

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: October 26, 2006]²

Bill No. and sponsor: S. 3361 (Mr. William H. Frist of Tennessee and Mr. Lamar Alexander of Tennessee).

Proponent name, location: INVISTA, Inc., Wilmington, DE.

Other bills on product (109th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2009.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Titanium dioxide (anatase type) (CAS No. 1317-70-0) (provided for in heading 2823.00.00).

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section).

Product information, including uses/applications and source(s) of imports:

Titanium dioxide (TiO₂) is an inorganic chemical that is used in the manufacture of a variety of coatings, plastics, paper, food, pharmaceutical, and cosmetic products. The TiO₂ products provided for in HTS heading 2823.00.00 are marketed in two crystalline forms. The majority of TiO₂ in the market is the rutile form (CAS No. 1317-80-2), which has a tetragonal crystal of prismatic habit. The anatase form (CAS No. 1317-70-0), the subject of the bill, has a tetragonal structure of octahedral habit and is primarily used in the paper industry, although it is also used in plastics and coatings. Finished TiO₂ pigments have the same Chemical Abstracts Service registry number (CAS No. 13463-67-7) regardless of crystalline form and are provided for separately in HTS subheading 3206.11.00, if the pigment consists of 80 percent or more of TiO₂. France, China, Canada, the Czech Republic, and Germany were the top five sources of U.S. imports of TiO₂ under HTS heading 2823.00.00 during 2005. The proponent imports the product from Germany.

¹ Industry analyst preparing report: Larry Johnson (202-205-3351); Tariff Affairs contact: David Michels (202-205-3340).

² Access to an electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

Estimated effect on customs revenue:

HTS heading: 2823.00.00					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty	5.5%	5.5%	5.5%	5.5%	5.5%
Estimated value <i>dutiable</i> imports	\$20,000,000	\$25,000,000	\$30,000,000	\$35,000,000	\$40,000,000
Customs revenue loss	\$1,100,000	\$1,375,000	\$1,650,000	\$1,925,000	\$2,200,000

Source of estimated dutiable import data: Commission estimates based on information supplied by industry and official statistics of the U.S. Department of Commerce.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
INVISTA, Inc (Proponent) Max Turnipseed, 225-338-0310	07/28/2006 08/11/2006	No	No	No
DuPont Elaine M. Olsen, 202-728-3625	0815/2006	Yes	Yes	Yes
Kerr-McGee Corp. Lem Smith, 703-407-9789	08/28/2006	No	No	No
Lousiana Pigment Co. Mike Pratt, 337-882-7000	08/28/2006	No	No	No
Lyondell Chemical Co. Edlu J. Thom, 410-666-9339	08/29/2006	Yes	Yes	Yes
Solutia Inc. John Hurley 202-289-9800	08/11/2006	No	No	No
Tronox (formerly a Division of Kerr-McGee) Mark Van LANDINGHAM, 405-826-2456	08/28/2006	Yes	Yes	Yes

Technical comments:³

The Commission notes that the subject chemical is provided for in “heading” 2823.00.00, rather than “subheading” 2823.00.00.

³ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

OPPOSITION TO S.3361 FROM DUPONT

CONFIDENTIAL INFORMATION DELETED – PUBLIC INFORMATION VERSION

Business proprietary information is replaced by brackets – { }

DuPont Legal
Barley Mill Plaza 25-2262
Wilmington, DE 19805
(302) 992-2263

August 15, 2006

The Honorable Charles E. Grassley, Chairman
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Miscellaneous Trade and Tariff Legislation

Dear Chairman Grassley:

I am writing on behalf of E. I. du Pont de Nemours and Company ("DuPont") in regard to legislation pending before the 109th Congress which, if enacted, would provide for the temporary suspension of duties for certain products. DuPont is opposed to a specific bill, S. 3361, to suspend temporarily the duty on titanium dioxide anatase. Introduced June 5, 2006 by Senator Frist, the bill seeks to amend Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States by inserting a new heading, 9902.28.23, for titanium dioxide anatase provided for in subheading 2823.00.00, as duty free through December 31, 2009.

In January of this year, DuPont filed an objection to a similar bill, S 951, which seeks a suspension on the same product and which is provided for in subheading 3206.11.00. DuPont maintains that neither bill should be advanced as, if enacted, both would have a negative impact on the domestic titanium dioxide industry.

DuPont is a science company committed to creating sustainable solutions essential to a better, safer, healthier life for people everywhere. We offer a wide range of innovative products and services for markets including agriculture and nutrition, electronics, communication; safety and protection; home and construction; transportation and apparel.

As the world's largest producer of titanium dioxide ("TiO₂"), DuPont has been making titanium-based white pigments for paper, coatings, plastics and specialty applications since 1931. Today, the company's United States' manufacturing sites in Starke, Florida; EdgeMoor, Delaware; New Johnsonville, Tennessee; DeLisle, Mississippi and corporate offices in Wilmington, Delaware employ over { } DuPont employees and { } resident contract employees.

