

May 5, 1998

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 LEGISLATION¹

Bill no., sponsor, and sponsor's state: H.R. 3201 (105th Congress), Representative Weygand (RI)

Companion bill: S. 1542 (105th Congress), Senator Chafee (RI)

Title as introduced:²

To suspend until December 31, 2002, the duty on Butanamide, 2,2'-[1-2,-ethanediylbis (oxy-2,1-phenyleneazo)] bis [N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-

Summary of bill:³

Temporarily suspends the most-favored-nation (MFN) rate of duty on imports of the subject yellow organic pigment until December 31, 2002.

Effective date: 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Representative Weygand made no statement in the *Congressional Record* at the time that this legislation was introduced. However, Senator Chafee stated, in connection with the companion bill, that:⁴

Mr. President, today I am introducing thirteen bills to suspend the duty on the importation of certain products that are used by manufacturers in my home state of Rhode Island.

The products in question are organic replacements for colorants that use heavy metals--such as lead, molybdenum, chrome, and cadmium--in the plastics and coatings industries. Heavy metal colorants traditionally have been used in the coloration of plastics and coatings, especially where the applications are subjected to high heat, or where high weatherfastness or lightfastness are required. Until recently, finding substitutes for these heavy metal-based

¹ Industry analyst: Aimison Jonnard (205-3350); attorney: Leo Webb (205-2599).

² See technical comments section.

³ See appendix A for definitions of tariff and trade agreement terms.

⁴ *Congressional Record*, Nov. 13, 1997, vol. 143, p. S-12596.

products was difficult. However, thanks to new formulations, a number of organic products have proved themselves to be satisfactory substitutes.

Reducing our reliance on heavy metal colorants makes sense environmentally. However, none of the organic substitutes in question are produced in the United States. Thus, our producers have no choice but to import the substitutes and pay the requisite import taxes, which range from 6.6 to 14.6 percent. The total price tag associated with these duties, while relatively small in the context of our federal budget, translates into a considerable business cost to the importing manufacturers. The added cost hurts their ability to compete, and thus their ability to maintain their workforce. Yet, given that there is no domestic industry producing these substitutes, the duties serve little purpose.

The package of bills I am introducing today would remedy this situation by suspending the duty on these thirteen products. As I say, none of these organic substitutes are produced in the United States, and therefore lifting the current duties will not result in harm to any domestic industry. Rather, suspending the duties will allow our domestic manufacturers to reduce costs, thus maintaining U.S. competitiveness and safeguarding Rhode Island jobs.

Product description and uses:

Butanamide, 2,2'-[1,2-ethanediylbis
(oxy-2,1-phenyleneazo)]bis[N-(2,3-
dihydro-2-oxo-1H-benzimidazol-
5-yl)-3-oxo-]:⁵

The subject chemical is a yellow pigment that is imported from Germany by Clariant Corp. Clariant is composed of the former Sandoz Chemicals Corp. and the specialty business of Hoechst AG.⁶ It is commonly referred to as 11-3073 PV Fast Yellow HG, or C.I. Pigment yellow 180.

This pigment, containing none of the environmentally undesirable heavy metals that originally were the basis of most pigments, is stated by the importer to be the only yellow pigment approved by FDA for indirect food contact, with no domestically produced rival products in this regard. This, along with its claimed resistance to temperatures over 250° Centigrade, enables it to be used for packaging foods that are intended to be warmed in microwave and other ovens.

⁵ See technical comments section

⁶ *Chemical Market Reporter*, Jan. 26, 1998, p. 3.

Tariff treatment:⁷

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
Butanamide, 2,2'-[1,2-ethanediylbis-(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo- ⁸	3204.17.60	11.6%

Structure of domestic industry (including competing products):

Butanamide, 2,2'-[1,2-ethanediylbis-(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-:

The pigments industry produces colorants that are used to color paints, plastics, paper, construction materials, and other products. Originally its products were based on derivatives of metals (e.g., chromium, cadmium, lead, mercury), many of which pose health hazards. Partially in response to this, organic chemical pigments were developed and now play a major role.

