
2707.99.20	00	Picolines.....	kg.....	Free		Free
2707.99.30	00	Metacresol, orthocresol, para- cresol and metaparcresol, all the foregoing having a purity of 75 percent or more by weight.....	kg.....	1.1¢/kg + 3.7%	Free (A,CA,E,IL,J)	15.4¢/kg + 42.5%
2707.99.40	00	Carbazole having a purity of 65 percent or more by weight.....	kg.....	1.8¢/kg + 6.1%	Free (A,CA,E,IL,J)	15.4¢/kg + 40%
2707.99.50		Other.....	.....	Free		Free
	10	Carbon black feedstocks.....	bbl			
	90	Other.....	kg			

**APPENDIX H
PAGE B-3,
USITC PUBLICATION NO. 2673**

PROPOSED MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE
OF THE UNITED STATES (HTS)

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of the proclaimed modifications. The following supersedes matter now in the HTS. The subheadings and superior texts are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective with respect to articles that are entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of publication of a proclamation in the Federal Register.

1. The following new additional U.S. note 6 to chapter 17 is inserted:

"6. For the purposes of subheading 1704.90.25, "cough drops" must contain a minimum of 5 mg per dose of menthol, of eucalyptol, or of a combination of menthol and eucalyptol.

2. Subheading 1704.90.20 is superseded by the following:

[Sugar confectionery...:]			
[Other:]			
[Confections or sweetmeats...:]			
"Other:			
"1704.90.25 ¹	Cough drops.....	3.9%	Free (A*,E,IL,J) 30% 1.5% (CA)
1704.90.35 ²	Other.....	7%	Free (A,E,IL,J) 40% 2.8% (CA)

3. Subheading 2707.60.00 is superseded by the following:

[Oils and other products of the distillation...:]			
Phenols:			
"2707.60			
2707.60.10 ³	Metacresol, orthocresol, paracresol and metaparcresol, all the foregoing having a purity of 75 percent or more by weight.....	1.1¢/kg + 3.7%	Free (A,CA,E, IL,J) 15.4¢/kg + 42.5%
2707.60.20 ⁴	Other.....	2.9¢/kg + 12.5%	Free (A,CA,E, IL,J) 7.7¢/kg + + 29.5% ["]

4. Subheading 2707.99.30 is deleted.

¹ ex 3004.90.30
² ex 1704.90.20
³ ex 2707.99.30
⁴ ex 2707.60.00

APPENDIX I
EXCERPTS FROM PROCLAMATION
NO. 6857

Presidential Documents

Title 3—

The President

Proclamation 6857 of December 11, 1995

To Modify the Harmonized Tariff Schedule of the United States, To Provide Rules of Origin Under the North American Free Trade Agreement for Affected Goods, and for Other Purposes

By the President of the United States of America

A. Proclamation

1. Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 ("the 1988 Act") (19 U.S.C. 3005(a)) directs the United States International Trade Commission ("the Commission") to keep the Harmonized Tariff Schedule of the United States ("HTS") under continuous review and periodically to recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate to accomplish the purposes set forth in that subsection.
2. Section 1206(a) of the 1988 Act (19 U.S.C. 3006(a)) authorizes the President to proclaim modifications to the HTS, based on the recommendations of the Commission under section 1205 of the 1988 Act (19 U.S.C. 3005), that he determines are in conformity with the obligations of the United States under the International Convention on the Harmonized Commodity Description and Coding System ("the Convention") and do not run counter to the national economic interest of the United States.
3. (a) Presidential Proclamation No. 6641 of December 15, 1993, implemented the North American Free Trade Agreement ("the NAFTA") with respect to the United States and, pursuant to sections 201 and 202 of the North American Free Trade Agreement Implementation Act ("the NAFTA Implementation Act") (19 U.S.C. 3331 and 3332), incorporated in the HTS the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.
- (b) Because the substance of the changes to the Convention will be reflected in slightly differing form in the national tariff schedules of the three parties to the NAFTA, the rules of origin and interpretative rules set forth in Appendix 6.A of Annex 300-B, Annex 401, and other annexes to the NAFTA must be modified to ensure that the agreed tariff and certain other treatment accorded under the NAFTA to originating goods will continue to be provided under the tariff categories affected by the modifications to the Convention. The NAFTA parties agreed, on November 6, 1995, to the text of necessary revisions to the NAFTA.
4. Section 202 of the NAFTA Implementation Act (19 U.S.C. 3332) provides certain rules for determining whether goods imported into the United States originate in the territory of a NAFTA party and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim the rules of origin set out in the NAFTA and any additional subordinate tariff categories necessary to carry out the NAFTA Implementation Act consistent with the NAFTA.
5. Pursuant to section 1206(a) of the 1988 Act (19 U.S.C. 3006(a)) and section 202 of the NAFTA Implementation Act (19 U.S.C. 3332), I have determined (1) that the modifications to the HTS being proclaimed pursuant to section 1206(a) of the 1988 Act are in conformity with the obligations

Annex II (con.)

