



## MEMORANDUM ON PROPOSED TARIFF LEGISLATION of the 112th Congress

Date approved

### I. Background

Bill number:

Sponsor name:

Sponsor state:

Interested entity:

Name

City

State

Other bills on product (112th Congress only):

Nature of bill:

Expiration date:

Current or previous chapter 99 heading:

Retroactive date:

CAS number (if applicable):

Industry analyst:

Telephone:

Tariff Affairs contact:

Telephone:

Note:

1. Access to an electronic copy of this memorandum is available at [http://www.usitc.gov/tariff\\_affairs/congress\\_reports/](http://www.usitc.gov/tariff_affairs/congress_reports/).
2. In regard to the country(ies) of origin listed in section III, this report focuses on dutiable imports and does not take into account any tariff preference programs or special rates of duty.

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

Chocolate crumb preparations, in bulk form in containers or immediate packings of a content exceeding 2 kg, containing over 5.5 percent by weight of butterfat, not containing more than 32 percent by weight of butterfat or other milk solids and not more than 60 percent by weight of sugar, described in additional U.S. note 2 to chapter 18 and entered pursuant to its provisions (provided for in subheading 1806.20.24).

(If enacted, the tariff relief provided for in this bill would be available to any entity that imports the product that is covered by the bill.)

Description above compared with bill as introduced:

- Same
- Different (see Technical Comments section)

## III. Other product information, including uses/applications and source(s) of imports

The subject product, chocolate crumb preparations, is an intermediate product used in the production of chocolate and confectionery items. It consists of a blend of sugar, milk, and chocolate liquor. Chocolate crumb generally contains by weight about 55 percent sugar, 30 percent whole milk solids (with a butterfat content of about 10 percent), and 15 percent chocolate liquor. The subject chocolate crumb contains more than 5.5 percent by weight of butterfat, while chocolate crumb containing 5.5 percent or less by weight of butterfat is classified in HTS subheading 1806.20.34. Chocolate crumb is produced by combining sugar, condensed milk, and cocoa liquor and vacuum drying the mixture into a powder. The combination of ingredients and processes used to produce chocolate crumb imparts a particular flavor and texture profile to the finished product. Chocolate crumb also provides advantages in terms of extending ingredient shelf life and transportation options. Most U.S. production of chocolate crumb is for internal consumption by large chocolate product manufacturers. However, there is some commerce in chocolate crumb produced by larger chocolate product manufacturers and sold to smaller chocolate product manufacturers that do not produce their own chocolate crumb.

Historically, the principal sources of U.S. imports of the subject chocolate crumb have been Ireland, the United Kingdom, the Netherlands, and Belgium. Quantitative restrictions imposed under the Agricultural Adjustment Act prior to the Uruguay Round of multilateral trade negotiations were converted to the current tariff-rate quota as of 1995, as a result of commitments reflected in Schedule XX--Marrakesh Protocol. Specific allocations of the within-quota quantity, which applies to chocolate preparations of subheadings 1806.20.24, 1806.32.04, and 1806.90.15, are provided to Ireland, the United Kingdom, the Netherlands, Australia, and New Zealand, within the overall trigger quota of 26,167,700 kilograms (see additional U.S. note 2 to chapter 18 of the HTS). A substantial quantity of chocolate crumb is now imported from Canada; originating in-quota imports are eligible to enter free of duty under the North American Free Trade Agreement. Over-quota imports are classified in HTS subheading 1806.20.26 (if they contain less than 21 percent by weight of milk solids) or 1806.20.28 (if they contain 21 percent or more by weight of milk solids) at substantially higher duty rates. Many different products can be classified in the referenced subheading in addition to chocolate crumb, including chocolate callets (discs), chips, chunks, drops, wafers, couverture blocks, coating, and flakes.

#### IV. Estimated effect on customs revenue

Subject product HTS subheading(s)	1806.20.24				
Item	2013	2014	2015	2016	2017
Col.1-general rate of duty (%) or percentage point reduction	5	5	5	5	5
Estimated value of <i>dutiable</i> imports (\$)	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000
Customs revenue loss (\$)	2,250,000	2,250,000	2,250,000	2,250,000	2,250,000

Note: Customs revenue loss is provided for 5 years, although the effective period of the proposed legislation may differ. Regarding the HTS subheading listed in the article description of the bill, the Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only U.S. Customs and Border Protection is authorized to issue a binding ruling on this matter. The Commission believes that Customs should be consulted prior to enactment of the bill.

Dutiable imports were based on (more than one may apply):

- Official statistics of the U.S. Department of Commerce
- Provided by industry sources
- Industry information
- Commission estimates

Duty reduction notes:

- This bill is not a duty reduction
- This bill is a temporary duty reduction. Rates are shown below.

Col.1-general duty rate (%)  Temporary rate (%)  Percentage point reduction (%)

#### V. Technical comments

The suggested article description more closely follows the language in the HTS and reflects the permanent tariff description of the subject product with respect to sugar, milk, and butterfat content and the existence of a tariff-rate quota. The bill specifies that it would apply only to the in-quota subheading, which has a duty rate of 5 percent ad valorem.

The value of dutiable imports of the subject products was estimated based on official import data, conversations with industry sources, and staff analysis.

#### VI. Continuation

Contacts with domestic firms/organizations -- continued:

Commission staff was unable to contact Kraft Foods, Nestle USA, Mars Chocolate North America, ADM Cocoa, Barry Callebaut, and the Blommer Chocolate Company as of the time of submission of this report.

## VII. Contacts with domestic firms/organizations

#	Firm/organization and contact name	Telephone number	Claims same or competing product made in the United States	Submission attached	Opposition noted
1	The Hershey Company (interested entity) Ronald P. Graf	202-434-8278	No	No	No
2	National Confectioners Association Alison Bodor	202-534-1440	No	No	No
3	Kraft Foods, Tami Buckner	202-942-4320	No	No	No
4	Nestle USA Molly Fogarty	202-756-2299	No	No	No
5	Mars Chocolate North America no contact name	703-821-4900	No	No	No
6	ADM Cocoa no contact name	800-558-9958	No	No	No
7	Cargill Cocoa and Chocolate Tom Hodge	717-626-3202	Yes	No	No
8	Barry Callebaut USA Mark Freeman	717-951-5115	No	No	No
9	Blommer Chocolate Company Ann Cromarty	800-825-8181	No	No	No
10	National Milk Producers Federation Shawna Morris	703-294-4342	No	No	No
11	American Sugar Alliance Jack Roney	703-351-5055	No	No	No

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5037

To suspend temporarily the duty on chocolate crumb imported in bulk quantities.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2012

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

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## A BILL

To suspend temporarily the duty on chocolate crumb imported in bulk quantities.

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. CHOCOLATE CRUMB IMPORTED IN BULK QUAN-**  
4 **TITIES.**

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 heading:

“	9902.01.00	Chocolate crumb imported in bulk quantities (provided for in subheading 1806.20.24) .....	Free	No change	No change	On or before 12/31/2015	”.
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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 the enactment of this Act.

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