Sun Chemical

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Stephen J. Schmidt
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May 30, 2002

VIA E-MAIL & FACSIMILE

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Comments on H.R. 2840 -- Temporary Suspension of Duties on Dichlorobenzidine

Dear Mr. Chairman:

Pursuant to the May 2, 2000 Advisory of the Subcommittee on Trade (Trade Advisory TR-9) requesting written comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills, Sun Chemical Corporation hereby provides comments in support of H.R. 2840. This measure, introduced by Congressman Rob Portman and cosponsored by Congressman Jerry Weller, would temporarily suspend duties on Dichlorobenzidine Dihydrochloride ("DCB") through December 31, 2007.[1]

DCB is a chemical used to produce organic pigments for printing ink. DCB is no longer manufactured in the United States and is unlikely to be produced here in the foreseeable future. Imports of DCB are currently subject to a high, most favored nation duty of 0.5¢/kg. plus 9 percent. Suspension of this duty would remove a significant and unnecessary cost for Sun Chemical and other U.S. pigment producers and would help the international competitiveness of the U.S. pigment and ink industries. Suspension of the duty would also benefit producers and consumers of virtually all color printed materials, including magazines, newspapers, packaging materials, advertising brochures and catalogues, printed aluminum cans and most other printed materials that use yellow as a color. Because all U.S. production of DCB has ceased, suspension

[1] Another bill, H.R. 3031, introduced by Congressman Ron Lewis, would suspend DCB duties through December 31, 2004.

of this duty should have no adverse consequences for domestic firms or workers and should attract no controversy.

Sun Chemical Corporation, headquartered in Fort Lee, New Jersey, is a leading specialty chemical company, and is the world's largest producer of printing inks and performance pigments. In 2001, Sun Chemical had worldwide sales of over $3 billion. In the United States, Sun Chemical employs some 5000 people in 48 states. Sun Chemical Corporation's Colors Group is a leading producer of organic pigments and dispersions for use as colorants in printing inks, plastics, paints, cosmetics, textiles and specialties. The Colors Group operates five pigment manufacturing sites in the United States -- Cincinnati, Ohio; Staten Island, New York; Newark, New Jersey; Chicago, Illinois; and Muskegon, Michigan. These facilities employ over 1000 people and support many additional jobs in their local communities.

DCB (known chemically as 3,3' Dichlorobenzidine Dihydrochloride, CAS #612-83-9) is a chemical in a class of compounds known as aromatic polyamines. DCB is reacted with other materials to form various yellow organic pigments that are used extensively by the printing ink industry. Because yellow is one of the three primary colors used in printing, these yellow pigments are employed in virtually all color printing applications. DCB is also used to produce certain red and orange pigments. There are no cost-effective substitutes for DCB in these important applications.

DCB is no longer produced in the United States. The last remaining U.S. DCB production facility -- Sun Chemical's Lomac LLC facility in Egelston Township, Michigan -- has been shut down since January 2001 and was permanently closed in April 2001. The Lomac facility was permanently closed after thorough review concluded that it was outdated and not competitive in the global market. (A New Haven, Connecticut DCB plant operated by Upjohn was closed in the late 1980s.) DCB has been shown to be a carcinogen in tests with laboratory animals. Because of these properties and attendant safety and environmental challenges posed by the product, it is unlikely that any domestic firm will restart DCB production in the foreseeable future.

With the closure of all U.S. DCB production, domestic firms that use DCB must now import all their DCB requirements from producers in Germany, Japan, South Korea, India and China.

Sun Chemical and at least Seven other producers nationwide use DCB as a key chemical input in the production of the primary yellow pigments (and some red and orange pigments) used to produce a wide range of color printing inks. For these pigments, the cost of DCB represents approximately one-half of the total raw material cost and approximately one-fourth to one-third of the total production cost. In turn, these pigments are the single largest raw material cost for the printing inks from which they are made. Thus, the cost of DCB plays a critical role in the competitiveness of both domestic pigment and printing ink producers, who are already under considerable price pressure from third world competitors subject to substantially lower capital, environmental and labor costs.

The high current duties for DCB add unnecessary additional costs on U.S. pigment producers and hamper their ability to compete with foreign pigment production. DCB is classified under heading 2921.59.8010 of the Harmonized Tariff Schedule of the United States and is subject to a high, most favored nation duty of 0.5¢/kg. plus 9 percent. (For 2004 and thereafter, this duty is to be reduced to 6.5 percent.) Although DCB imports are eligible for duty free or reduced duty treatment under NAFTA, GSP and other special tariff arrangements, the countries covered by such arrangements are not producers of DCB.