-15-

62. The article description of heading 2602.00.00 is modified by deleting the expression "manganiferous iron ores" and inserting the expression "ferruginous manganese ores" in lieu thereof.

63. The following new additional U.S. note 8 is inserted in numerical sequence in the additional U.S. notes to chapter 27:

"8. Subheading 2712.10.00 does not include petroleum jelly, suitable for use for the care of the skin, put up in packings of a kind sold at retail for such use (subheading 3304.99.10)."

64. Subheading 2707.60.00 is superseded by the following:

[Oils....:]			
Phenols:			
"2707.60	Metacresol, orthocresol, paracresol		
2707.60.10	and metaparcresol, all the foregoing		
	having a purity of 75 percent or more		
	by weight.....	1c/kg + 3.4%	Free (A,CA,E, IL,J,XX)
			15.4c/kg + 42.5%
2707.60.20	Other.....	2.9c/kg + 12.5%	Free (A,CA,E, IL,J,XX)
			7.7c/kg + 29.5%

Conforming change: Subheading 2707.99.30 is deleted.

65. Subdivision (d) of note 1 to chapter 28 is modified by inserting the expression "(including an anticaking agent)" after the word "stabilizer".

66. Subdivision (e) of note 3 to chapter 28 is modified by deleting the expression "heading 3823" at each instance, and inserting the expression "heading 3824" in lieu thereof.

67. Subdivision (g) of note 3 to chapter 28 is modified to read as follows:

"(g) The metals, whether or not pure, metal alloys or cermets, including sintered metal carbides (metal carbides sintered with a metal), of section XV; or"

68(a). Subheading 2827.37.00 is deleted.

(b). The following new subheading 2827.39.25 is inserted in numerical order:

[Chlorides,....:]			
[Other....:]			
[Other:]			
"2827.39.25	Of tin.....	4.2%	Free (A*,CA,E, IL,J,XX)
			25%

Conforming change: General note 4(d) to the tariff schedule is modified by deleting "2827.37.00 India" and by inserting in numerical sequence "2827.39.25 India" in lieu thereof.

69(a). Subheading 2835.21.00 is deleted.

APPENDIX J
EXCERPTS FROM 1996 EDITION OF
THE *HTS*

HARMONIZED TARIFF SCHEDULE of the United States (1996)

Annotated for Statistical Reporting Purposes

V
27-3

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
2701		Coal; briquettes, ovoids and similar solid fuels manufactured from coal:				
		Coal, whether or not pulverized, but not agglomerated:				
2701.11.00	00	Anthracite.....	t.....	Free		Free
2701.12.00	00	Bituminous coal.....	.....	Free		Free
	10	Metallurgical coal.....	t			
	50	Other.....	t			
2701.19.00	00	Other coal.....	t.....	Free		Free
2701.20.00	00	Briquettes, ovoids and similar solid fuels manufactured from coal.....	t.....	Free		Free
2702		Lignite, whether or not agglomerated, excluding jet:				
2702.10.00	00	Lignite, whether or not pulverized, but not agglomerated.....	t.....	Free		Free
2702.20.00	00	Agglomerated lignite.....	t.....	Free		Free
2703.00.00	00	Peat (including peat litter), whether or not agglomerated.....	t.....	Free		Free
2704.00.00		Coke and semicoke of coal, of lignite or of peat, whether or not agglomerated; retort carbon.....	.....	Free		Free
		Coke and semicoke of coal:				
	05	Commercially suitable for use as fuel:				
	15	In briquettes.....	t			
	20	Other.....	t			
	50	Other.....	t			
2705.00.00	00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons.....	thousand m ³ kg	Free		Free
2706.00.00	00	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars.....	liters..	Free		Free
2707		Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents:				
2707.10.00	00	Benzene.....	liters..	Free		Free
2707.20.00	00	Toluene.....	liters..	Free		Free
2707.30.00	00	Xylenes.....	.....	Free		Free
	10	m-Xylene.....	liters			
	20	o-Xylene.....	liters			
	30	p-Xylene.....	liters			
	40	Other.....	liters			
2707.40.00	00	Naphthalene.....	kg			
2707.50.00	00	Other aromatic hydrocarbon mixtures of which 65 percent or more by volume (including losses) distills at 250°C by the ASTM D 86 method.....	kg liters..	Free		Free
2707.60		Phenols:				
2707.60.10	00	Metacresol, orthocresol, paracresol and metaparcresol, all the foregoing having a purity of 75 percent or more by weight.....	kg.....	1¢/kg + 3.42	Free (A,CA,E,IL,J, MX)	15.4¢/kg + 42.52
2707.60.20	00	Other.....	kg.....	2.9¢/kg + 12.52	Free (A,CA,E,IL,J, MX)	7.7¢/kg + 29.52

