

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: August 26, 2005]²

Bill No. and sponsor: H.R. 1884, Mr. Cleaver.

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

Other bills on product (109th Congress only): None.

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

Retroactive effect: None.

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

Reaction mixture comprising the enantiomeric pair (*R*)- α -cyano-4-fluoro-3-phenoxybenzyl (1*S*,3*S*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate and (*S*)- α -cyano-4-fluoro-3-phenoxybenzyl (1*R*,3*R*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate in ratio 1:2 with the enantiomeric pair (*R*)- α -cyano-4-fluoro-3-phenoxybenzyl (1*S*,3*R*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate and (*S*)- α -cyano-4-fluoro-3-phenoxybenzyl (1*R*,3*S*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate (β -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)

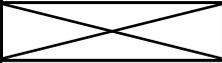
Product information, including uses/applications and source(s) of imports:

Beta-cyfluthrin is a synthetic organic chemical used as an insecticide on cotton, alfalfa, sunflower, potato, pepper, corn, sugarcane, carrots, radishes, and sorghum. The product is imported from India and then formulated in the United States for sale in the domestic market. There are no known domestic producers of the subject chemical. However, a number of companies do produce synthetic pyrethroids in the U.S. that compete with the formulations of Beta-cyfluthrin insecticides.

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

² Access to an electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm

Estimated effect on customs revenue:

HTS subheading: 2926.90.30					
	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	\$3,653,980	\$3,653,980	\$3,653,980	\$3,653,980	\$3,653,980
Customs revenue loss	\$237,509	\$237,509	\$237,509	\$237,509	\$237,509

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.

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:³

There is an existing duty reduction on this chemical under heading 9902.02.54 through December 31, 2006. Also, this bill is nearly identical to H.R. 1883, a bill to suspend the duties on Cyfluthrin.

According to the proponent⁴, the existing duty reduction covers only the beta isomer of Cyfluthrin. The proponent's intent is to achieve 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 chemical description of β -Cyfluthrin.

The Commission notes that it is possible to combine both H.R. 1883 and H.R. 1884 into a single duty suspension 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 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, H.R. 1884 may be withdrawn.

³ 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.

⁴ Contact with William Hensley of Bayer Crop Science (202-756-3781), August 1, 2005.

109TH CONGRESS
1ST SESSION

H. R. 1884

To suspend temporarily the duty on Beta-cyfluthrin.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

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

A BILL

To suspend temporarily the duty on Beta-cyfluthrin.

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. BETA-CYFLUTHRIN.**

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:

“	9902.05.78	(RS)- α -cyano-4-fluoro-3- phenoxybenzyl (1RS,3RS;1RS,3SR)-3-(2,2- dichlorovinyl)-2,2- dimethylcyclopropanecarbox- ylate (CAS No. 68359-37- 5) (provided for in sub- heading 2926.90.30)	Free	No change	No change	On or before 12/31/2008	”.
---	------------	--	------	-----------	-----------	----------------------------	----

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.

○