

April 28, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES  
SENATE ON PROPOSED TARIFF LEGISLATION<sup>1</sup>

Bill no., sponsor, and sponsor's state: S. 1583 (105th Congress), Senator Breaux (LA)

Companion bill: H.R. 2576 (105th Congress), Representative Porter (IL)

Title as introduced: To suspend temporarily the duty on  $\beta$ -Bromo- $\beta$ -nitrostyrene.

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

The most-favored-nation (MFN) rate of duty is suspended until December 31, 2000, on the subject chemical, ordinarily known as BNS.

Effective date: 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Senator Breaux made no statement in the *Congressional Record* at the time that this legislation was introduced. However in a letter to Commission staff, an attorney representing Angus Chemical Co. stated that BNS is a microbial growth inhibitor with bacteriostatic and fungistatic properties; it effectively controls the growth of bacteria and fungi. . For sound commercial reasons--including both cost and quality concerns--Angus has decided to arrange for foreign sourcing of its BNS. This decision to rely upon supply from a producer in Europe was made independent of any change in the duty that may come about.<sup>3</sup>

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

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

<sup>3</sup> Letter to Commission staff from Mr. Frederick L. Ikenson on behalf of Angus Chemical Co., dated Jan. 29, 1998.

Product description and uses:

$\beta$ -Bromo- $\beta$ -nitrostyrene: BNS effectively controls the growth of bacteria and fungi in the production of high quality paper during which its biocidal activity and subsequent biodegradability are critical to the production process. Angus Chemical Co. Buffalo Grove, IL, holds the patent and, as such, “is the exclusive owner, manufacturer and marketer of BNS.”<sup>4</sup>

Tariff treatment:<sup>5</sup>

<u>Product</u>	<u>HTS subheading</u>	Col. 1-general <u>rate of duty</u>
$\beta$ -Bromo- $\beta$ -nitrostyrene <sup>6</sup> .....	2904.90.47	2.2 ¢/kg + 11.7%

Structure of domestic industry (including competing products):

$\beta$ -Bromo- $\beta$ -nitrostyrene: BNS is a preservative. Preservatives are chemical products that control the growth of bacteria and fungi in foods, paint, cosmetics, pharmaceuticals, wood, and other products. At least 40 companies--manufacturers, distributors, and importers--sell preservatives in the United States. Many of these products could be considered to be competitive with BNS. BNS is claimed to exceed other preservatives in controlling spoilage problems in the production of paper from wood pulp.

Private-sector views:

Counsel for Angus Chemical Co. stated that BNS has “been put on the USTR’s proposed duty-free list without any objection from any member of the U.S. chemical industry (after having been vetted before the chemical ISAC and industry trade association members); and ISAC contacts re (this) are Mike Kelly, DOC, and Barbara Norton, USTR.”<sup>7</sup>

The Commission contacted five companies which produce what may be competing preservatives.<sup>8</sup> The companies had not submitted any written comments as of the date of preparation of this report.

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<sup>4</sup> Ibid.

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

<sup>6</sup> Chemical Abstracts Service Registry No. 7166-19-0.

<sup>7</sup> The revised Pharmaceutical Appendix is expected to be effective sometime in 1999. Once effective, products on the list and certain derivatives of these products will be eligible for duty-free entry into the United States.

<sup>8</sup> Faxes were sent to Ashland Chemical Co., Columbus, OH; Buckman Laboratories, Inc., Memphis, TN; ICI Americas, Wilmington, DE; Sutton Laboratories, Inc., Chatham, NJ; and Union Carbide Corp., Danbury, CT, on Jan. 29, 1998.

U.S. consumption:

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

<sup>1</sup>The only importer (Angus Chemical Co.) submitted no data on its trade statistics. U.S. imports of this product are classified in a residual, or “basket,” HTS subheading. (U.S. imports from the EU of all chemicals classified in HTS 2904.90.47 in 1997 were valued at about \$974,000 and it appears that those of BNS were a relatively small part of that total.)

Principal import sources: EU.  
Principal export markets: None.

Effect on customs revenue:<sup>9</sup>

Future (1998-2000) effect: According to a representative of Angus Chemical Co., the average annual revenue loss during 1998-2000 is estimated to be less than \$300,000 per year.

Retroactive effect: None.

Technical comments: None.

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<sup>9</sup> Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period.

## 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  
2D SESSION

# S. 1583

To suspend temporarily the duty on  $\beta$ -Bromo- $\beta$ -nitrostyrene.

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IN THE SENATE OF THE UNITED STATES

JANUARY 29, 1998

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To suspend temporarily the duty on  $\beta$ -Bromo- $\beta$ -nitrostyrene.

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. SUSPENSION OF DUTY ON  $\beta$ -BROMO- $\beta$ -**  
4 **NITROSTYRENE.**

5 (a) IN GENERAL.—Subchapter II of chapter 99 of  
6 the Harmonized Tariff Schedule of the United States is  
7 amended by inserting in numerical sequence the following  
8 new item:

“	9902.32.92	$\beta$ -Bromo- $\beta$ -nitrostyrene (CAS No. 7166-19-0) (provided for in subheading 2904.90.47) .....	Free	No change	No change	On or before 12/31/2000	”.
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1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section applies with respect to goods entered, or with-  
3 drawn from warehouse for consumption, on or after the  
4 15th day after the date of enactment of this Act.

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