In addition to producing TiO₂ to meet the needs of today's consumer, DuPont remains committed to new product development. DuPont has over { } dedicated employees engaged in research and development whom are actively pursuing increased product improvements and end use applications.

At present, there is sufficient capacity within the United States of TiO₂ to meet customers and end-user needs. In addition to DuPont, Liondell (formerly Millenium) and Tronax (formerly Kerr McGee) produce TiO₂ domestically. With the advent of significant investment in and production of TiO₂ in China, increased worldwide capacity will result in increasing price pressure on TiO₂. Accordingly, DuPont believes the duty suspension request outlined in S. 3361, if enacted, could lead to price erosion at the expense of domestic manufacturing operations. Imports from low priced foreign producers could result in price suppression and erode average U.S. selling prices. These lower prices would make it increasingly difficult for domestic producers, like DuPont, to continue to sustain and support future investment and growth opportunities in the United States. Ultimately, decreased domestic employment could result, jeopardizing not only DuPont and resident contract employees, but the economic viability of the communities in which we operate.

While Invista, the Bill's proponent, has indicated through its consultant it would seek to alleviate DuPont's concerns by seeking a new CAS number for anatase, said process is yet to commence and DuPont is unwilling to jeopardize the health of its domestic operations at this critical juncture in the duty suspension vetting process. We remain willing to provide any additional information you may need in support of our opposition to S. 3361 and our earlier objection to S. 951, and are most appreciative for the opportunity to express our views.

Very truly yours,
Elaine M. Olsen
Elaine.M.Olsen@USA.dupont.com

**OPPOSITION TO S.951 AND S.3361 FROM LYONDELL CHEMICAL CO.
PARENT FIRM OF MILLENNIUM CHEMICAL CORP.**

From: Thom, Edlu J. [[Edu.Thom@Lyondell.com](mailto:Edlu.Thom@Lyondell.com)]
Sent: Tuesday, June 13, 2006 6:30 PM
To: Johnson, Lawrence

Subject: Opposition to S-951

Mr. Larry Johnson
International Trade Analyst
500 E Street SW, Room 513-H
Washington, D. C. 20436

Dear Mr. Johnson:

Thank you for contacting us regarding Lyondell Chemical Company's position on S. 951, a bill introduced by Senator Bond in the first half of the 109th Congress to suspend temporarily the duty on titanium dioxide anatase hombitan LC-S.

We, at Lyondell, favor free and open trade with either the elimination of titanium dioxide tariffs to and from the United States or at least equivalent tariffs for all titanium dioxide products between countries. Since S.951 proposes to only temporarily authorize the tariff free importation of anatase TiO₂ products into the United States with no reciprocal tariff structure for titanium dioxide products exported from the United States, we oppose the passage of this bill.

Ms. Edlu J. Thom
Director, Government Affairs
202-639-0750

From: Thom, Edlu J. [[Edu.Thom@Lyondell.com](mailto:Edlu.Thom@Lyondell.com)]
Sent: Tuesday, August 29, 2006 10:09 AM
To: Johnson, Lawrence

Subject: Opposition to S-3361 (Anatase Titanium Dioxide)

Mr. Larry Johnson
International Trade Analyst
500 E Street SW, Room 513-H
Washington, D. C. 20436

Mr. Johnson:

Lyondell's position remains unchanged. We do not support the tariff reduction/elimination on anatase under this code unless a reciprocal tariff elimination is allowed for rutile products exported from the US . Please call if you have any questions.

Ms. Edlu J. Thom
Director, Government Affairs
202-639-0750

OPPOSITION TO S.3361 FROM TRONOX

From: VanLandingham, Mark [Mark.VanLandingham@tronox.com]
Sent: Monday, August 28, 2006 12:23 PM
To: Johnson, Lawrence

Subject: Senate Bill 3361

Mr. Johnson,

Thank you for contacting us regarding the position of Tronox on SB 3361, a bill to suspend temporarily the duty on titanium dioxide anatase.

This is to notify you that Tronox objects to the temporary suspension of duties for certain products as proposed by SB 3361. Our objection is based on the same factors identified in our letter objecting to SB 951. Please permit this note to allow Tronox to incorporate by reference the same objections to SB 3361. Please let me know if you have any questions.

Sincerely,

Mark D. VanLandingham
Director, Government Relations
Tronox, LLC
P.O. Box 268859
Oklahoma City, OK 73126-8859
405-775-5128 (office)
405-826-2456 (cell)
405-775-5153 (fax)
mark.vanlandingham@tronox.com

109TH CONGRESS
2D SESSION

S. 3361

To suspend temporarily the duty on titanium dioxide anatase.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2006

Mr. FRIST (for himself and Mr. ALEXANDER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To suspend temporarily the duty on titanium dioxide anatase.

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. TITANIUM DIOXIDE ANATASE.**

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

“	9902.28.23	Titanium dioxide (anatase type) (CAS No. 1317-70-0) (provided for in sub- heading 2823.00.00)	Free	No change	No change	On or before 12/31/2009	”.
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8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply with respect to goods entered, or

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- 1 withdrawn from warehouse for consumption, on or after
- 2 the 15th day after the date of enactment of this Act.

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