The current 0.5¢/kg. plus 9 percent duty on DCB also imposes unnecessary costs on other industries and on the consuming public. These high duties substantially increase the cost of yellow pigments for Sun Chemical and other U.S. printing ink producers, who are facing increasingly aggressive competition from low-cost foreign producers. This, in turn, also results in higher production costs and consumer prices for newspapers, magazines, product packaging, printed aluminum cans and other printed materials -- important products that touch the lives and pocketbooks of virtually all American consumers on a daily basis.

In January of this year, the U.S. International Trade Commission ("USITC") informed the Subcommittee on Trade that H.R. 2840 would result in estimated revenue losses of $7.2 million in 2002, $6 million in 2003 and $5.2 million annually for 2004 through 2006. As set forth in detail in the attached comments which Sun Chemical has submitted to the USITC, these estimates are seriously overstated. They are more than twice the likely amounts of revenue loss and appear to have been based on official import statistics for 2000 and 2001 which included only partial import volume data. As explained in the Sun Chemical's USITC submission, Sun Chemical anticipates, based on its extensive knowledge of industry and market trends, that DCB import volumes in coming years will remain at 2001 levels. (Indeed, as shown in the USITC submission, DCB import values for the first quarter of 2002 track 2001 levels and are less than half the values predicted by the USITC estimate.) For all these reasons, likely revenue losses from H.R. 2840 should be approximately $3.5 million in 2002, $2.88 million in 2003 and $2.3 million annually for 2004-2006.

Based on the foregoing, Sun Chemical respectfully requests that the Subcommittee on Trade include H.R. 2840 in its miscellaneous trade package. The bill does not operate retroactively and poses no problems in administration. The bill should attract no controversy. Because all U.S. production of DCB has ceased, the bill should have no adverse consequences for domestic firms or workers. Additionally, there is no DCB production in countries eligible for duty-free or reduced duty treatment. Finally, because the bill would eliminate an unnecessary cost for a wide range of domestic manufacturers and for products used by most American consumers every day, the revenue loss caused by the bill is reasonable and appropriate.

If I can provide additional information, please contact me or contact Edward Gerwin of Winston & Strawn, our Washington counsel for this matter. Thank you in advance for your consideration of this important issue for Sun Chemical and its employees and for producers and consumers around the nation.

Sincerely,

Stephen J. Schmidt
Vice President of Purchasing

cc: The Honorable Rob Portman
The Honorable Jerry Weller
Edward F. Gerwin, Jr.
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Attachments as indicated

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May 28, 2002

VIA FAX, U.S. MAIL AND ELECTRONIC MAIL

Mr. David Beck
Nomenclature Analyst
Office of Tariff Affairs and Trade Agreements
United States International Trade Commission
Room 404-M
500 E Street, S.W.
Washington, D.C. 20436

Re: Request for Information Concerning Draft Miscellaneous Tariff Legislation -- Comments of Sun Chemical Company on H.R. 2840

Dear Mr. Beck:

This submission is made on behalf of Sun Chemical Corporation ("Sun Chemical") in response to the May 21, 2002 *Federal Register* notice of the United States International Trade Commission (the "Commission") requesting information on draft miscellaneous tariff legislation.[1] Sun Chemical hereby provides comments and information with respect to H.R. 2840, a bill introduced by Rep. Rob Portman (R-OH) to suspend the general rate of duty on 3,3' Dicholorbenzidine Dihydrochloride ("DCB") through December 31, 2007.[2] On January 9, 2002, the Commission provided its analysis of H.R. 2840 to the House Committee on Ways and Means. (the "Bill Analysis").[3] For the reasons set forth below, the revenue loss estimates set forth in the Bill Analysis are more than twice the amounts of revenue loss that are

[1] 67 Fed. Reg. 35833 (May 21, 2002).

[2] Identical legislation (S. 2133) has been introduced in the Senate by Senators Mike DeWine (R-OH) and George Voinovich (R-OH). Another bill, H.R. 3130, introduced by Rep. Ron Lewis (R-KY), would suspend DCB duties through December 31, 2004.

[3] United States International Trade Commission, Memorandum to the Committee on Ways and Means of the United States House of Representatives on Proposed Tariff Legislation, Bill No. H.R. 2840; 107th Congress (Jan. 9, 2002).

likely to result from enactment of this bill. Sun Chemical respectfully requests that the Commission revise its Bill Analysis to reflect the information set forth herein.

