



MEMORANDUM ON PROPOSED TARIFF LEGISLATION of the 112th Congress

Date approved

I. Background

Bill number:

Sponsor name:

Sponsor state:

Interested entity:

Name

City

State

Other bills on product (112th Congress only):

Nature of bill:

Expiration date:

Current or previous chapter 99 heading:

Retroactive date:

CAS number (if applicable):

Industry analyst:

Telephone:

Tariff Affairs contact:

Telephone:

Note:

1. Access to an electronic copy of this memorandum is available at http://www.usitc.gov/tariff_affairs/congress_reports/.
2. In regard to the country(ies) of origin listed in section III, this report focuses on dutiable imports and does not take into account any tariff preference programs or special rates of duty.

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

Lanthanum phosphate phosphor, activated by cerium and terbium, inorganic used in the production of luminophores (CAS Nos. 13778-59-1, 13454-71-2, and 13863-48-4 or 95823-34-0) (provided for in subheading 2846.90.80)

(If enacted, the tariff relief provided for in this bill would be available to any entity that imports the product that is covered by the bill.)

Description above compared with bill as introduced:

- Same
- Different (see Technical Comments section)

III. Other product information, including uses/applications and source(s) of imports

The subject product is a phosphor material for use in fluorescent lighting products. It is imported from China. Chapter 99 heading covers this product. This provision expired on December 31, 2009. Commission staff recommends renewing the provision, modifying the wording and changing the Chapter 99 provision to reflect HTS subheading 2846.90.80 as noted in "Technical Comments." Opposition to this bill is noted below in the Contacts table.

IV. Estimated effect on customs revenue

Subject product HTS subheading(s)	2846.90.80				
Item	2013	2014	2015	2016	2017
Col.1-general rate of duty or percentage point reduction (%)	3.7	3.7	3.7	3.7	3.7
Estimated value of <i>dutiable</i> imports (\$)	7,000,000	7,300,000	7,300,000	7,300,000	7,300,000
Customs revenue loss (\$)	259,000	270,100	270,100	270,100	270,100

Note: Customs revenue loss is provided for 5 years, although the effective period of the proposed legislation may differ. Regarding the HTS subheading listed in the article description of the bill, the Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only U.S. Customs and Border Protection is authorized to issue a binding ruling on this matter. The Commission believes that Customs should be consulted prior to enactment of the bill.

Dutiable imports were based on (more than one may apply):

- Official statistics of the U.S. Department of Commerce
- Provided by industry sources
- Industry information
- Commission estimates

Duty reduction notes:

- This bill is not a duty reduction
- This bill is a temporary duty reduction. Rates are shown below.

Col.1-general duty rate (%) Temporary rate (%) Percentage point reduction (%)

V. Technical comments

The modified article description reflects modified wording in the Chapter 99 provision (9902.22.75) and a correction of the HTS subheading (changed to 2846.90.80), based on a communication to Commission staff from the interested entity citing a review by U.S. Customs and Border Protection in 2011.

VI. Continuation

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VII. Contacts with domestic firms/organizations

	#	Firm/organization and contact name	Telephone number	Claims same or competing product made in the United States	Submission attached	Opposition noted
	1	GE Lighting (Interested entity) Michael Wozniak	216-266-3011	No	No	No
	2	Emerson Electric Robert McDonald	202-662-8790	No	No	No
	3	Global Tungsten and Powders Paul Sedor	570-268-5000	Yes	Yes	Yes
	4	OSRAM SYLVANIA Pamela Horner	978-777-1900	No	No	No
	5	Philips Electronics Randall Moorhead	202-962-8555	No	No	No

June 22, 2012

Commissioner Deanna Tanner Okun
Chairwoman, United States International Trade Commission
500 E Street SW
Washington, DC 20436

Commissioner Irving A. Williamson
Vice Chairman, United States International Trade Commission
500 E Street SW
Washington, DC 20436

RE: Objection to H.R. 5726 – Lanthanum phosphate for use in the production of fluorescent lamps

Dear Commissioners Okun and Williamson:

Global Tungsten & Powders (GTP) is a US domestic producer of multiple specialty chemicals and refractory powders. GTP has been producing phosphors for nearly 60 years including phosphors for X-RAY, CRT, display, lighting, and backlighting applications. One of our many phosphors produced in Towanda, Pennsylvania is lanthanum phosphate, used in the production of lighting phosphors.