HARMONIZED TARIFF SCHEDULE of the United States (1996)

Annotated for Statistical Reporting Purposes

V
27-4

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty		
				1		2
				General	Special	
2707 (con.)		Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents (con.):				
		Other:				
2707.91.00	00	Creosote oils.....	liters..	Free		Free
2707.99		Other:				
2707.99.10	00	Light oil.....	liters..	Free		Free
2707.99.20	00	Picolines.....	kg.....	Free		Free
2707.99.40	00	Carbazole having a purity of 65 percent or more by weight.....	kg.....	1.4¢/kg + 4.9%	Free (A,CA,E,IL,J, L,MX)	15.4¢/kg + 40%
2707.99.50		Other.....		Free		Free
	10	Carbon black feedstocks.....	bbl			
	90	Other.....	kg			
2708		Pitch and pitch coke, obtained from coal tar or from other mineral tars:				
2708.10.00	00	Pitch.....	kg.....	Free		Free
2708.20.00	00	Pitch coke.....	kg.....	Free		Free
2709.00		Petroleum oils and oils obtained from bituminous minerals, crude:				
2709.00.10	00	Testing under 25 degrees A.P.I.....	bbl.....	5.25¢/bbl	Free (CA,IL) 3.6¢/bbl (MX)	21¢/bbl
2709.00.20	00	Testing 25 degrees A.P.I. or more.....	bbl.....	10.5¢/bbl	Free (CA,IL) 7.3¢/bbl (MX)	21¢/bbl
2710.00		Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations:				
		Distillate and residual fuel oils (including blended fuel oils):				
2710.00.05		Testing under 25 degrees A.P.I.....	.....	5.25¢/bbl	Free (CA,IL) 3.6¢/bbl (MX)	21¢/bbl
		Having a Saybolt Universal viscosity at 37.8°C of 45 seconds or more but not more than 125 seconds (No. 4-type fuel oils):				
	05	Containing not more than 0.05 percent by weight of sulfur....	bbl			
	15	Containing more than 0.05 percent by weight of sulfur....	bbl			
		Having a Saybolt Universal viscosity at 37.8°C of more than 125 seconds (heavy fuel oils):				
	25	Fuel oil No. 5.....	bbl			
	30	Fuel oil No. 6.....	bbl			
	35	Other.....	bbl			
	50	Other.....	bbl			

APPENDIX K
WRITTEN SUBMISSIONS FROM THE
PRIVATE SECTOR



CONCORD CHEMICAL CO., INC., 17TH AND FEDERAL STREETS, CAMDEN, NEW JERSEY 08105

TELEPHONE: (609) 966-1526 FAX: (609) 963-0246 CABLE ADDRESS: CONCHEM

July 10, 1997

Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Re: Proposed Addendum to Investigation - No. 1205-3

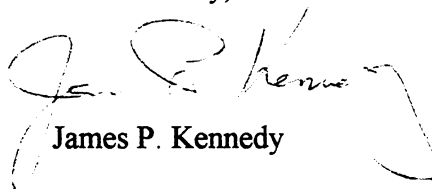
Concord Chemical Co., Inc. agrees that the proposed changes for subheading 2707.60.20 of the Harmonized Tariff Schedule of the United States, are necessary and correct.

We feel that the modification made to this section in 1995, was made without the direct knowledge or authority, of the Commission to significantly increase duties. This addendum is a correction of that.

