

September 9, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

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

Bill no., sponsor, and sponsor's state: H.R. 1678 (105th Congress) Representative Spratt (SC)

Companion bill: None.

Title as introduced: A bill to suspend until January 1, 2001, the duty on Para ethyl phenol (PEP).

Summary of bill:<sup>2</sup>

Temporarily suspends the most-favored-nation (MFN) rate of duty on imports of the chemical, para-ethylphenol (PEP), until December 31, 2000.<sup>3</sup>

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

The sponsor made no statement in the *Congressional Record* at the time the bill was introduced. A representative of Nipa Hardwicke Co. stated that the duty suspension would allow their U.S. plant to remain competitive with Japanese production being exported to the United States.<sup>4</sup>

Product description and uses:

para-Ethylphenol: The chemical para-ethylphenol (PEP), is used in the production of butylated hydroxyethylbenzene, which is in turn used as an antioxidant in the production of plastics. Butylated hydroxyethylbenzene prevents the discoloration of the plastics.

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<sup>1</sup> Industry analyst: Cynthia B. Foreso (205-3348); attorney: Leo Webb (205-2599).

<sup>2</sup> See appendix A for definitions of tariff and trade agreement terms.

<sup>3</sup> See Technical comments section.

<sup>4</sup> Written statement by Mr. Mike Brummitt, Plant Manager, Nipa Hardwicke, June 13, 1997.

Tariff treatment:<sup>5</sup>

| <u>Product</u>         | <u>HTS subheading</u> | <u>Col. 1-general rate of duty</u> |
|------------------------|-----------------------|------------------------------------|
| Para-Ethylphenol ..... | 2907.19.20            | 9.4% ad. val.                      |

Structure of domestic industry (including competing products):

para-Ethylphenol: According to industry sources, there was no production of the subject chemical in the United States during 1994 to the present time. The chemical was produced by one company until the late 1980s when a reactor used in its production needed to be replaced; according to the company that manufactured PEP, the capital investment necessary to replace the reactor was too high, so they ceased production. PEP is used by Nipa Hardwicke to produce butylated hydroxyethylbenzene, which is used as an antioxidant in the production of plastics. There are no other products that can be substituted for PEP in the production of butylated hydroxyethylbenzene, and there are no domestic products directly competitive with butylated hydroxyethylbenzene.

Private-sector views:

Nipa Hardwicke is the only U.S. producer of butylated hydroxyethylbenzene. There is one Japanese producer that exports butylated hydroxyethylbenzene to the United States based on its own production of PEP. Nipa Hardwicke moved its plant producing butylated hydroxyethylbenzene to the United States from the United Kingdom in late 1995. Nipa Hardwicke's U.S. plant utilizes imported PEP to make butylated hydroxyethylbenzene.<sup>6</sup> The Commission contacted 3 companies that market and produce the final plastics products that utilize butylated hydroxyethylbenzene; none of these companies have provided written comments to the Commission as of this time.

U.S. consumption:

| para Ethylphenol:              | <u>1994</u>      | <u>1995</u>         | <u>1996</u> |
|--------------------------------|------------------|---------------------|-------------|
|                                |                  | -----(\$1,000)----- |             |
| U.S. production.....           | 0                | 0                   | 0           |
| U.S. imports.....              | ( <sup>1</sup> ) | ( <sup>1</sup> )    | 1,503       |
| U.S. exports.....              | 0                | 0                   | 0           |
| Apparent U.S. consumption..... | ( <sup>1</sup> ) | ( <sup>1</sup> )    | 1,503       |

Principal import sources: United Kingdom.

Principal export markets: None.

<sup>1</sup>Not available.

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<sup>5</sup> See appendix B for column 1-special and column 2 duty rates.

<sup>6</sup> Written statement by Mr. Mike Brummitt, Plant Manager, Nipa Hardwicke, June 13, 1997 and phone interview of Mr. Brummitt by Commission staff, July 30, 1997.

Effect on customs revenue:<sup>7</sup>

Future (1998-2000) effect:

| <u>Product</u>        | Estimated average   |             |             |
|-----------------------|---------------------|-------------|-------------|
|                       | <u>1998</u>         | <u>1999</u> | <u>2000</u> |
|                       | -----(\$1,000)----- |             |             |
| Para Ethylphenol..... | 132.2               | 123.2       | 115.7       |

Retroactive effect: None.

Technical comments:

The nomenclature in the article description should be changed to read “p-ethylphenol”.

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<sup>7</sup> Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. Estimated annual revenue losses were calculated by Commission staff based on import data provided by Nipa Hardwicke Company using the appropriate staged rates of duties as published in the *Federal Register*, Wednesday, Jan.4, 1995.

<sup>8</sup> Written statement by Mr. Mike Brummitt, Plant Manager, Nipa Hardwicke, June 13, 1997 and phone interview of Mr. Brummitt by Commission staff, July 30, 1997.

## APPENDIX A

### TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (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, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A\*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E\*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J\*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential 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.

Rev. 8/12/97

**APPENDIX B**

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

(Appendix not included in the electronic version of this report.)

**APPENDIX C**

**OTHER ATTACHMENTS**

(Appendix not included in the electronic version of this report.)

105TH CONGRESS  
1ST SESSION

# H. R. 1678

To suspend temporarily the duty on Para ethyl phenol (PEP).

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IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1997

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

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## A BILL

To suspend temporarily the duty on Para ethyl phenol  
(PEP).

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PARA ETHYL PHENOL.**

4 Subchapter II of chapter 99 of the Harmonized Tar-  
5 iff Schedule of the United States is amended by inserting  
6 in numerical sequence the following new heading:

|   |            |  |   |  |      |  |           |  |           |  |                            |    |
|---|------------|--|---|--|------|--|-----------|--|-----------|--|----------------------------|----|
| “ | 9902.31.12 |  | Para ethyl phenol (pro-<br>vided for in subheading<br>2907.19.20) ..... |  | Free |  | No change |  | No change |  | On or before<br>12/31/2000 | ”. |
|---|------------|--|---|--|------|--|-----------|--|-----------|--|----------------------------|----|

7 **SEC. 2. EFFECTIVE DATE.**

8 The amendment made by section 1 shall apply to  
9 goods entered, or withdrawn from warehouse for consump-

1 tion, on or after the 15th day after the date of the enact-  
2 ment of this Act.

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