We write today to **object to H. R. 5726**, a Miscellaneous Tariff Bill request from Representative Geoff Davis of Kentucky's 4th District that would suspend duties on **lanthanum phosphate for use in the production of fluorescent lamps** for a period of three years.

We do not believe that passage of this bill is in the national interest: removing these duties will threaten American producers of luminescent/fluorescent lighting phosphors, including GTP, by allowing Chinese producers to “dump” material into the US market. This will eliminate competition from US manufacturers, ultimately resulting in a foreign monopoly controlling this phosphor and rare earth material.

GTP is the last active manufacturer at commercial volumes in the US of phosphors for lighting and backlighting applications. GTP has been a world leader in the research and development and manufacture of phosphors for various markets for many decades. In 2011, GTP produced over one million kilograms of phosphors and phosphor chemicals of

which the majority of these products were sold in the US. GTP products, all manufactured by 1000 American workers in Towanda, Pennsylvania, are used in a wide variety of commercial and residential lighting products. During our long history of manufacturing in Pennsylvania, we have invested hundreds of millions of dollars in our chemical operations, reduction furnaces, powder spray drying capabilities, carburizing furnaces, presses, sintering furnaces, and analytical equipment. But due to extreme increased price pressure from foreign rare earth availability policies and below market priced phosphors, GTP is losing market share.

Our process starts with rare earth oxides and involves many steps that include sifting, blending, chemical washing, filtering, drying, mixing, compounding, and others. Various rare earth oxides, compounds, and co-precipitates are used as the precursors for many of the phosphors we produce: Chinese production and export policies have caused costs for non-Chinese manufacturers to skyrocket, granting Chinese companies the ability to significantly undercut competitors. Today, two more US phosphor manufacturers are in the process of closing down their operations because of this anticompetitive practice.

Phosphors are used in the production of fluorescent lamps, plasma TVs, LEDs, and electroluminescent products. In recent years, increasing imports of phosphors and phosphor compounds from China, priced at unsustainably low levels, have created price erosion in the US market. If a duty suspension is granted, continued Chinese dumping threatens to force the few remaining US manufacturers, including GTP, to discontinue their phosphor operations and potentially leave the industry altogether. The continued success of our phosphor operations is of great importance to GTP's future, and maintaining competitive pricing and market share of these materials are key components in this strategy.

Additionally, the relaxation of duties will deprive the federal government of significant revenues, all collected from foreign manufacturers. Many of the compounds/phosphors used as a luminophores are all grouped and imported under the HTS subheading 3206.50.00 making it impossible to break out the individual values from the USITC website. Therefore, GTP will only reference the total duties the US Government collects as it relates to all phosphors imported in 2011 under this heading.

Based on 2011 US import data as reported by USITC, the customs value of imports of inorganic products of a kind used as luminophores were \$39,727,452, of which \$21,597,655 (54%) were imported from Japan and \$13,474,822 was imported from China (35%) the majority of which are lighting phosphors. Calculated duties were \$4,545,938, of which Japanese importers were responsible for \$1,403,854 and Chinese importers were responsible for \$875,867. As you know, suspension of the duty at this level would significantly exceed the annual "PAYGO" type of limitations that are normally suggested by the CBO. In addition, there would be lost tax revenues on sales as imports of these phosphors take more US market share.

The products that are included under this subheading are:

9902.22.63 / Yttrium oxide phosphor, activated by europium of a kind used as a luminophore (CAS No. 68585-82-0) (provided for in subheading 3206.50.00).

9902.22.64 / Compound of barium magnesium aluminate phosphor, activated by europium or manganese, of a kind used as luminophores (CAS Nos. 63774-55-0 and 1308-96-9) (provided for in subheading 3206.50.00).

9902.22.65 / Yttrium vanadate phosphor, of a kind used as a luminophore (CAS No. 6874-82-7) (provided for in subheading 3206.50.00).

9902.22.66 / Compound of strontium chloroapatite-europium, of a kind used as a luminophore (CAS No. 68784-77-0) (provided for in subheading 3206.50.00).

9902.22.67 / Phosphor of zinc silicate, of a kind used as a luminophore (CAS No. 68611-47-2) (provided for in subheading 3206.50.00).

