

March 24, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: S. 1430 (105th Congress), Senator Helms (NC).

Companion bill: H.R. 1852 (105th Congress), Representative Myrick.

Title as introduced: To suspend from January 1, 1998, until December 31, 2002, the duty on SE2SI Spray Granulated (HOE S 4291).

Summary of bill:²

This bill would suspend the most favored nation (MFN) duty on imports of SE2SI Spray Granulated (HOE S 4291) for a period of 5 years retroactive to January 1, 1998, until December 31, 2002.

Effective date: The day of enactment.

Retroactive effect: January 1, 1998.

Statement of purpose:

Background information on this bill was provided by Clariant Corp, Charlotte, NC, the majority owner, and by Hoechst Corp., Washington, DC, a 45 percent equity participant. The bill was sent to the Committee on Finance without sponsor comment as published in the *Congressional Record*.³

According to Clariant Corp., the product is imported from an affiliate in Germany and sold for use as a surfactant to a single formulator of household/chemical products. There is no known U.S. production. The customer has informed Clariant Corp. that it is reluctant to have the identity of this specific compound disclosed as public information because of the competitive edge that the compound imparts to its product line relative to other U.S. producers of similar competing products. This firm applied for, and received a binding ruling and tariff classification from the U.S. Customs

¹ Industry analyst: Raymond Cantrell (205-3362); attorney: Leo Webb (205-2599).

² See appendix A for definitions of tariff and trade agreement terms.

³ *Congressional Record*, S. 1430, Nov. 7, 1997, p.S11964

Service under the designated code name SE2SI Polymer, in granular form from Germany, under HTS Subheading 3907.99.00.50.⁴

Product description and uses:

SE2SI Spray Granulated
(HOE S 4291):

This product is described as a saturated polyester granular material used as an additive in various surface-active preparations. The U.S. Customs Service officially classifies this material as SE2SI Polymer, in granular form from Germany, under HTS 3907.99.00.50, which provides for polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, and, other polyesters. Clariant Corp. imports and sells the product to an undisclosed firm,⁵ which uses the material as a proprietary surfactant ingredient in formulating household/chemical products.

Tariff treatment:⁶

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u> ⁷
SE2SI Spray Granulated (HOE S 4291).....	3907.99.00	1.9¢/kg + 8.0%

Structure of domestic industry (including competing products):

SE2SI Spray Granulated
(HOE S 4291):

The saturated polyester granular material in question has been held as proprietary by the importer, and its identity protected by the U.S. Customs Service under a binding ruling prescribed under a proprietary code name. The unidentified domestic consumer reportedly uses the material as a surfactant in household/chemical products. Thus, it is not possible for the Commission to define the structure of the domestic industry or any competing products manufactured in the United States.

⁴ Fax to the Commission from Mr. Joe Aloï, U.S. Customs Service, National Commodity Specialist Division, New York, NY, January 22, 1998. The binding ruling by Customs (C81476) forwarded to the petitioner by Mr. Robert B. Swierupski, Director, National Commodity Specialist Division, on Nov. 17, 1997, is in appendix C.

⁵ The customer does not wish to be identified, or reveal the chemical nomenclature or properties of this polymer. U.S. Customs was not at liberty to release this information to the Commission because of confidentiality factors.

⁶ See appendix B for column 1-special and column 2 duty rates.

⁷ This product is subject to a 10-year staged tariff reduction under the provisions of the Uruguay Round legislation, reaching a floor level of 6.5% in 2004.

Private-sector views:

The Commission contacted Clariant Corp., and Hoechst Corp, and a Clariant consulting firm.⁸ The customer could not be contacted because of Clariant Corp's wish to withhold its identity from disclosure.

U.S. consumption:

SE2SI Spray Granulated
(HOE S 4291):

	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$millions)-----		
U.S. production ¹	0	0	0
U.S. imports ¹	(²)	0.5	9.7
U.S. exports.....	(²)	(²)	(²)
Apparent U.S. consumption.....	(²)	0.5	9.7

Principal import sources: Germany.

Principal export markets:²

¹Commission estimates based on information provided by Hoechst Corp.

²Data are not available.

Effect on customs revenues:⁹

Future (1999-2002) effect:¹⁰

SE2SI Spray
Granulated

(HOE S 4291): **1999:** [1.0 million kg x 1.6¢/kg] + [\$6.6 million x 7.8%] = **\$0.5 million**

2000: [1.0 million kg x 1.2¢/kg] + [\$6.6 million x 7.5%] = **\$0.5 million**

⁸ Ms. Nadine Meiser/Mr. Dave DelGuercio, Clariant Corp., Charlotte, NC, Feb. 6/10, 1998; Mr. Tony Shaw, Hoechst Corp., Washington, DC, Feb. 2, 1998; Ms. Janet Hunter, International Business-Government Counsellors, Inc. (IBC), Washington, DC, Feb. 11, 1998.

⁹ Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period.

¹⁰ Fax memorandum to the Commission by Mr. David DelGuercio, N. American Key Accts/Marketing Mgr., Clariant Corp., Charlotte, NC.

2001: [1.0 million kg x 0.9¢/kg] + [\$6.6 million x 7.2%] = **\$0.5 million**

2002: [1.0 million kg x 0.6¢/kg] + [\$6.6 million x 7.0%] = **\$0.5 million**

Retroactive (1998) effect: **\$0.6 million.**¹¹

Technical comments:

The article description should be corrected to refer to HTS subheading 3907.99.00.

¹¹ **1998:** [1.1 million kg x 1.9¢/kg] + [\$7.5 million x 8.0%] = **\$0.6 million**

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 8/12/97

APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

APPENDIX C

OTHER ATTACHMENTS

(Appendix not included in the electronic version of this report.)

105TH CONGRESS
1ST SESSION

S. 1430

To suspend from January 1, 1998, until December 31, 2002, the duty on SE2SI Spray Granulated (HOE S 4291).

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To suspend from January 1, 1998, until December 31, 2002, the duty on SE2SI Spray Granulated (HOE S 4291).

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. SUSPENSION OF DUTY ON SE2SI SPRAY**

4 **GRANULATED (HOE S 4291).**

5 Subchapter II of chapter 99 of the Harmonized Tar-
6 iff Schedule of the United States is amended by inserting
7 in numerical sequence the following new subheading:

“	9902.39.80	SE2SI Spray Granulated (HOE S 4291) provided for in subheading 3907.99	Free	No change	No change	On or before 12/31/2002	”.
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1 **SEC. 2. EFFECTIVE DATE.**

2 The amendment made by section 1 applies with re-
3 spect to goods entered, or withdrawn from warehouse for
4 consumption, on or after January 1, 1998.

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