It is also our opinion that this change be made retroactively to the original change (1995) because the change was made without proper authority, to increase duties.

Thank you for your time in this matter.

Sincerely,



James P. Kennedy

JPK:pw

97 JUL 11 11:37

97 JUL 11 11:37

10

MONTGOMERY, McCRACKEN, WALKER & RHODS, LLP

ATTORNEYS AT LAW

123 SOUTH BROAD STREET • PHILADELPHIA, PA 19109-1029 • 215-772-1500 • FAX 215-772-7620

DAVID H. MARION*
RALPH W. BRENNER
FRANK S. DEMING
HARRY CARL SCHAU
ARTHUR H. MOSS
DAVID L. GROVE
JOHN C. WRIGHT, JR.
ANTHONY F. VISCO, JR.
JOHN W. FRAZIER, IV
BALDO M. CARNECCHIA, JR.
JEFFREY R. LERMAN
STEPHEN A. MADVA
STEPHEN W. ARMSTRONG
FRANCIS PATRICK NEWELL
JOHN E. CARUSO*
EDWARD T. ELLIS*
LARRY R. BARRON
LEONARD A. BUSBY
JEREMY D. MISHKIN
JAMES A. WILLHITE, JR.
CHRISTOPHER SCOTT D'ANGELO
JOYCE S. MEYERS
GARY M. EDELSON
RICHARD G. PLACEY*
PATRICK T. RYAN
CHARLES B. CASPER*
NATALIE D. RAMSEY
FRANCES A. McELHILL*
JOHN J. LEVY*
JULIE HOFMANN CHELIUS
JAMES J. EISENHOWER

H. THOMAS FELIX, II
CARTER R. BULLER
MERVIN J. HARTMAN
S. JONATHAN EMERSON
JOHN FRANCIS GOUGH*
MICHAEL D. MATTEO*
DONALD W. KRAMER
RICHARD H. MARTIN
STEPHEN L. VOLPICELLI
HOWARD D. SCHER
ROBERT A. MacDONNELL
JENNIFER A. STILLER
ROBERT GORDON CHAMBERS
KENNETH M. JARIN
KATHLEEN O'BRIEN
DAVID SHECHTMAN
SAMUEL MASON
DOREEN S. DAVIS
MARY F. PLATT*
GREGORY J. FOX
CRAIG E. ZIEGLER
JOSEPH T. STAPLETON
LOUIS A. PETRONI*
RICHARD L. SCHEFF
VIRGINIA P. SIKES
BRUCE H. BIKIN
TIMOTHY J. BERGERE
LARRY L. TURNER
ARLENE J. ANGELO
STEPHEN G. RHODS

Of Counsel:

JOHN S. ESTEY
RICHARD S. HYLAND*
WILLIAM F. DRAKE, JR.
NANCY M. WEINMAN
W. JEFFREY GARSON*
CLIFFORD SCOTT MEYER*
WALTER L. BARTHOLOMEW, JR.
JOSEPH W. SWAIN, JR.
JOSEPH K. GORDON
HOWARD H. LEWIS
ARTHUR GREGG JACKSON
DANIEL W. MYERS, 2ND*
ALEXANDER N. RUBIN, JR.
ALBERT S. SHAW, JR.
ALAN REEVE HUNT*

Senior Counsel:

MARTIN W. BOND
RALPH H. COUFLESH, JR.*
THOMAS F. HURLEY

- * MEMBER OF NEW JERSEY BAR
- * MEMBER OF WASHINGTON, D.C. BAR
- * NOT A MEMBER OF PENNSYLVANIA BAR
- * NEW JERSEY RESPONSIBLE ATTORNEYS

New Jersey Office:

LIBERTYVIEW
457 HADDONFIELD ROAD
6TH FLOOR
CHERRY HILL, NJ 08002
609-488-7700
FAX 609-488-7720

MARY THERESA ENYART
THOMAS H. SUDDATH, JR.
KIMBERLY HUMES ASHBACH
BRAD A. RUBENS
SALLY ACKERMAN KING
STEPHAN L. CUTLER*
MARY ELIZABETH NAGY*
DAVID ZALESNE
JOANNE SEWEISTER
STEVEN E. BIZAR
CATHERINE H. GILLESPIE*
HOWARD J. BASHMAN*
THOMAS J. COLEMAN, III*
DAVID JAMES MACMAIN
CARIDAD DIEGO HOPKINS*
SHARON O'NEILL FINNEGAN*
MARIETTE J. MOOYMAN*
MICHAEL D. EPSTEIN
ERIC LECHTZIN*
JOHN EHLMANN*
MICHAEL D. JONES*
ELIZABETH C. GUTMAN*
GERARD M. MCCABE*
LAURA L. DOBSON
W. MICHAEL GRADISEK*
SUZANNE C. ABT*
MORAIMA A. KELLY
STUART M. SKLAR*
MAUREEN B. KENNEY*
C. ALEXA ABOWITZ*
WILLIAM D. GEORGES*
SIDNEY S. LIEBESMAN*
STACY ALISON FOLS*