9902.22.68 / Strontium magnesium phosphate-tin doped inorganic products of a kind used as luminophores (CAS Nos. 1314-11-0, 1314-56-3, 1309-48-4, and 18282-10-5) (provided for in subheading 3206.50.00).

9902.22.69 / Yttrium oxide phosphor, activated by europium used as a luminophore (CAS No. 68585-82-0) (provided for in subheading 3206.50.00).

9902.22.70 / Calcium chloride phosphate phosphor activated by manganese and antimony used as a luminophore (CAS No. 75535-31-8) (provided for in subheading 3206.50.00).

9902.22.72 / Calcium chloride phosphate phosphor used as a luminophore (CAS No. 75535-31-8) (provided for in subheading 3206.50.00).

9902.22.73 / Strontium halophosphate doped with europium used as a luminophore (CAS Nos. 109037-74-3 and 1312-81-8) (provided for in subheading 3206.50.00).

9902.22.74 / Small particle calcium chloride phosphate phosphor activated by manganese and antimony used as a luminophore (CAS No. 75535-31-8) (provided for in subheading 3206.50.00).

9902.22.75 / Lanthanum phosphate phosphor, activated by cerium and terbium, inorganic used as luminophores (CAS Nos. 13778-59-1, 13454-71-2, and 13863-48-4 or 95823-34-0) (provided for in subheading 3206.50.00).

During the past 24 months, GTP has invested over \$4 million dollars of capital equipment in a new facility to recycle and recover rare earth metals from phosphor secondary raw materials separated from discarded lamps. This operation will help in offsetting the costs of importing rare earth oxides, allowing GTP to be more cost competitive and proactive leading the way for recycling lamps in the US. GTP has years of experience of running chemical operations and recycling tungsten scrap and is applying that ingenuity and expertise to this operation.

A removal of the duty could shift volume from US producers to more imports from China, threatening the economic rationale for this investment. Clearly, the maintenance of the current US duty rate is important for the continued viability of GTP and might encourage our customers to buy US made phosphors as opposed to foreign produced. Decreasing, suspending, or extending an existing suspension of a US duty will encourage more imports to displace domestic market share, thereby negatively affecting any new investments in the US phosphor and lamp industry, including GTP's Towanda facility.

As you are well aware, Miscellaneous Tariff Bill requests are usually only granted if they are “noncontroversial,” including no domestic production. Because GTP and other US manufacturers are engaged in phosphor production, H.R. 5726 does not meet this requirement, and we urge you to remove lanthanum phosphate from the Miscellaneous Tariff Bill package.

In order to inform all parties of our objection, we will also send copies of this letter to the Department of Commerce. Please do not hesitate to contact Paul Sedor of GTP in our Towanda, PA offices at (570) 268-5105 or Jeff Green of Green & Company, at their Washington, DC offices at (202) 546-0388 if you have any questions.

Sincerely,



Stacy Garrity
Director Sales and Marketing
Global Tungsten & Powders
(570) 268-5175

Attachment: GTP brochure

Cc:

Mr. Michael A. Levitt
Assistant General Counsel for Legislation & Regulation
United States Department of Commerce

Mr. Dan Shepherdson
Attorney Advisor
United States International Trade Commission

Mr. Joshua M. Levy
Congressional Relations Officer
United States International Trade Commission

Mr. Jack Greenblatt
International Trade Analyst
United States International Trade Commission

Mr. Larry Johnson
International Trade Analyst
United States International Trade Commission

112TH CONGRESS
2D SESSION

H. R. 5726

To suspend temporarily the duty on Lanthanum phosphate for use in the production of fluorescent lamps.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2012

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

A BILL

To suspend temporarily the duty on Lanthanum phosphate for use in the production of fluorescent lamps.

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. LANTHANUM PHOSPHATE.**

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:

“	9902.01.00	Lanthanum phosphate phosphor, activated by cerium and terbium, inorganic used as luminophores (CAS Nos. 13778-59-1, 13454-71-2, and 13863-48-4 or 95823-34-0) (provided for in sub-heading 2846.90.80)	Free	No change	No change	On or before 12/31/2015	”.
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1 (b) **EFFECTIVE DATE.**—The amendment made by
2 subsection (a) applies to goods entered, or withdrawn from
3 warehouse for consumption, on or after the 15th day after
4 the date of the enactment of this Act.

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