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Via Email and Facsimile

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

RE: Nufarm America's, Inc. Comments Supporting H.R. 4484 (2,4-Dichlorophenoxyacetic Acid, Its Salts and Esters (2,4-D))

Dear Mr. Chairman:

Pursuant to Advisory TR-9 dated May 3, 2002, we respectfully submit these comments on behalf of Nufarm America's, Inc. in support of H.R. 4484 which concerns the suspension of duty on 2,4-Dichlorophenoxyacetic Acid, Its Salts and Esters (herein referred to collectively as "2,4-D").

Nufarm America's, Inc. is an importer of 2,4-D acid and a US producer of 2,4-D amine salts and esters. It is located in Burr Ridge, Illinois, with offices in St. Joseph, Missouri and Houston, Texas, and plant operations in Chicago Heights, Illinois.

PRODUCT DESCRIPTION

As some of the first herbicides to be registered in the United States, 2,4-D acid, its salts and esters have been widely used in the control of broadleaf and woody plants on rangelands, lawns, golf courses, forests, roadways, parks, and agricultural land, as well as in aquatic environments for the control of nuisance aquatic weeds.

2,4-D is advantageous because it offers broad spectrum weed control, low toxicity, low environmental persistence, little evidence of weed resistance following decades of use, and relative cost advantages over other chemical and non-chemical methods of weed control. In its

long history, it has been tested according to modern standards and continues to meet regulatory acceptability.

Although there are substitutable products, none of them are more cost effective, and in some cases, substitutes are more toxic to the environment, than 2,4-D. 2,4-D is extensively used because of its efficacy, low toxicity, and cost-effectiveness, thus making it a necessary product for the American farmer in today's climate of low commodity prices.

CURRENT DUTY STATUS

Currently, 2,4-D is classified under HTSUS No. 2918.90.20 with a duty rate of 7.9%. The current tariff rate is staged and is reduced annually.

Imports of 2,4-D are duty free under the Generalized System of Preferences (with the exception of India), the Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, the United States-Israel Free Trade Area, and the North American Free Trade Agreement (Canada and Mexico).

EFFECTS OF DUTY SUSPENSION

The majority of imports currently entering the United States are duty free under the Generalized System of Preferences. Consequently, suspension of duty will affect less than half of the imports of 2,4-D into the United States.

Imports of 2,4-D into the United States are limited by law. Importers or manufacturers of 2,4-D that are able to access the US market include only the members of a 2,4-D industry Task Force that have product quality similar to the TF II material. The 2,4-D Task Force was formed under an exemption from the antitrust laws of the US to allow companies requiring the generation of EPA mandated data to collaborate on the generation of that data. The Task Force has gone through a vast amount of change since its inception of 2,4-D Industry Task Force I to its present form as Industry Task Force II. The original Task Force began with thirteen members equally sharing the cost of generating data. As TF I came to conclusion it was obvious that TF II would see fewer participants with larger expenditures. The present total expenditure has eclipsed \$30 million and the present number of seats has shrunk to four seats representing three full memberships and two affiliate memberships. Full memberships include: Nufarm Ltd., Dow AgroSciences Agro., BASF, and AgroGore; made up of two affiliate members, PBI Gordon and Atanor, of which 52% is owned by Albaugh.

The suspension of duty on 2,4-D is consistent with the position of producers worldwide (including the U.S.) that duty on agricultural inputs should categorically removed. The Crop Protection Chemicals Coalition, a world body comprised of related national associations, e.g. ACPA, Avcare, etc., actively supports worldwide elimination of duty on crop protection materials, including 2,4-D, through the "Zero For Zero" Initiative for the multilateral elimination

of duty on crop protection materials. The Coalition has achieved the agreement of countries comprising over 85% of world trade. In the United States, the USTR has been presented with the proposal, which has been through the ISAC and approved.

The suspension of duties on this crop protection material will result in savings to US growers and ultimately consumers. According to a report from the National Agricultural Pesticide Impact Assessment Program, "Throughout the past five decades, weed management provided by 2,4-D has contributed to the production of billions of tons of crops throughout the world, which otherwise would not have been available for human consumption.... The herbicide 2,4-D is registered (tolerances have been established) for use on over 65 crops in the United States, and other phenoxy herbicides are registered on over 25 crops. Also, the phenoxy herbicides are registered for numerous non-cropland uses." The report notes that elimination of 2,4-D from the US would result in a loss of \$2.559 Billion annually, from increased weed management cost, decreased crop yields, and "a net societal loss for consumers because of higher retail commodity prices." (The report can be found at <http://ext.agn.uiuc.edu/piap/phenoxy.html>.) Thus, the costs of 2,4-D have a direct impact on growers and consumers that will be reduced with the suspension of duty.

The imported 2,4-D affected by HR 4484 is involved also in significant downstream production activity. Imported acid product is further processed into amines, salts and esters, or blended into branded product and other active ingredients, or formulated into lesser concentrates of amines, salts and esters at numerous general formulators throughout the United States. Approximately ten formulators in the United States with over 20 operation sites, in addition to approximately 2 to 3 local smaller or family owned blenders per state throughout the United States will benefit from lower cost and possibly expanded use of duty free product.

The suspension of duty on 2,4-D will also create expanded export activity for US producers and formulators. As you are aware, the North American agricultural commodity market is a major market for agricultural inputs, including crop protection materials. US producers and formulators of 2,4-D based products would have more competitive access to the significant Canadian and Mexican markets were duty to be suspended.

Presently under NAFTA requirements, when imported product enters the United States duty free under bond for formulating or further processing (i.e. a TIB under HTS 9813.00.05), any subsequent export to a NAFTA country triggers payment of US duty on the base material entered under bond as if it were entered for consumption in the United States. (19 CFR 181.53(A)(2)(i).) That relatively high 7.9% duty must be born in any cost structure of exports to Canada or Mexico, and therefore makes US produced product less price competitive. If US duty were suspended on imported 2,4-D, US producers and formulators could export more competitively a wide variety of blended and formulated products in North America without this cost burden

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In sum, in light of the multilateral elimination of duties on 2,4-D anticipated under the Zero for Zero Initiative, and in light of the fact that the majority of imports are currently GSP duty-free, the lost duty revenue on projected imports is zero. Any duty collected prior to the multilateral elimination of duty 1) would be temporary only, 2) would be tariff protection the 2,4-D manufacturing industries of the world have agreed should be eliminated in any event, and 3) would be unnecessarily detrimental to agricultural industries in difficult economic conditions.

RETROACTIVITY

There is no retroactive effect from this legislation.

CONCLUSION

For the above stated reasons, Nufarm America's, Inc. supports the suspension of duty on 2,4-D in H.R. 4484 for inclusion in the miscellaneous trade package legislation.

Respectfully submitted,

JOEL R. JUNKER, P.C.

A handwritten signature in black ink, appearing to read "Joel R. Junker", written in a cursive style.

Joel R. Junker

JRJ/slh