MARIANNE BECHTLE
D. CRAIG CALLAGHAN
PATRICK J. HARVEY
M. HOWARD VIGDERMAN*
RAMIRO M. CARBONELL*
GERALDINE D. ZIDOW*
JOHN P. McLAUGHLIN
RONALD E. HURST*
STEVEN MANILOFF*
FRANK A. CHERNAK*
RICHARD M. SIMINS
LARISSA RENSCHAW WHITMAN*
MARIELLEN BELLO*
ARLINE L. BAYO SANTIAGO
RICHARD M. DONALDSON*
CYNTHIA M. BINNION
DOUGLAS L. OVERTOOM*
PATRICIA J. LARSON
CAROL A. CANNERELLI*
PETER BRESLAUER
DAVID D. LANGFITT*
MAUREEN D. LUKE
LEE S. FIEDERER
CHARLES A. ERCOLE*
MICHAEL J. TIERNEY*
DAVID E. BRIER*
HUMANE L. ZIA*
JOSEPH C. RAGAGLIA*
ELLEN K. POMFRET*
ROBERT W. ELIAS*
WENDY A. FLEMING
SHAWN R. FARRELL*

Direct Dial
215-772-7308

July 11, 1997

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Eugene A. Rosengarden
Director
Office of Tariff Affairs & Trade Agreements
U.S. International Trade Commission
Washington, D.C. 20436

Re: Concord Chemical Co., Inc. -- Tariff Code Change

Dear Mr. Rosengarden:

I am writing on behalf of my client, Concord Chemical Co., Inc., regarding the proposed change to section 2707.60.20 of the Harmonized Tariff Schedule ("HTS"), which deals with certain phenols -- metacresol, orthocresol, paracresol, and metaparacresol having a purity of less than 75 percent (under 75 percent cresols).

While we support the proposed change to the HTS, there is a format problem as the new section appears in the Federal Register, Vol. 62, No. 128, July 3, 1997, at page 36078. We understand that the ITC is aware of this format problem and that the new phenols section, as it appears in the Federal Register at p. 36078, does not reflect the ITC's intended change. We

Mr. Eugene A. Rosengarden
July 11, 1997
Page 2

understand that a mere modification of the indentation to this section will rectify the situation.

We request that the format of this new section be corrected to accurately reflect the ITC's intended change. With this slight alteration, Concord Chemical supports the implementation of this new tariff section as described in the Federal Register, Vol. 62, No. 128, July 3, 1997, pp. 36077-36078.

Thank you for your attention.

Very truly yours,


James J. Eisenhower, III

APPENDIX L
***EXPLANATORY NOTES*, PP. 364-5**

SUB-CHAPTER III

**PHENOLS, PHENOL-ALCOHOLS, AND THEIR HALOGENATED,
SULPHONATED, NITRATED OR NITROSATED DERIVATIVES**

29.07 - PHENOLS; PHENOL-ALCOHOLS.

- Monophenols :

2907.11 -- **Phenol (hydroxybenzene) and its salts**

2907.12 -- **Cresols and their salts**

2907.13 -- **Octylphenol, nonylphenol and their isomers; salts thereof**

2907.14 -- **Xylenols and their salts**

2907.15 -- **Naphthols and their salts**

2907.19 -- **Other**

- Polyphenols :

2907.21 -- **Resorcinol and its salts**

2907.22 -- **Hydroquinone (quinol) and its salts**

2907.23 -- **4,4'-Isopropylidenediphenol (bisphenol A, diphenylolpropane) and its salts**

2907.29 -- **Other**

2907.30 - **Phenol-alcohols**

Phenols are obtained by replacing one or more hydrogen atoms of the benzene ring by the hydroxyl radical (—OH).

