

September 9, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: H.R. 1893 (105th Congress), Representative Ramstad, (MN)

Companion bill: None.

Title as introduced:

To suspend until January 1, 2000, the duty on Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride.²

Summary of bill:³

This bill would temporarily suspend import duties on specialty-grades of fluoroterpolymer thermoplastics designated THV, polymerized from varying combinations of the three fluoromonomers, Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride, until January 1, 2000..

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose

An abstract of background information on H.R. 1893 was provided by representatives of Dyneon LLC, a 3M-Hoechst Multinational Enterprise, Minneapolis, MN.⁴ The Bill was referred to the

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

² The three materials described in the introduction to the subject bill are monomers (HTS 2900 series), which when polymerized produce a family of unique fluoroterpolymers designated THV (HTS 3904.69.50 series). Thus, the introduction to the bill should be amended to reflect fluoroterpolymers produced from the polymerization of varying combinations of the monomers, Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride (THV).

³ See appendix A for definitions of tariff and trade agreement terms.

⁴ Messrs. Jonathon G. Lande, General Counsel, Dyneon LLC, and Thomas Lloyd, 3M Import Services, Minneapolis, MN. Ms. Janet Hunter, V.P., and Treasurer, International Business Government Counselors (IBC), Washington, DC, also represents Dyneon as a client in the subject legislation.

Committee on Ways and Means without sponsor comment as published in the Congressional Record.⁵

Dyneon is a new joint venture multinational company that was recently established by 3M, St. Paul, MN, and Hoechst AG, Frankfurt, Germany. According to Dyneon officials, the literature and memoranda submitted as an attachment to this report support the firm's position and request that a duty suspension should be granted for subject product imports into the United States.⁶ Dyneon THV fluoroterpolymers represent a technological breakthrough in fluorothermoplastic technology by combining low temperature rheology, chemical resistance, and low solvent permeation with flexural properties approaching elastomeric characteristics. Dyneon THV is a unique fluorothermoplastic-elastomeric family of fluoroterpolymers polymerized from various proprietary compositions of tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride monomers. No other manufacturer on the globe makes a similar product even close to having THV's unique combination of properties. There is no U.S. production of this material. The base resin is produced at the Dyneon plant in Germany. The material is processed into pellets at Dyneon's plant in Decatur, AL, and sold to downstream end users. THV's unique features are unlike any other fluoropolymer on the market today, including low temperature processability, high elasticity, and low permeability to oxygenated and other motor vehicle fuels. These properties have been well received by the three major U.S. automotive companies especially for use in fuel lines, where low permeation flexible hose and tubing are helping car makers comply with EPA pollution reduction regulations on a cost-effective basis. Of the amount imported, more than 90 percent has been sold in the United States, with the remainder shipped in the form of pellets to a U.S. affiliate in Canada. Dyneon's importation and sale of THV in the U.S. has already created new business opportunities for U.S. companies in excess of \$25 million in annual sales due to their development of new products using THV. These customers have also purchased over \$6 million of new processing equipment from U.S. manufacturers to support their new product lines. These types of business opportunities are conditioned on continued availability of THV on a cost-effective basis. Since the introduction of THV imports into the United States in 1994, growth has been phenomenal, rising more than 10-fold, from \$300,000 in 1994 to over \$3 million in 1996.

Product description and uses:

Tetrafluoroethylene,
Hexafluoropropylene, and
Vinylidene fluoride:

The three compounds, tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride, are synthetic organic chemicals. These products are used as monomers in the production of a unique family of fluoroterpolymers produced from the polymerization of various proprietary combinations of the three monomers, tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride. These polymers are reportedly unmatched in flexibility, and possess exceptional optical clarity and processing versatility; all without sacrificing typical fluoroplastic properties like excellent weathering, good chemical resistance, low flammability, low water absorption, hydrolysis resistance, low

⁵ Congressional Record, H.R. 1893, p. H3797, Jun. 12, 1997.

⁶ Dyneon LLC Legal Dept., Mr. Jonathon G. Lande, General Counsel, Oakdale, MN, Jul. 29, 1997.

permeability, and resistance to soiling. These materials are now being used in the automotive, aerospace, wire and cable, and coating industries. THV is more flexible than other melt processable fluoroplastics, representing a distinct advantage in many multilayer constructions and in a number of tubing applications, including the insulation and jacketing of wire. THV is processed at significantly lower temperatures than most other fluoroplastics. As a result, co-processing with conventional hydrocarbon plastics or elastomers is now possible--as is the coating or melt fusing of THV onto temperature-sensitive substrates like polyester fabric, without destroying the substrate. THV is suitable for co-extrusion and co-blow molding, coating and injection molding. The polymer's unique structure combined with other adhesion technology, permits bonding to a variety of plastics and elastomers in multi-layer constructions. Some examples include permeation and chemical barriers in automotive hose and tubing, flexible tank linings, wire and cable jacketing, and chemically resistant coatings. THV passes an unusually broad band of light--from ultraviolet, through visible, into infrared. This property makes THV ideal for many applications, from analytical instrumentation to water purification systems. The material has an amazingly low refractive index; providing important benefits in light transmission and control, for example, as THV film inner liner which retains glass clarity. A special grade of THV is soluble in common solvents like ethyl acetate and acetone, allowing for the casting of thin films or the coating of materials for applications such as outdoor fabric.