The organic chemicals sector includes about 25 to 30 U.S. manufacturers of organic pigments (though the importer of the subject pigment claims that its unique properties are such that these companies should not be regarded as being in the same industry).

Private-sector views:

The Commission contacted four companies which produce what may be competing pigments.⁹ The companies had not submitted any written comments as of the date of preparation of this report.

⁷ See appendix B for column 1-special and column 2 duty rates.

⁸ Chemical Abstracts Service Registry No. 77804-81-0.

⁹ Faxes were sent to BASF Corp., Coatings and Colorants Division, Mount Olive, NJ; Ciba-Geigy Corp., Ardsley, NY; Engelhard Corp., Iselin, NJ; and Sun Chemical Corp., Fort Lee, NJ, on Jan. 26, 1998.

U.S. consumption:

Butanamide, 2,2'-[1,2-ethanediylbis(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-:

	<u>1995</u>	<u>1996</u>	<u>1997</u>
	-----(\$1,000)-----		
U.S. production.....	0	0	0
U.S. imports.....	(¹)	(¹)	(¹)
U.S. exports.....	0	0	0
Apparent U.S. consumption.....	(¹)	(¹)	(¹)

¹U.S. imports of this product are classified in a residual, or “basket,” HTS subheading. As the sole importer, Clariant Corp. requests that these data be treated as business confidential. (Total imports in 1996 from Germany classified in HTS 3204.17.60.85 were \$20 million, of which those of the subject bill accounted for a significant portion.)

Principal import sources: Germany

Principal export markets: None

Effect on customs revenue:¹⁰

Future (1998-2002) effect: Estimated average annual revenue loss over the 5-year period of duty suspension is about \$400,000.¹¹

Retroactive effect: None.

Technical comments:

There are typographical errors in the name of the subject chemical in both the title and Section 1 of this bill. The correct name is Butanamide, 2,2'-[1,2-ethanediylbis-(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-.

Also, because the description of pigments in HTS heading 3204 is not by their chemical names but rather by their shorter synonyms, the designation of the subject pigment would be “Pigment yellow 180,” and that designation should be added to the article description in the bill.

¹⁰ Actual revenue loss may be understated if a significant increase in imports occurs during the duty suspension period.

¹¹ Estimate by Commission staff based on information from Clariant.

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.)

105TH CONGRESS
2^D SESSION

H. R. 3201

To suspend until December 31, 2002, the duty on Butanamide, 2,2'-[1-2,-ethanediylbis (oxy-2,1-phenylene-azo)] bis [N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1998

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

A BILL

To suspend until December 31, 2002, the duty on Butanamide, 2,2'-[1-2,-ethanediylbis(oxy-2,1-phenylene-azo)] bis [N-(2,3-dihydro-2-oxo-1H-benz-imidazol-5-yl)-3-oxo-.

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

1 **SECTION 1. SUSPENSION OF DUTY ON BUTANAMIDE, 2,2'-[1-**
 2 **2,-ETHANEDIYLBIS(OXY-2,1-PHENYLENEAZO)]**
 3 **BIS[N-(2,3-DIHYDRO-2-OXO-1H-BENZIMIDAZOL-**
 4 **5-YL)-3-OXO-.**

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

“	9902.32.22	Butanamide, 2,2'- [1-2,- ethanediylbis(oxy- 2,1-phenyleneazo)]bis[N-(2,3- dihydro-2-oxo-1H- benzimidazol-5-yl)- 3-oxo- (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2002	”.
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8 **SEC. 2. EFFECTIVE DATE.**

9 The amendment made by section 1 applies with re-
 10 spect to goods entered, or withdrawn from warehouse for
 11 consumption, on or after the 15th day after the date of
 12 the enactment of this Act.

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