



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/.
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 confectionery articles filled with caramel or sugar-based paste, containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17 (other than such articles described in additional U.S. note 8 to chapter 17 and entered pursuant to its provisions), imported in bulk quantities but ready for consumption in their condition as imported (provided for in subheading 1806.90.59).

(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 products include various types of filled chocolate imported in bulk quantities. They may be packaged in immediate wrappings so as to be suitable for retail sale, and all such articles would be repacked in smaller lots (whether or not individually wrapped) after importation. As such, these goods are not intermediate products for further processing. Types of products include individually filled chocolate shapes, such as eggs, sticks, balls, rectangles, and so forth. The immediate wrapping could surround a single piece; the piece could then be repacked in retail containers, such as boxes, pouches, or tubes. The products are sold in retail outlets to ultimate consumers as snack and dessert items. It is believed that there is substantial U.S. production of such products; however, the value of such production is not readily available. In addition, imports under HTS subheading 1806.90.59 could include items not covered by this request, including solid chocolate products (not in the form of blocks, bars, or slabs covered by other subheadings of heading 1806), dessert toppings, and chocolate drink bases.

The principal suppliers of U.S. imports of all products in HTS subheading 1806.90.59 traditionally have been Mexico, Canada, Switzerland, and the Netherlands. In recent years, such imports have increased from the United Kingdom and Malaysia. The column 1 rate of duty is compound--37.2 cents per kilogram + 6 percent ad valorem. Staff determined an ad valorem equivalent, of 14.4 percent based on calculated duties and dutiable value in 2011 for the entire subheading. Subheading 1806.90.55 is the in-quota tariff line for goods of a type specified in this bill, and is one of ten subheadings covered by a single trigger quantity or in-quota limit specified in additional U.S. note 8 to chapter 17. That trigger quantity is not allocated and is limited to 64,709 metric tons (excluding products of Mexico).

IV. Estimated effect on customs revenue

Subject product HTS subheading(s)	1806.90.59				
Item	2013	2014	2015	2016	2017
Col.1-general rate of duty (%) or percentage point reduction	14.4	14.4	14.4	14.4	14.4
Estimated value of <i>dutiable</i> imports (\$)	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Customs revenue loss (\$)	720,000	720,000	720,000	720,000	720,000
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 permanent HTS provisions, including the sugar content of covered goods and the existence of a tariff-rate quota. The value of dutiable imports of the subject products was estimated based on official import data, conversations with industry sources, and staff analysis.

The proposed heading specifies only the over-quota subheading, which has a column 1-general duty rate that is considerably higher than the in-quota rate of 3.5 percent ad valorem. This tariff-rate quota ("TRQ") is one of many negotiated commitments made under the Uruguay Round of the WTO, to replace previous quotas and import fees under section 22 of the Agricultural Adjustment Act. This duty suspension effectively would eliminate the quota for the subject articles, because importers would be able to enter all shipments in this over-quota provision starting on the first day of the quota period, following changes enacted in the Customs Modernization Act enacted as part of the North American Free Trade Agreement Implementation Act of 1993 (Public Law 103-182). Because the subheading in question is part of a sugar-containing products TRQ, the American Sugar Alliance opposes this bill (see attachment). The quota typically fills each year.

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	Yes	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	1-800-558-9958	No	No	No
7	Cargill Cocoa & Chocolate Robert Gagne	717-626-3220	No	No	No
8	Barry Callebaut USA Mark Freeman	717-951-5115	No	No	No
9	Blommer Chocolate Company Ann Cromarty	1-800-825-8181	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	Yes	Yes

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June 18, 2012

The American Sugar Alliance opposes H.R. 5038, which would suspend the duty on chocolate confectionary products entering under HTSUS 1806.90.59. In order to avoid undermining or circumventing the U.S. sugar program, tariff rate quotas (TRQ's) have been established for these and certain other products with high sugar content. Suspension of the over-quota duty provided by 1806.90.59 would be inconsistent with the intent of these TRQ's and potentially damaging to the no-cost operation of the U.S. sugar program.

The American Sugar Alliance (ASA) is the national coalition of American sugar beet and sugarcane growers, processors, and refiners.

112TH CONGRESS
2^D SESSION

H. R. 5038

To suspend temporarily the duty on chocolate confectionery products filled with caramel or sugar-based paste imported in bulk quantities but ready for consumption in their condition as imported.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2012

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

A BILL

To suspend temporarily the duty on chocolate confectionery products filled with caramel or sugar-based paste imported in bulk quantities but ready for consumption in their condition as imported.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CHOCOLATE CONFECTIONERY PRODUCTS**
 2 **FILLED WITH CARAMEL OR SUGAR-BASED**
 3 **PASTE IMPORTED IN BULK QUANTITIES BUT**
 4 **READY FOR CONSUMPTION IN THEIR CONDI-**
 5 **TION AS IMPORTED.**

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

“	9902.01.00	Chocolate confectionery products filled with caramel or sugar-based paste imported in bulk quantities but ready for consumption in their condition as imported (provided for in subheading 1806.90.59)	Free	No change	No change	On or before 12/31/2015	”.
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10 (b) **EFFECTIVE DATE.**—The amendment made by
 11 subsection (a) applies to goods entered, or withdrawn from
 12 warehouse for consumption, on or after the 15th day after
 13 the date of the enactment of this Act.

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