Tariff treatment:⁷

<u>Product</u>	<u>Col. 1-general</u>	
	<u>HTS subheading</u>	<u>rate of duty</u>
Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride.....	3904.69.50 ⁸	0.9¢/kg + 7%

Structure of domestic industry (including competing products):

Tetrafluoroethylene,
Hexafluoropropylene,
and Vinylidene fluoride:

According to Commission information obtained from this study, there are currently no domestic producers of the subject product. Furthermore, these products are produced and imported only by the joint venture firm Dyneon, whose fluoroterpolymer products

⁷ See appendix B for column 1-special and column 2 duty rates.

⁸ See footnote 2 for comments on chemical nomenclature; also reference Technical Comments section.

have a composition unique in structure and characteristics to any other fluoropolymer produced domestically or globally. The materials are growing in popularity, especially in the automotive, wire and cable, and textile coatings sectors. The material, being new and unique, will continue to be the subject of research and development by downstream processors of specialty polymer products. Although growth has been exceptional since its introduction in 1994, Dyneon use is still minor compared to other traditional speciality and commodity resins. DuPont, Wilmington, DE, is the global leader in high volume fluoropolymer resins and products. THV, although having significant growth potential, will most probably be confined to relatively small niche markets, compared with high-volume use.⁹

Private-sector views:

The Commission contacted representatives of two polymer companies, two trade associations, and one consulting firm.¹⁰ The two polymer firms responded to the Commission's request for an opinion in writing. These documents are attached.

U.S. consumption:

Fluoroterpolymers of
Tetrafluoroethylene,
Hexafluoropropylene,
and Vinylidene fluoride:

	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$thousands)-----		
U.S. production.....	0	0	0
U.S. imports ¹	300	550	3,300
U.S. exports ¹	30	55	330
Apparent U.S. consumption.....	270	495	2,970

¹Commission estimates based on information provided by the domestic industry.

Principal import sources: Germany.

Principal export markets: Canada.

⁹ DuPont Fluoroproducts, Mr. Charles W. Dietz, Planning Manager, DuPont Fluoroproducts, Wilmington, DE, Jul. 31, 1997. DuPont did not choose to oppose duty suspension as proposed in the subject bill.

¹⁰ Dyneon LLC, Oakdale, MN, Mr. Jonathon G. Lande, General Counsel, Jul. 29, 1997; DuPont Fluoroproducts, Mr. Charles W. Dietz, Planning Manager, DuPont Fluoroproducts, Wilmington, DE, Jul. 31, 1997. Chemical Manufacturers Association (CMA), Arlington, VA, Ms. Mary Beth Kelliher--subject referred to the CMA International Trade Committee; The Society of the Plastics Industry (SPI), Washington, DC, Mr. C.A. Lippincott, Director of Statistics, Jul. 29, 1997; International Business-Government Counsellors, Inc. (IBC), Ms. Janet Hunter, Jul. 28, 1997.

Effect on customs revenues:

Future (1997-1999) effect: From an estimated import base of \$5,000,000 in 1997, the Commission study indicates that Dyneon THV imports will likely rise \$3,000,000, or 60%, to \$8,000,000 by the end of 1999. The effect of the proposed duty suspension will be tempered by staged tariff reductions mandated under the Uruguay Round GATT provisions.¹¹ The annual estimated loss of revenues to the Government, follows:¹²

1997: [322,500 kg x 0.9¢/kg] + [\$5,000,000 x 7.0%] = \$352,900

1998: [419,350 kg x 0.4¢/kg] + [\$6,500,000 x 6.7%] = \$437,200

1999: [516,130 kg x 0.0¢/kg] + [\$8,000,000 x 6.5%] = \$520,000

Retroactive effective: None.

Technical comments:

The Commission suggests that the language of this bill be revised as follows:

Replace the language on page 1., from: [To suspend until January 1, 2000, the duty on Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride]; to read as follows: [To suspend until January 1, 2000, the duty on fluoroterpolymers polymerized from various combinations of three fluoromonomers: tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride].

Replace the language in the table on page 2., from: [Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride (provided for in subheading 3904.69.50) --]; to read as follows: [Fluoroterpolymers resulting from the polymerization of three fluoromonomers: tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride (provided for in subheading 3904.69.50)-----]

Finally, the word “item” should be replaced by “heading” in line 9, page 1.

¹¹ Staged tariff reductions under the Uruguay Round GATT provisions for this material will reach the floor shown in 1999, and remain level thereafter, at 6.5% of the customs value.

¹² Rounded to the nearest \$100.

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

H. R. 1893

To suspend until January 1, 2000, the duty on Tetrafluoroethylene,
Hexafluoropropylene, and Vinylidene fluoride.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1997

Mr. RAMSTAD introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To suspend until January 1, 2000, the duty on Tetrafluoro-
ethylene, Hexafluoropropylene, and Vinylidene fluoride.

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 TETRAFLUORO-**
4 **ETHYLENE, HEXAFLUOROPROPYLENE, AND**
5 **VINYLDENE FLUORIDE.**

6 (a) IN GENERAL.—Subchapter II of chapter 99 of
7 the Harmonized Tariff Schedule of the United States is
8 amended by inserting in numerical sequence the following
9 new item:

“	9902.39.04	Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluo- ride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/1999	”.
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1 (b) APPLICABILITY.—The amendment made by this
2 section applies with respect to goods entered, or with-
3 drawn from warehouse for consumption, on or after the
4 15th day after the date of the enactment of this Act.

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