

April 16, 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. 699 (105th Congress), Senator Breaux (LA).

Companion bill: H.R. 1548 (105th Congress), Representative Porter (IL).

Title as introduced: To suspend temporarily the duty on Diiodomethyl-*p*-tolylsulfone.

Summary of bill:²

The bill would suspend through December 31, 2000, the column 1-general rate of duty on Diiodomethyl-*p*-tolylsulfone (DMTS).

Effective date: 15 days after enactment.

Retroactive effect: None.

Statement of purpose:

The sponsor, Senator Breaux, stated in the *Congressional Record*:

Commercially, DMTS is known by the brand name AMICAL 48. It is a fungicide/mildewcide that is used in caulks, adhesives, plastics, textiles, and for other purposes. The preservative is of indisputable benefit to a host of industries engaging in the production, storage, and use of products subject to microbial degradation.... Furthermore, because there is no substitute domestic product currently benefiting from the present rate of duty on DMTS, no adverse impact on the domestic preservatives industry is anticipated. It may also be that such a temporary suspension in the rate of duty will result in savings being passed along to the consumers of AMICAL 48.³

In addition, a representative of Angus Chemical Co. (Angus), the proponent firm, stated generally that AMICAL preservatives are approved by the U.S. Food and Drug Administration (FDA) for direct food contact applications, making it ideal for antifungal preservation of food packaging adhesives and can sealants. Angus stated that there is no competing or substitute product for DMTS

¹Industry analyst: Cynthia Trainor (205-3354); attorney: Leo Webb (205-2599).

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

³Statement of Senator Breaux, *Congressional Record*, May 6, 1997, p. S3999.

commercially suitable for use in applications requiring FDA direct food contact approval. They further state that the low order of toxicity of DMTS makes it well suited for preservation of arts and crafts materials (such as poster paints), frequently used by children. The low toxicity (non-irritating to the skin, non-sensitizing, and non-mutagenic) and its effectiveness make it unique among fungicides and commercially incomparable throughout its broad range of applications. Its use is of indisputable benefit to a host of industries engaged in the production, storage, and use of products subject to microbial degradation, e.g. caulks, adhesives, plastics, textiles, paper coatings, leather tanning, and paper plant storage applications.⁴

Product description and uses:

Diiodomethyl-*p*-tolylsulfone: The subject chemical is a synthetic organic chemical produced through a series of complex chemical reactions. The chemical is the active ingredient in AMICAL 48, an Angus Chemical Co. biocide product primarily used as a fungicide/mildewcide preservative in a wide variety of applications.

Tariff treatment:⁵

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>
Diiodomethyl- <i>p</i> -tolylsulfone	2930.90.10	10.1% ad valorem

Structure of domestic industry (including competing products):

Diiodomethyl-*p*-tolylsulfone: According to Commission records and industry sources, there was U.S. production of the subject chemical during 1994-96. Historically, Angus contracted supply requirements to a producer in Japan. Angus licensed DMTS production in the United States for a brief period. However, Angus later decided to return to foreign sourcing for cost and quality reasons. Angus is considering licensing some domestic production of DMTS in order to maintain a second source of supply.

Competing products: Kathon® LX and Kathon® LX1.5--these products contain the active ingredient 2-methyl-4-isothiazolin-3-one and are Rohm & Haas Co. registered trademark biocide products used as fungicide/mildewcide preservatives for emulsions, adhesives, tackifiers, paints and coatings, caulks, and paper coatings. These products are FDA approved for indirect food contact applications, e.g., packaging closures, adhesives for labels, and processing metal food and beer containers. Rohm & Haas produces and formulates both the active ingredient and final products domestically (Bayport, TX) and imports both active ingredient and final products from

⁴Written submission, Mr. Frederick L. Ikenson, Counsel, Angus Chemical Co., Washington, DC, Jul. 24, 1997, and telephone conversation between Mr. Ikenson and Commission staff, Mar. 2, 1998.

⁵See appendix B for column 1-special and column 2 duty rates.

the United Kingdom, with about half of each (active ingredient and final product) produced domestically and half imported.

Chlorothalonil--this product contains the active ingredient 2,4,5,6-tetrachloroisophthalonitrile and is a mildewcide for paints; produced and formulated by ISK Biochemical Corp. (Mentor, OH).

Private-sector views:

The Commission contacted two companies which produce competing products.⁶ The companies had not submitted any written comments as of the date of preparation of this report.

U.S. consumption:

Diiodomethyl-p-tolylsulfone:	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$1,000)-----		
U.S. production.....	(1)	(1)	(1)
U.S. imports.....	(2)	(2)	(2)
U.S. exports.....	0	0	0
Apparent U.S. consumption.....	(2)	(2)	(2)

¹Separate statistics are not publishable to avoid disclosure of individual company operations.

²Not publicly available. This chemical is classified in a residual, or "basket," HTS subheading.

Principal import sources: Japan.

Principal export markets: None.

Effect on customs revenue:⁷

Future (1998-2000) effect: Actual dutiable imports of this product are not publicly available. However, according to a representative of Angus,⁸ the estimated average revenue loss is expected to be less than \$300,000 per year during the period.

Retroactive effect: Not applicable.

⁶Telephone conversations with Mr. John Miller, Marketing Manager, Biocides, Rohm & Haas Co., Philadelphia, PA, on Mar. 2, 1998, and with Mr. Gary L. Eilrich, Vice President, Technology, ISK Biochemicals Corp., on Mar. 2, 1998.

⁷Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period.

⁸Telephone conversation between Mr. Ikenson, Counsel for Angus, and Commission staff on Mar. 2, 1998.

Technical comments:

The Commission suggests that the word “item” should be replaced by “heading” in line 7, page 1.

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.

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APPENDIX B

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

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

105TH CONGRESS
1ST SESSION

S. 699

To suspend temporarily the duty on Diiodomethyl-*p*-tolylsulfone.

IN THE SENATE OF THE UNITED STATES

MAY 6, 1997

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

A BILL

To suspend temporarily the duty on Diiodomethyl-*p*-tolylsulfone.

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. TEMPORARY DUTY-FREE TREATMENT FOR IM-**
4 **PORTS OF DIIODOMETHYL-*P*-TOLYLSULFONE.**

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 item:

“	9902.32.90	Diiodomethyl- <i>p</i> -tolylsulfone (CAS No. 20018-09-1) (pro- vided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2000	”.
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1 **SEC. 2. EFFECTIVE DATE.**

2 The amendments made by section 1 applies with re-
3 spect to goods entered, or withdrawn from warehouse for
4 consumption, on or after the date that is 15 days after
5 the date of enactment of this Act.

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