Background

Sun Chemical Corporation, headquartered in Fort Lee, New Jersey, is a leading specialty chemical company, and is the world's largest producer of printing inks and performance pigments. In 2001, Sun Chemical had worldwide sales of over $3 billion. Sun Chemical Corporation's Colors Group is a leading producer of organic pigments and dispersions for use as colorants in printing inks, plastics, paints, cosmetics, textiles and specialties. The Colors Group operates five pigment manufacturing sites in the United States. The Colors Group uses substantial amounts of DCB for use in its pigment manufacturing operations and is a substantial importer of the chemical. As a result, Sun Chemical closely follows import, consumption and price trends for this important chemical input.

DCB (known chemically as 3,3' Dichlorobenzidine Dihydrochloride, CAS #612-83-9) is a chemical in a class of compounds known as aromatic polyamines. DCB is reacted with other materials to form various yellow organic pigments that are used primarily by the printing ink industry. Because yellow is one of the three primary colors used in printing, these yellow pigments are employed in virtually all color printing applications. DCB is also used to produce certain red and orange pigments. For these pigments, the cost of DCB represents approximately one-half of the total raw material cost and approximately one-fourth to one-third of the total production cost. There are no cost-effective substitutes for DCB in these important applications.

DCB is no longer produced in the United States. The last remaining U.S. DCB production facility -- Sun Chemical's Lomac LLC facility in Egelston Township, Michigan -- has been shut down since January 2001 and was permanently closed in April 2001. The Lomac facility was permanently closed after thorough review concluded that it was outdated and not competitive in the global market. (A New Haven, Connecticut DCB plant operated by Upjohn was closed in the late 1980s.) DCB has been shown to be a carcinogen in tests with laboratory animals. Because of these properties and attendant safety and environmental challenges posed by the product, it is unlikely that any domestic firm will restart DCB production in the foreseeable future.

With the closure of all U.S. DCB production, domestic firms that use DCB must now import all their DCB requirements from producers in Germany, Japan, South Korea, India and China.

Discussion

The Bill Analysis estimated that dutiable imports of DCB would be $80 million annually for the period 2002-2006 and estimated that the revenue losses attributable to H.R. 2840 would be $7.2 million for 2002, $6 million for 2003 and $5.2 million annually for 2004 through

2006.[4] For the reasons set forth below, it is clear that these estimates are seriously overstated and are more than two times the likely import value and revenue loss figures. Based on historical information and market trends, annual import values for the 2002-2006 period should be approximately $35.8 million and the revenue loss attributable to H.R. 2840 should be approximately $3.5 million in 2002, $2.88 million in 2003 and $2.3 million annually for 2004-2006.

As noted, the last U.S. DCB production plant -- Sun Chemical's Lomac plant -- stopped production in January 2001 and had negligible production for that year.[5] As a result, for 2001, virtually all U.S. demand for DCB was met by imports. Because the domestic pigment industry is facing and will continue to face increasingly aggressive import competition from pigment producers in China and India, it is anticipated that domestic pigment production and demand and prices for DCB will, at best, remain flat for the foreseeable future. Accordingly, Sun Chemical estimates, for the 2002-2006 period, annual import values and volumes of DCB will approximate the import values and volumes for 2001 -- $35,799,440 and 6,222,297 kg. (est.).

Attachment #1 shows import and domestic production data for the 1999 to March 2002 period. This chart shows the effect of the January 2001 closure of the Lomac plant on imports of DCB -- the value of imports increased from $20.2 million in 1999 (when the plant was in full operation) to $35.8 million in 2001 (when the plant had negligible production). Similarly, total import volumes increased from 3.4 million kg. in 1999 to 6.3 million kg. in 2001. Thus, imports for 2001 reflect DCB import demand in an environment in which there is no domestic production, a situation which is virtually certain to continue for the foreseeable future.

In reviewing the data set forth in Attachment #1, is important to note that Commerce Department IM-145 import <u>volumes</u> for the years 2000, 2001 and 2002 reflect only a portion of total imports because they exclude import volumes from Japan. Commerce Department IM-145 import <u>values</u> for this period, on the other hand, show all imports, including those from Japan. Thus, if IM-145 import volumes for 2000 and 2001 were employed to estimate future import values or revenue losses, the resulting estimates would be seriously distorted.[6]

Attachment #2 shows the estimated revenue impact of H.R. 2840. As noted, because DCB demand and prices are anticipated to remain flat in coming years and because 2001 imports reflect the shutdown of domestic production, DCB import values and volumes for the

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[4] Bill Analysis at 4. (These estimates are based on rates of duty of 0.5¢/kg. + 9% in 2002, 0.2 ¢/kg.+ 7.7% in 2003 and 6.5% for 2004-2006).

