

June 22, 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. 1702 (105th Congress), Senator Rockefeller (WV).

Companion bill: H.R. 3501 (105th Congress), Representative Thomas (CA).

Title as introduced: To amend the Harmonized Tariff Schedule of the United States to change the special rate of duty on purified terephthalic acid imported from Mexico.

Summary of bill:²

This bill would remove the special rate of duty accorded under the North American Free Trade Agreement (NAFTA) to eligible imports of terephthalic acid from Mexico. The effect of the bill would be an acceleration of the scheduled staged reductions in the "special" duty rate applicable to goods of Mexico under the terms of general note 12 to the Harmonized Tariff Schedule of the United States (HTS). This product has recently been the subject of acceleration negotiations under NAFTA.

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Senator Rockefeller stated in the *Congressional Record* that "[b]y eliminating the tariff on PTA from Mexico, this legislation will place the U.S. PTA market on a level playing field with adequate supply and market dictated prices."³ A spokesman for Shell Oil Company (Shell Oil) stated that:

The NAFTA tariff on PTA imports maintains a price for PTA in the U. S. that is higher than in the world market, thus limiting U.S. PTA consumers to a single source of supply - Amoco. In addition, because the cost of PTA constitutes two-thirds of the total cost to produce polyester products, the tariff places U.S. PTA consumers, and therefore U.S. polyester manufacturers, at a distinct disadvantage compared with foreign manufacturers of

¹ Industry analyst: Stephen Wanser (205-3363); attorney: Jan Summers (205-2605).

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

³ *Congressional Record*, March 3, 1998, p. S 1257.

similar or like products, who pay the real, and significantly lower, market price for PTA. Furthermore, because PET made with PTA has no tariff this "tariff inversion" jeopardizes all U.S. PET production and therefore consumption as well.⁴

Product description and uses:

Purified terephthalic acid: This synthetic organic chemical is made primarily from para-xylene, which is itself extracted from petroleum refining. Purified terephthalic acid (PTA) is then used to manufacture polymers such as PET and other polyester resins. PET is used to make many plastics products, such as non-breakable plastic bottles, plastic wrap, and film.

Tariff treatment:⁵

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>	<u>Special (for Mexico) rate of duty</u>
Purified terephthalic acid..... + 8.9%	2917.36.00	2.2¢/kg +13.9%	1.8¢/kg

Structure of domestic industry (including competing products):

Purified terephthalic acid: Industry sources stated that, during 1995-97, there were four domestic producers of this product. Three of these companies produce the material for captive use; one producer manufactures PTA for the U.S. and world merchant markets.⁶ There are no other similar products that could compete with PTA to make PET.

Private-sector views:

The Commission contacted four companies that produce and market this product.⁷ Representatives of Amoco Chemical Corporation (Chicago, IL) and Wellman Inc. (Fayette, N.C). submitted written comments on this bill, which are presented in appendix C.

⁴Written statement to the Commission, submitted on April 4, 1998, from Ms. Shirley J. Neff, for Shell Oil.

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

⁶There are no official statistics concerning the production of these synthetic organic products.

⁷ These firms were: Amoco (Washington, DC office), Dupont (Washington, DC office), Wellman, Inc. (Fayette, N.C.) and Eastman Chemical (Washington, DC office).

U.S. consumption:

Purified terephthalic acid:	<u>1995</u>	<u>1996</u>	<u>1997</u>
	-----(\$1,000)-----		
U.S. production.....	(1)	(1)	(1)
U.S. imports ²	2,552	17,175	5,542
U.S. exports ²	306,118	418,498	191,873
Apparent U.S. consumption.....	(1)	(1)	(1)

¹U.S. production, and therefore apparent consumption, are considered by the producing companies to be confidential business information.

²See appendix C for the recent history of U.S. imports and exports of both PTA and PET. Mexico has been the leading supplier of PTA since 1994, when NAFTA was implemented; it has also become the second-ranked supplier of PET (with Canada ranking first).

Principal import sources: Mexico, Thailand, and Taiwan.

Principal export markets: Canada, China, and Taiwan.

Effect on customs revenue:

Future (1998-2000) effect:

<u>Product</u>	Estimated annual <u>revenue loss⁸</u>		
	<u>1998</u>	<u>1999</u>	<u>2000</u>
	-----(\$1,000)-----		
Purified terephthalic acid.....	900	1,000	1,200

Retroactive effect: None.

Technical comments: None.

⁸Estimated annual revenue losses were estimated by Commission staff from U. S. Department of Commerce trade data. Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. The effect of this potential tariff elimination is somewhat complicated by the interrelationship of several products and firms, the effects of the Asian currency crises, and the current substantial excess supplies of all three products (para-xylene, PTA, and PET) in world markets. All of these products are made in continuous refinery-like operations, and there is a high potential that excess quantities of any of them can be quickly produced and thereby disrupt world trade flows.

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
2D SESSION

S. 1702

To amend the Harmonized Tariff Schedule of the United States to change the special rate of duty on purified terephthalic acid imported from Mexico.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1998

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

A BILL

To amend the Harmonized Tariff Schedule of the United States to change the special rate of duty on purified terephthalic acid imported from Mexico.

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. TEREPHTHALIC ACID.**

4 (a) IN GENERAL.—Subheading 2917.36.00 of the
5 Harmonized Tariff Schedule of the United States is
6 amended by striking “1.8¢/kg + 8.9% (MX)” in the spe-
7 cial rates of duty subcolumn and inserting “,MX” in the
8 parenthetical after “J”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section applies to goods entered on or after the date
3 that is 15 days after the date of enactment of this Act.

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