



March 21, 2019

Office of the Secretary  
U.S. International Trade Commission  
500 E Street SW  
Washington, D.C. 20436  
Investigation No. 332-565

**RE: SOCMA Pre-hearing Brief for Hearing on the American Manufacturing Competitiveness Act: Effects of Temporary Duty Suspensions and Reductions on the U.S. Economy**

Dear U.S. International Trade Commission:

Thank you for the opportunity to testify at the upcoming hearing on the American Manufacturing Competitiveness Act: Effects of Temporary Duty Suspensions and Reductions on the U.S. Economy. The purpose of this pre-hearing brief is to (1) emphasize the benefits of temporary duty suspensions and reductions to the specialty chemical industry and (2) facilitate permanent duty suspensions and reductions via a “Duty-Free Chemicals Appendix”.

SOCMA is the only U.S.-based trade association solely dedicated to the specialty and fine chemical industry. SOCMA members play an indispensable role in the global chemical supply chain, providing specialty chemicals to companies in markets ranging from aerospace and electronics to pharmaceuticals and agriculture.

**1. Benefits of Temporary Duty Suspension and Reductions to the Specialty Chemical Industry**

SOCMA supports the American Manufacturing Competitiveness Act (AMCA) and Miscellaneous Tariff Bills (MTB), which allow manufacturers to petition for the removal of tariffs on essential goods not domestically available. U.S. specialty chemical manufacturing is a value-added industry in which domestic manufacturers must import chemicals they then use to manufacture and innovate new chemicals. In fact, chemicals made up roughly 58% of petitions in the last MTB cycle. Quite often, these sources also offer similar finished products into the market and SOCMA members are forced to compete with their intermediate suppliers in the

domestic market as well as export markets, especially NAFTA where neither it nor the USMCA allows for duty drawback. Any level of tariff collected in such an instance places U.S.-based production at a severe disadvantage. Elimination of such duties, therefore, is critical for the specialty chemical industry.

The existing temporary duty suspension process, while helpful, is not predictable and more importantly, caps the maximum level of savings for an individual product at \$500,000/year. The process suggested below seeks to eliminate both of these issues.

**2. Enable permanent duty suspensions and reductions by modifying the name of the “Intermediate Chemicals for Dyes Appendix” to the “Duty-Free Chemicals Appendix”.**

The duty suspension process presents great opportunities for enhanced competitiveness. The key to permanent relief, is targeting products that the U.S. economy needs to prosper, while at the same time not diluting the U.S. Trade Representative’s (USTR) leverage in the international forum.

Since most 6- and 8-digit tariff lines are basket categories, permanent duty suspension cannot be made through the tariff schedules themselves as doing so would adversely affect too many other U.S. interests contained in the tariff lines. Thus, the below language seeks to enable permanent reductions and suspensions for appropriate products through vehicles that already exist.

When the Uruguay Round Trade Agreement was finalized, President Clinton sent a message to Congress dated September 27, 1994 that contained the details of the Agreement. Included in this document were two major new annexes to the U.S. tariff schedules – the Pharmaceutical Appendix and the Dyes Intermediate Appendix. The Pharmaceutical Appendix for example, has been vitally important for the health of the Pharmaceutical industry, which includes an international process to update the appendix every three years.

By modifying name of the “Intermediate Chemicals for Dyes Appendix” to the “Duty-Free Chemicals Appendix” (and allowing for regular updates), the goal of qualifying specific and significant amounts of MTB-eligible products for permanent duty suspensions is in sight. Competitors in the European Union, for example, have had a similar program in place for decades and so such upgrades would put U.S. producers on a level playing field.

**- - Please see draft language for Proposed Duty-Free Chemicals Appendix below - -**

**Draft Legislative Language for Proposed Duty-Free Chemicals Appendix**

**Section 1. Short Title.**

This Act may be cited as \_\_\_\_\_.

**Sec. 2. Findings.**

Congress makes the following findings:

The Intermediate Chemicals for Dyes Appendix to the Harmonized Tariff Schedule was added to the Tariff of the United States in 1994.

The purpose of such appendix was to improve the competitiveness of producers of such in the United States.

It was recognized in 1994 that such producers were endangered by foreign competition.

It is now recognized that such appendix needs to be updated to reflect current circumstances. Now it is proposed to expand this appendix to include all chemicals.

**Sec. 3. Update to Chemicals Appendix.**

Notwithstanding any other provision of law, within 30 days of the date of enactment of this Act, the United States Commission on International Trade shall add an “L” to the Special Rate of Duty Column for each line item in the Harmonized Tariff Schedule in Chapters 28 through 39.

**Sec. 4. Procedure for Future Updates of Duty-Free Chemicals Appendix.**

(a) In general.—For the purpose of keeping the Duty-Free Chemicals Appendix current, any domestic consumer of an eligible chemical may petition the United States International Trade Commission to include new eligible chemicals in the appendix. Such a petition may be filed annually in the month of February and shall include an affidavit that such eligible chemical is not available from a domestic producer.

(b) Review by Commission.—The Commission shall use its best efforts to certify within 180 days after receipt of a petition that an eligible chemical or functional equivalent is not available from any domestic producer. If it is certified that no domestic producer of an eligible chemical exists, the Commission shall include such chemical on the list of additions in the report described in paragraph (c).

(c) Congressional Review.—

(1) Commission report to Congress. Before a certification described in paragraph (b) can take effect, the Commission shall submit to each House of the Congress a report containing—

- (i) a list of eligible chemicals to be included in the Duty-Free Chemicals Appendix;
- (ii) a concise general statement regarding the list of eligible chemicals; and
- (iii) any relevant findings regarding the Commission’s certification that an eligible chemical is not domestically produced.

(2) Review by Congress.

(i) The Congress shall have the later of 60 session days in the Senate or 60 legislative days in the House to review a report of the Commission. During such period Congress may enact a joint resolution of disapproval of the inclusion of any eligible chemical in the Duty-Free Chemicals Appendix. If such joint resolution is vetoed by the President, the Congress shall have an additional 30 session or legislative days within which to attempt to override any such veto.

(ii) If the Congress does not enact a resolution of disapproval during the applicable period, the eligible chemical or chemicals shall be added to the Duty-Free Chemicals Appendix at the next regularly planned update to the Harmonized Tariff Schedule.

(d) Petition for removal.—Any domestic producer of an eligible chemical listed in the Duty-Free Chemicals Appendix shall have the right to petition the Commission to have such chemical removed from the appendix. Any such petition may be presented at any time during the year and shall be based on evidence of domestic production of a like or equivalent chemical and be supported by an affidavit. The Commission shall have 180 days to investigate any such petition. If during that period the Commission determines that a domestic producer exists, the Commission shall remove such eligible chemical from the appendix at the next regularly planned update of the Harmonized Tariff Schedule.

## **Sec. 5. Definitions.**

For purposes of this act—

(1) the term “eligible chemical” means a product listed in Chapters 28 through 39 of the Harmonized Tariff Schedule that is to be chemically modified or processed by any means in the United States.

(2) the term “domestic producer” means any company chemically reacting or processing materials in the United States by any means classified Chapters 28 through 39.

Thank you for your consideration, and thank you for your underlying analysis of the MTB process throughout past decades.

In addition to testimony on Monday, April 8, 2019, further information will be provided in a post-hearing submission.

Kind Regards,

/S/ Matthew Moedritzer, Esq.  
Manager, Legal and Government Relations  
Society of Chemical Manufacturers & Affiliates (SOCMA)  
1400 Crystal Drive, Suite 630  
Arlington, VA 22202