

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 LEGISLATION¹

Bill no., sponsor, and sponsor's state: S. 1816 (105th Congress) Senator Specter (PA).

Companion bill: H. R. 2520 (105th Congress), Representative English (PA).²

Title as introduced: To suspend temporarily the duty on halofenozide.

Summary of bill:³

Temporarily suspends the current MFN rate of duty on imports of halofenozide--benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl) hydrazide--(CAS No. 112226-61-6), provided for in HTS subheading 2928.00.25, until on or before Dec. 31, 2000.

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 this bill was introduced.⁴ The Commission was provided background information through the congressional office of the House sponsor of companion legislation,⁵ and by the proponent, Rohm and Haas Co..⁶ According to that information this bill would temporarily suspend the duty on halofenozide, a specialty, pest specific insecticide used to treat turf grasses and ornamental plants. There are no known domestic producers of this unique product. U.S. producers of organophosphate and carbamate insecticides may compete in the same markets, but these products, unlike halofenozide, are not thought to be pest specific.

¹ Industry analyst: Raymond Cantrell (205-3362); attorney: Leo Webb (205-2599).

² *Congressional Record*, H. R. 2520, Sept. 23, 1997, p. H7729.

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

⁴ *Congressional Record*, S. 1816, Mar. 23, 1998, p. S2424.

⁵ Fax Memorandum, Ms. Karin John, Legislative Director for Rep. English, to the Commission on Jan. 30, 1998.

⁶ Mr. Henry P. Stoebenau, Manager, International Trade Affairs, Rohm and Haas, Philadelphia, PA, provided fact sheets, material safety data sheets, and other technical literature on Halofenazide, to the Commission.

Product description and uses:

Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl)hydrazide:

Halofenozide is a synthetic organic chemical, which is imported as a technical-grade, white solid material. It is used as the active ingredient in both liquid suspension and granular finished insecticides produced in the United States by a Rohm and Haas affiliate, designated as MACH 2™ insecticides. Halofenozide is a narrow spectrum insecticide which targets, and is toxic only to a specific type of insect found on green plant matter of turf grasses and ornamental plants. Therefore, this material is confined to specialty applications, including use by commercial turf farms, golf courses, the ornamental plants and trees industries, and the professional and home lawn care trade.

Tariff treatment:⁷

<u>Product</u>	<u>HTS subheading</u>	Col. 1-general <u>rate of duty</u>
Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl)hydrazide.....	2928.00.25	6.6% ad. val.

Structure of domestic industry (including competing products):

Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl)hydrazide:

There has been no known production of this product in the United States during 1995-97, according to the importer, Rohm and Haas Co., nor any known products having the narrow range of toxic specificity unique to the eradication of harmful insects associated with turf grasses and ornamental plants. Competitive U.S.-produced insecticide products based on either organophosphate or carbamate chemistry are known to exist, but these products may potentially have a broader range of toxicity extending to non-specific insects, which could pose a threat to the next level in the food chain. In 1997, Rohm and Haas began importing this unique technical grade halofenozide from its wholly owned subsidiary in Italy for the downstream formulation into a liquid-suspension concentrate (MACH 2™ 2SC) and/or a granular formulation (MACH 2™ 1.5G). The firm has filed for a composition of matter patent in the United States, while two use patents have

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

already been granted.

Private-sector views:

The Commission contacted three U.S. firms thought to potentially produce and/or import products competitive with halofenozide,⁸ after consulting with a major U.S. crop protection association.⁹ One private firm reported its intention to contact the House Ways and Means Committee directly. Written comments are attached at appendix C.

U.S. consumption:

Benzoic acid, 4-chloro-2-benzoyl-
2-(1,1-dimethylethyl)hydrazide:

	<u>1995</u>	<u>1996</u>	<u>1997</u>
	-----(\$Million)-----		
U.S. production.....	0	0	0
U.S. imports ¹⁰	0	0	1.2
U.S. exports.....	0	0	0
Apparent U.S. consumption.....	0	0	0

Principal import sources: Italy.

Principal export markets: None.

Effect on customs revenue:¹¹

Future (1998-2000) effect:

	Estimated average annual <u>revenue loss</u> ¹²		
	<u>1998</u>	<u>1999</u>	<u>2000</u>
	-----(\$1,000)-----		
Benzoic acid, 4-chloro-2-benzoyl- 2-(1,1-dimethylethyl)hydrazide.....	100	190	260

Retroactive effect: None.

⁸ Mr. Tom Campbell, DowElanco, U.S. Crop Protection, Washington, DC office, Feb. 9, 1998; Product Information Specialty Dept., DuPont Agricultural Products, Wilmington, DE, Feb. 9, 1998; Mr. Ed Ready, Govt. Relations Team Lead, Zeneca Inc., Ag Products, Wilmington, DE, Feb. 9, 1998.

⁹ Mr. Milt Hunt, American Crop Protection Association, Legislative Affairs, Washington, DC, Feb. 6, 1998.

¹⁰ In 1997, Rohm and Haas Co. began importation of halofenozide from its wholly owned affiliate in Italy--fax memorandum to the Commission from Mr. Henry P. Stoebenau, Rohm and Haas Co., Feb. 13, 1998.

¹¹ Actual revenue loss may be understated if a significant increase in imports occurs during the duty suspension period.

¹² Estimates of revenue loss based on data supplied to the Commission through offices of the House sponsor of companion legislation, and directly by Rohm and Haas Co. The staged tariff reduction on this product under the provisions of the Uruguay Round GATT is scheduled to reach a floor of 6.5% in 1999, relative to 6.6% in 1998.

Technical comments:

The proper chemical nomenclature for halofenozide under the proposed new heading in chapter 99 of this bill should be modified to reflect the spelling specified for Chemical Abstract Service Registry (CAS) No. 112226-61-6: Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl) hydrazide.

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
2D SESSION

S. 1816

To suspend temporarily the duty on halofenozide.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1998

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

A BILL

To suspend temporarily the duty on halofenozide.

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. DUTY SUSPENSION ON HALOFENOZIDE.**

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

“	9902.29.29	Benzoic acid, 4-chloro-2 benzoyl-2-(1,1-dimethylethyl) hydrazide (CAS No. 112226-61-6) (provided for in sub-heading 2928.00.25)	Free	No change	No change	On or before 12/31/2000	”.
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8 (b) EFFECTIVE DATE.—The amendment made by
9 this section applies to goods entered, or withdrawn from

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- 1 warehouse for consumption, on or after the 15th day after
- 2 the date of enactment of this Act.

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