June 11, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE ON PROPOSED TARIFF LEGISLATION[1]

Bill no.,sponsor, and sponsor's state: S. 1784 (105th Congress), Senator Bond (MO).

Companion bill: None.

Title as introduced: To suspend temporarily the duty on Biphenyl flake.

Summary of bill:[2]

This bill would suspend temporarily the most-favored-nation (MFN) duty on imports of biphenyl (diphenyl), in flakes (CAS No. 92-52-4), provided for in subheading HTS 2902.90.60, through December 31, 2001.

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

This legislation was forwarded to the Senate Finance Committee without sponsor comment as published in the *Congressional Record*.[3] The proponent, Solutia, Inc., claims the duty on this product is no longer effective in protecting a domestic manufacture, as all U.S. producers of this product have exited the business; thus, in their view, the duty creates an unnecessary financial burden to U.S. consumers of this product.

Product description and uses:

Biphenyl (Diphenyl), in flakes: This synthetic organic chemical is a white crystalline solid material having a relatively low melting point (69ºC) but a high boiling point (255ºC). Biphenyl flake is a physically modified form of biphenyl produced by cooling a thin layer of molten biphenyl on a conveyor and

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[1] Industry analyst: Raymond Cantrell (205-3362); attorney: Leo Webb (205-2599).
[2] See appendix A for definitions of tariff and trade agreement terms.
[3] *Congressional Record,* S. 1784, Mar. 17, 1998, p. S2114.

breaking it into solid chips resembling corn flakes. Biphenyl flakes are commonly transported in bags, and used for hand discharge as a chemical intermediate into various industrial chemical reactors, or melted for molding into blocks or cakes used as bathroom deodorizers. Molten biphenyl dominates the U.S. marketplace, where its unique high temperature stability is taken advantage of as an ingredient in heat transfer fluids. Biphenyl flake, however, is used for most of the same purposes as molten biphenyl material in the production of a variety of derivatives, including reaction intermediates in the production of heat transfer fluids; dye carriers for polyester fibers; replacements for the banned carcinogens, polychlorinated biphenyls (PCB's); and, as a solvent for carbonless paper.

Tariff treatment:[4]

Product	HTS subheading	Col. 1-general rate of duty[5]
Biphenyl (Diphenyl), in flakes....	2902.90.60	6.2%

Structure of domestic industry (including competing products):

Biphenyl (Diphenyl), in flakes: During 1995-97, the U.S. industry was dominated by the one known producer, KOCH Chemical Co., which produces molten biphenyl at Corpus Christi, TX, for captive conversion of derivative products, and downstream sales to other consumers, including domestic producers of biphenyl flake.[6] Several other organic chemical intermediates may compete with the biphenyl material due to the wide variety of end-use applications. The U.S. biphenyl industry is considered to be a mature market with relatively low growth potential.

Private-sector views:

The Commission contacted three firms believed to produce biphenyl or biphenyl flake. As of this date, no responses have been received.[7]

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[4] See appendix B for column 1-special and column 2 duty rates.

[5] This product is subject to a 10-year staged tariff reduction under the provisions of the Uruguay Round GATT treaty, reaching a floor level of 6.5% in 2004.

[6] KOCH is known to sell molten biphenyl to Continental Industrial Chem., Charlotte, NC, for production of biphenyl flake. Continental consumes biphenyl flake onsite for the production of chemical derivatives, and exports the remainder (Mr. Charles Rose, Continental Industrial Chem., May 13, 1998).

[7] Mr. Ron Osman, General Mgr., KOCH Chemical Co., Corpus Christi, TX; Mr. Charles Rose, Continental Ind. Chem., Charlotte, NC; and, Dow Chemical Co., Freeport, TX.

U.S. consumption:

Biphenyl (Diphenyl), in flakes:[1]	1995	1996	1997
	------------------($1,000)------------------		
U.S. production	400	400	400
U.S. imports[2]	96	110	50
U.S. exports	40	40	40
Apparent U.S. consumption	440	440	440

[1]Industry estimates for biphenyl flake only; represents a minor portion of the total U.S. production and demand for biphenyl.
[2]Imports are official statistics of U.S. Department of Commerce, Bureau of the Census.

Principal import sources: United Kingdom, Japan, and Austria.
Principal export markets: China and S. America.

Effect on customs revenues:[8]

Future (1998-2001) effect: According to industry sources, the estimated average revenue loss is expected to be about $5,000 annually.

Retroactive effect: None.

Technical comments: None.

[8] Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period, or significant imports by firms other than the petitioner. The tariff rate is scheduled to fall sequentially, from 6.2% in 1998, to free in the year 2004, under provisions of the Uruguay Round GATT Negotiations.

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.

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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. 1784

To suspend temporarily the duty on Biphenyl flake.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 1998

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

A BILL

To suspend temporarily the duty on Biphenyl flake.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIPHENYL IN FLAKE.

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

"	9902.31.16	Biphenyl (Diphenyl), in flakes (CAS No. 92–52–4) (provided for in subheading 2902.90.60)	Free	No change	No change	On or before 12/31/2001 ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

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