

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION  
of the 109<sup>th</sup> Congress**<sup>1</sup>

[Date approved: August 26, 2005]<sup>2</sup>

**Bill No. and sponsor:** H.R. 1883, Mr. Cleaver.

**Proponent name, location:** Bayer CropScience  
St. Louis, MO 63111

**Other bills on product (109<sup>th</sup> Congress only):** None.

**Nature of bill:** Temporary duty reduction through 12/31/2008.

**Retroactive effect:** None.

**Suggested article description(s) for enactment (including appropriate HTS subheading(s)):**

Cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (Cyfluthrin, excluding  $\beta$ -Cyfluthrin) (CAS No. 68359-37-5) (provided for in subheading 2926.90.30)

**Check one:**  Same as that in bill as introduced  
 Different from that in bill as introduced (explain differences in Technical comments section)

**Product information, including uses/applications and source(s) of imports:**

Cyfluthrin (Baythroid) is a synthetic organic chemical used as an insecticide on cotton to protect against budworms, bollworms, boll weevils, and plant bugs. This product is primarily imported from India and then formulated for the domestic market. There are no known domestic producers of the chemical. Several companies market products in the U.S. that compete with Cyfluthrin (Baythroid).

<sup>1</sup> Industry analyst preparing report: Richard Qualters (202-205-2334); Tariff Affairs contact: David Michels (202-205-3340).

<sup>2</sup> Access to an electronic copy of this memorandum is available at [http://usitc.gov/tata/hts/other/rel\\_doc/bill\\_reports/index.htm](http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm)

**Estimated effect on customs revenue:**

<b>HTS subheading: <u>2926.90.30</u></b>					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	6.5%	6.5%	6.5%	6.5%	6.5%
Estimated value <i>dutiable</i> imports	\$16,868,311	\$16,868,311	\$16,868,311	\$16,868,311	\$16,868,311
Customs revenue loss <u>2/</u>	\$506,049 <u>3/</u>	\$506,049 <u>3/</u>	\$506,049	\$506,049	\$506,049

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ Loss of revenue based on a duty rate reduction to 3.5%.

3/ Revenue losses for 2005 and 2006 result from a current reduction of duty under heading 9902.02.54. Source of estimated dutiable import data: Industry estimates.

**Contacts with domestic firms/organizations (including the proponent):**

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
AtoFina Cerex Charles Kitchin, Fax: 703-527-2092	7/11/2005	No	No	No
Aventis Jean Reimers, Fax: 202-628-6622	7/11/2005	No	No	No
BASF Corporation Greg Theis, Fax: 202-558-5101	7/11/2005	No	No	No
Bayer CropScience Will Hensley, Fax: 202-628-6662	7/11/2005	No	No	No
Crop Life America Lawrence Norton, Fax: 202-463-0474	7/11/2005	No	No	No
Dow Agro Science Margaret Rogers, Fax: 202-429-3467	7/11/2005	No	No	No
E.I. duPont Elaine Olsen, Fax: 302-992-2263	7/11/2005	No	No	No

FMC Corporation Jerry Prout, Fax: 202-956-5235	7/11/2005	No	No	No
Griffin Corp. James Whatley, Fax: 800-248-5154	7/11/2005	No	No	No
Monsanto Corp. Michael Parrish, Fax: 202-789-1867	7/11/2005	No	No	No
Syngenta Mike Blythe, Fax: 336-632-6084	7/11/2005	No	No	No
Valent USA Robin Demouth, Fax: 925-256-2776	7/11/2005	No	No	No

### Technical comments:<sup>2</sup>

The Commission suggests that the article description on page 1 of this report be used in the proposed new heading, as it provides for a more accurate description of the product. The Commission also notes that there is an existing duty reduction on this chemical under heading 9902.02.54 through December 31, 2006, and that the bill is nearly identical to H.R. 1884, a bill to suspend the duties on  $\beta$ -Cyfluthrin.

According to the proponent<sup>3</sup>, the existing duty reduction covers only the beta isomer of Cyfluthrin. The proponent indicated that it is seeking a duty reduction or duty suspension on all isomers of Cyfluthrin, which resulted in the introduction of H.R. 1883 and H.R. 1884. Both products are provided for in the same HTS subheading, and the CAS number for each product is the same. The Commission suggests that the chemical description on page 1 of this report be used as it accurately reflects the common isomers of Cyfluthrin.

The Commission notes that it is possible to combine both H.R. 1883 and H.R. 1884 into a single bill, given the similarities in the chemicals. Although Customs revenue losses would likely amount to more than the generally accepted cutoff of \$500,000 per year, a single bill would be more efficient in temporarily suspending or reducing duties on all forms of Cyfluthrin, and probably easier to administer by Customs, given the slight differences between the two products.

If bill H.R. 1883 is to be amended to provide for all forms of Cyfluthrin, the Commission suggests the following changes. The article description should be changed to read:

“Cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (Cyfluthrin, including  $\beta$ -Cyfluthrin) (CAS No. 68359-37-5) (provided for in subheading 2926.90.30)”

Additionally, line 6 of the bill should be amended to read “...amended by striking heading 9902.02.54 and inserting in lieu thereof the following...”, and the heading number used in the bill, 9902.05.77, should be

<sup>2</sup> The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

<sup>3</sup> Contact with William Hensley of Bayer Crop Science (202-756-3781), August 1, 2005.

deleted and replaced with 9902.02.54. A suitable duty reduction could also be considered. If H.R. 1883 is so amended, then H.R. 1884 may be withdrawn.

109TH CONGRESS  
1ST SESSION

# H. R. 1883

To reduce temporarily the duty on Cyfluthrin (Baythroid).

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IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

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

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## A BILL

To reduce temporarily the duty on Cyfluthrin (Baythroid).

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. CYFLUTHRIN (BAYTHROID).**

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:

“	9902.05.77	Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (CAS No. 68359-37-5) (provided for in sub-heading 2926.90.30) .....	3.5%	No change	No change	On or before 12/31/2008	”.
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1       (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) applies to goods entered, or withdrawn from  
3 warehouse for consumption, on or after the 15th day after  
4 the date of enactment of this Act.

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