



August 14, 2006

United States Senate
Senate Finance Committee
219 Dirksen Senate Office Building
Washington DC 20510

REFERENCE: Statement on S. 2190 11-Aminoundecanoic Acid (Monomer 11)
Miscellaneous Tariff Suspension & Technical Corrections Act of 2006

Senate Finance Committee:

Thank you for this opportunity to comment on the S.2190 offered on our behalf by Sen. Rick Santorum. S.2190 seeks to extend the current full suspension for *11-aminoundecanoic acid* (known commercially as monomer 11) that has been in place during the last three (3) tariff suspension omnibus packages passed by Congress.

As has been the case in all prior temporary suspensions issued for *11-aminoundecanoic acid* (monomer 11), the annual cost to the US Treasury has exceeded the \$500,000 *de minimis* level set by the Committee. However, because of precedent and the unusual competitive circumstances (created by Congress) surrounding the importation of *11-aminoundecanoic acid*, Congress has consistently granted a full temporary suspension in the past three tariff suspension omnibus measures.

Arkema is requesting that the Senate Finance Committee extend the full temporary suspension to *11-aminoundecanoic acid* (as specified under S.2190) understanding of the legislative history involving the granting of a full permanent suspension to a competitive material not produced in the U.S. and imported from producers in Germany and Japan.

Legislative History

During the 102nd Congress, language suspending the 7.9% import duty on Monomer 12 (12 -aminododecanoic acid) was included in HR 4318, the Miscellaneous Tariff Act of 1992. HR 4318 was not passed, however. During the 103rd Congress,

House Ways & Means Chairman Dan Rostenkowski requested that the Clinton Administration include certain duty suspensions, contained in the Miscellaneous Tariff Act, in a Presidential Proclamation that was being prepared to implement the GATT Uruguay Round multilateral trade agreement.

The Clinton Administration acceded to Chairman Rostenkowski's request. Congress then passed legislation authorizing the issuance of the Presidential Proclamation, giving it the force of law. The President signed the legislation on December 8, 1994 (Public Law 103-465) and the Presidential Proclamation was issued shortly thereafter. It included a permanent suspension of the 7.9% duty on Monomer 12. Arkema Inc. is seeking to level the competitive playing field with respect to foreign competition's import of Monomer 12. Neither Monomer 11 nor Monomer 12 is produced in the U.S. Both are imported into the U.S. as intermediates in the production of Nylon 11 and Nylon 12.

Precedent for Granting Full Duty Suspension

A precedent exists for including provisions that exceed \$500,000 in a cost of the Miscellaneous Trade & Technical Corrections Act of 1999 [P.L. 106-36] was approximately \$2 million. Section 1003 amends the Harmonized Tariff Schedule to allow entries of television receivers, monitors, and picture tubes, and combination TV-VCRs with a diagonal measurement of up to 13.5 inches to be classified as 13 inches for purposes of tariff treatment.

Product Profile

11-Aminoundecanoic Acid (Monomer 11)
Harmonized Tariff Schedule No. 2922.49.4050
CAS # 2432-99-7

Arkema Inc. (formally Atofina Chemicals, Inc) imports Monomer 11 (11-aminoundecanoic acid) from Arkema Inc. (France). Currently, Monomer 11 is imported into the U.S. under temporary duty suspension granted under the Miscellaneous Technical Corrections & Duty Suspension Act of 2004. The suspension was granted Monomer 11 due to a market disadvantage resulting from the granting of permanent duty relief by Congress to a competitive chemical intermediate – Monomer 12 (12 -aminododecanoic acid).

Competitive Profile

Monomer 11 (*11-Aminoundecanoic Acid*) and Monomer 12 (*12 -aminododecanoic acid*) are used as precursors in the production of polymers Nylon 11 and Nylon 12 respectively. Nylon 11 and Nylon 12 are sold to fabricators of molded and extruded parts. Nylon 11 and Nylon 12 compete against one another on price as a raw material for certain products such as air brakes, fuel lines, roto molding, offshore oil and gas pipes, auto parts, injection molding, hoses and tubing.

There is no domestic production of Monomer 11 or Monomer 12. Both Monomer 11 and Monomer 12 are imported into the U.S. Arkema is the only producer globally of Monomer 11. There are no foreign or domestic (U.S.) producers of Monomer 11. However, there are three overseas producers and/or users of the competitive Monomer 12 intermediate product used to produce Nylon 12 resin that competes with Arkema's finished Nylon 11 resin in several key markets.

As noted, Monomer 12 is a duty free import under the Harmonized Tariff Schedule (HTS) 2933.79.40. Monomer 11 has been subject to a 4.2% duty under HTS 2922.49.50. This results in an unfair competitive disadvantage for Nylon 11 vis-à-vis importers of both Monomer 12 and Nylon 12. A summary of each follows:

EMS Chemie AG (Switzerland), by arrangement with Ube (Japan), imports Monomer 12 duty-free to its' EMS-American Grilon facility in Sumter, SC for processing into Nylon 12. EMS's estimated annual volume of imported Monomer 12 is 2 to 3 mm/lbs along with 1 to 2 mm/lbs of Nylon 12 resin. EMS is an importer of Monomer 12; not a producer. EMS's source for Monomer 12 is the Japanese producer Ube.

Ube (Japan) imports Monomer 12 duty-free into the U.S. to supply EMS American Grilon. Like EMS, Ube also imports 1 to 2 mm/lbs of finished Nylon 12 resin

Creanova (Germany) imports finished Nylon 12 into the U.S. duty-free. Estimated annual import volume is approximately 6 mm/lbs.

S. 2190 Language - Extension of Existing Temporary Duty Suspensions

Current duty suspension language in 9902.32.49 be extended as follows:

- (a) IN GENERAL – Heading 9902.32.49 of the Harmonized Tariff Schedule of the United States is amended by striking '12/31/2006' and inserting '12/31/09'.
- (b) EFFECTIVE DATE – The amendment made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

Profile: Arkema Inc. (North America)

Headquartered in Philadelphia, PA, Arkema Inc. (formally Atofina Chemicals, Inc.) is composed of three balanced business segments: vinyl products, industrial chemicals, and performance products. With its internationally recognized brands, Arkema holds leadership positions in its principal markets. Along with its Philadelphia headquarters for North America and its R & D Technological Center in King of Prussia, PA, Arkema operates 13 production facilities in 9 U.S. states. Arkema Inc. employs some 2,600 people and reported sales of \$1.6 billion in 2004.

Globally, Arkema has tremendous potential and counts on the experience and expertise of its 19,300 employees worldwide to create a company of innovation, growth and performance. At

present, the company operates 90 industrial sites in more than 40 countries together with and six research and development centers and reports sales of \$6 billion (€5 billion) worldwide.

Arkema Inc.

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Thank you for this opportunity to comment on S. 2190 – granting full temporary tariff suspension for 11-aminoundecanoic acid. Please advise should the Committee require additional information.

Regards,

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