Replacement of one hydrogen atom gives monohydric phenols (monophenols); if two hydrogen atoms are replaced, dihydric phenols (diphenols) are obtained; replacement of several hydrogen atoms results in polyhydric phenols (polyphenols).

This substitution in its turn may affect one or more benzene rings; in the first case mononuclear phenols are obtained, in the second, polynuclear phenols.

The hydroxyl group may also be present as a substitute in benzene homologues; in the case of toluene, a phenol homologue known as cresol is obtained, in the case of xylene, xylenol is obtained.

The heading also covers salts and metal alcoholates of phenols or phenol-alcohols.

(A) MONONUCLEAR MONOPHENOLS

- (1) **Phenol** (hydroxybenzene) ($C_6H_5.OH$). Obtained by fractional distillation of coal tars or by synthesis. White crystals, with a characteristic odour, which turn reddish when exposed to light, or may be in solution. It is an antiseptic product used in pharmacy. It is also used in the manufacture of explosives, synthetic resins, plastics, plasticisers and dyes.

To fall in this heading, phenol must have a purity of 90 % or more by weight. Phenol of lower purity is **excluded (heading 27.07)**.

- (2) **Cresols** ($\text{CH}_3\text{C}_6\text{H}_4\text{OH}$). These phenols derived from toluene are found in varying proportions in coal tar oil.

o-Cresol is a white crystalline powder with a characteristic odour of phenol, deliquescent, turning brown with age; *m*-cresol is a colourless or yellowish oily liquid, strongly refractive, with an odour of creosote; *p*-cresol is a colourless crystalline mass which turns reddish and then brownish when exposed to light; it has the odour of phenol.

To fall in this heading, single or mixed cresols must contain 95 % or more by weight of cresol, all cresol isomers being taken together. Cresols of lower purity are **excluded (heading 27.07)**.

- (3) **Octylphenol, nonylphenol and their isomers.**
(4) **Xylenols** ($(\text{CH}_3)_2\text{C}_6\text{H}_3\text{OH}$). These are phenol derivatives of xylene. Six isomers are known; they are obtained from coal tar oils.

To fall in this heading, single or mixed xylenols must contain 95 % or more by weight of xylol, all xylol isomers being taken together. Xylenols of lower purity are **excluded (heading 27.07)**.

- (5) **Thymol** (5-methyl-2-isopropylphenol). Found in thyme oil. Colourless crystals with an odour of thyme; used in medicine, in perfumery, etc.
(6) **Carvacrol** (2-methyl-5-isopropylphenol). An isomer of thymol obtained from origanum oil; a viscous liquid with a penetrating odour.

(B) POLYNUCLEAR MONOPHENOLS

- (1) **Naphthols** ($\text{C}_{10}\text{H}_7\text{OH}$). These are the phenols derived from naphthalene. There are two isomers :
(a) **α -Naphthol**. Colourless, shining crystalline needles, grey lumps or white powder, with a disagreeable odour faintly reminiscent of phenol. It is toxic and is used in organic synthesis (dyes, etc.).
(b) **β -Naphthol**. Brilliant colourless flakes or crystalline powder, white or slightly pink, with a very slight odour of phenol. It has the same uses as α -naphthol, and is also used in medicine and as an antioxidant for rubber, etc.
(2) ***o*-Phenylphenol**.

(C) POLYPHENOLS

- (1) **Resorcinol** (*m*-dihydroxybenzene). Dihydric phenol; crystallises in tablets or in needles; colourless but turns brown in contact with air. Slight odour of phenol. Used for the manufacture of synthetic dyes and explosives, and in medicine and photography.
(2) **Hydroquinone** (quinol, *p*-dihydroxybenzene). Small shining crystalline flakes. Used for preparing organic dyes, in medicine and photography, or as an antioxidant especially for the manufacture of rubber.
(3) **4,4'-Isopropylidenediphenol** (bisphenol A, diphenylolpropane). White flakes.
(4) **Pyrocatechol** (*o*-dihydroxybenzene). Colourless, shining crystalline needles or tablets, with a slight odour of phenol; used for preparing pharmaceutical and photographic products, etc.
(5) **Hexylresorcinol**.
(6) **Heptylresorcinol**.
(7) **2,5-Dimethylhydroquinone** (2,5-dimethylquinol).
(8) **Pyrogallol**. Small scales or in a shining white crystalline powder, light and odourless; it readily turns brown in contact with air and light and is toxic. It is used for preparing dyes, as a mordant, in photography, etc.