[5] The plant experienced a limited shutdown in 2000 and had operated at near capacity in 1999.

[6] For example, if year 2001 IM-145 value ($35,799,440) and volume (2,617,070 kg.) numbers were employed to determine a per unit import value, they would result in an average value of $13.68/kg. -- an figure approximately twice the actual value in the market. If this value were applied to an estimated total annual domestic demand for DCB of approximately 6 million kg., it would result in an estimated annual import value of $82 million -- a figure more than twice the number for 2001, a year in which there was negligible domestic production. (As noted, the Bill Analysis estimated future import values to be $80 million annually.)

2002-2006 period should approximate 2001 levels. On the basis of this reasonable assumption, the estimated revenue loss attributable to H.R. 2840 would be approximately $3.5 million in 2002, $2.88 million in 2003 and $2.3 million annually for 2004-2006 -- estimates substantially less than the $7.2 to $5.2 million estimates in the Bill Analysis.

Imports of DCB will undoubtedly undergo some reasonable fluctuation over the 2002-2006 period. For example, if Chinese and Indian pigment producers continue their aggressive penetration of the domestic market, these numbers could well decline. However, there is absolutely no reason to anticipate that 2002-2006 import values for DCB would ever remotely approach the estimated import values set forth in the Bill Analysis. In an environment which is expected to be characterized by flat demand and flat prices for DCB, an increase in annual import values from $35.8 million to $80 million would require a 223 percent increase in import volumes (at constant prices) or a 223 percent increase in import prices (at constant volumes). No such trends are at all evident in the marketplace. Indeed, DCB import figures for January-March 2002 (as set forth in Attachment #1) closely track 2001 data and in no way support the estimated 2002 import values set forth in the Bill Analysis.

For all these reasons, the estimated annual import values and revenue losses in the Bill Analysis are seriously overstated. Accordingly, Sun Chemical respectfully requests that the Commission revise its revenue loss estimates for H.R. 2840 to reflect the information set forth herein and that it provide these revised estimates to the Congress. Although Sun Chemical understands that the substantial number of potential tariff bills has required the Commission to suspend its normal process for advising Congress on such bills, it also believes that neither the Commission, the Congress, the domestic pigment industry nor the public generally would be well served by relying on an analysis which substantially overstates the revenue impact of H.R. 2840 and lessens the chance of passing this important legislation.

Sun Chemical would be pleased to provide any further information that you, the Commission or the Congress may require on this important matter. Please contact the undersigned if we can be of any further assistance.

Respectfully submitted,

Edward F. Gerwin, Jr.
Counsel for Sun Chemical Company

cc: Rep. Rob Portman
Rep. Jerry Weller
Sen. Mike DeWine
Sen. George Voinovich
Eric Land, USITC

Attachment #1

Imports and Domestic Production of 3,3' Dichlorobenzidine Dihydrochloride (HTSUS 2921598010) 1999 Through March 2002

Year	1999	2000	2001	2002 (Jan.-March)
Customs Value ($) (IM-145)	20,248,745	25,192,520 */	35,799,440*/	9,319,684*/
Total Import Volume (Kg.) (IM-145 for 1999, estimates for 2000-2002)	3,368,742	4,607,325	6,222,297	1,770,477
Domestic Production (Kg.)	≅4,100,000	≅3,500,000	≅180,000	0
Reported Customs Volume (Kg.) (IM-145)	3,368,742	3,957,139**/	2,617,070**/	816,148**/

*/ All imports, including Japan
**/ Excludes imports from Japan

Attachment #2

H.R. 2840 -- Estimated Dutiable Imports and Revenue Loss

Year	2002	2003	2004	2005	2006
General Rate of Duty, Ad Valorem Equivalent	0.5¢/Kg + 9%	0.2¢/Kg + 7.7%	6.5%	6.5%	6.5%
Estimated Value of Dutiable Imports ($)	35,799,440	35,799,440	35,799,440	35,799,440	35,799,440
Estimated Import Volume (Kg.)	6,222,297	6,222,297	6,222,297	6,222,297	6,222,297
Customs Revenue Loss ($)	3,533,065	2,881,003	2,326,963	2,326,963	2,326,963