

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

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

[Date approved: November 8, 2005]²

Bill No. and sponsor: H.R. 2380 (Mr. Edward J. Markey of Massachusetts)

Proponent name, location: Oscient Pharmaceuticals, Waltham, MA.

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

Nature of bill: Temporary duty suspension through December 31, 2008.

Retroactive effect: Retroactive to January 1, 2005.

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

Gemifloxacin (CAS No. 175463-14-6); gemifloxacin mesylate (CAS No. 210353-53-0 or 204519-65-3); and gemifloxacin sesquihydrate (CAS No. 210353-56-3) (the foregoing provided for in subheading 2933.99.46)

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:

The products, gemifloxacin and its derivatives, are synthetic organic compounds used as antibiotics in the treatment of pneumonia and acute bronchitis. These products are imported from Korea.

¹ Industry analyst preparing report: Ed Cappuccilli (202-205-3368); Tariff Affairs contact: David Michels (202-205-3440).

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 subheading: <u>2933.99.46</u> | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|
|  | 2005 | 2006 | 2007 | 2008 | 2009 |
| Col. 1-General rate of duty | 6.5% | 6.5% | 6.5% | 6.5% | 6.5% |
| Estimated value <i>dutiable</i> imports | \$4,600,000 | \$4,600,000 | \$4,600,000 | \$4,600,000 | \$4,600,000 |
| Customs revenue loss | \$299,000 | \$299,000 | \$299,000 | \$299,000 | \$299,000 |

Source of estimated dutiable import data: Industry and Commission estimates.

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

| Name of firm/organization | Date contacted | US production of same or competitive product claimed? | Submission attached? | Opposition noted? |
|--|----------------|---|----------------------|-------------------|
| | | (Yes/No) | | |
| Oscient Pharmaceuticals (Proponent) David Leiter 202-434-7346 | 9/19/2005 | No | No | No |
| Abbott Laboratories Claude Burcky Fax: 202-783-6631 | 9/21/2005 | No | No | No |
| Bayer Julie van Egmund Fax 202-737-8909 | 9/21/2005 | No | No | No |
| Bristol Myers Squibb Co. David Warr Fax 202-783-2308 | 9/21/2005 | No | No | No |
| E. I. duPont Helen McMahon Fax 302-774-1398 | 9/21/2005 | No | No | No |
| Endo Labs Camille Jackson Fax 610-558-9685 | 9/21/2005 | No | No | No |
| Gilead Sciences Cheryl Myriad Fax 650-522-5853 | 9/21/2005 | No | No | No |
| Glaxo Welcome Sara Froehlich Fax 202-715-1001 | 9/21/2005 | No | No | No |

| | | | | |
|---|-----------|----|----|----|
| Interferon Sciences, Inc. Samuel Ronel Fax 732-249-6895 | 9/21/2005 | No | No | No |
| Merck Thomas Bombelles Fax 202-638-3670 | 9/21/2005 | No | No | No |
| Niche Pharmaceuticals Steve Brandon Fax 817-491-3533 | 9/21/2005 | No | No | No |
| Noveon Tom Dirmyer Fax 216-447-5720 | 9/21/2005 | No | No | No |
| Novartis Tracy Haller Fax 202-628-4763 | 9/21/2005 | No | No | No |
| Pfizer Katherine Bennet Fax 202-347-2044 Philip Elsworth Fax 212-309-5317 | 9/21/2005 | No | No | No |
| Procter & Gamble Jim McCarthy Fax 202-393-4606 | 9/21/2005 | No | No | No |
| Schering-Plough Rob Lively Fax 202-463-8809 | 9/21/2005 | No | No | No |
| Watson Sarah Sweet Fax 951-270-1429 | 9/21/2005 | No | No | No |

Technical comments:³

The Commission suggests that the article description on page 1 of this report be used in the proposed new heading in order to reflect the correct chemical names and CAS numbers.

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.

109TH CONGRESS
1ST SESSION

H. R. 2380

To suspend temporarily the duty on gemifloxacin, gemifloxacin mesylate,
and gemifloxacin mesylate sesquihydrate.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2005

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

A BILL

To suspend temporarily the duty on gemifloxacin,
gemifloxacin mesylate, and gemifloxacin mesylate
sesquihydrate.

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. GEMIFLOXACIN, GEMIFLOXACIN MESYLATE,**
4 **AND GEMIFLOXACIN MESYLATE**
5 **SESQUIHYDRATE.**

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 heading:

| | | | | | | |
|------------|--|------|-----------|-----------|-------------------------|----|
| 9902.05.68 | Gemifloxacin (CAS No. 175463-14-6); gemifloxacin mesylate (CAS No. 210353-53-0); gemifloxacin mesylate sesquihydrate (CAS No. 210353-56-3) (the foregoing provided for in sub-heading 2933.99.46) | Free | No change | No change | On or before 12/31/2008 | ”. |
|------------|--|------|-----------|-----------|-------------------------|----|

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) applies to goods entered, or with-
4 drawn from warehouse for consumption, on or after
5 January 1, 2005.

6 (2) RETROACTIVE APPLICATION.—Notwith-
7 standing section 514 of the Tariff Act of 1930 (19
8 U.S.C. 1514) or any other provision of law, upon
9 proper request filed with U.S. Customs and Border
10 Protection before the 90th day after the date of the
11 enactment of this Act, any entry, or withdrawal
12 from warehouse for consumption, of any good—

13 (A) that was made on or after January 1,
14 2005, and before the date of the enactment of
15 this Act, and

16 (B) with respect to which there would have
17 been no duty if the amendment made by sub-
18 section (a) applied to such entry or withdrawal,
19 shall be liquidated or reliquidated as if such amend-
20 ment applied to such entry or withdrawal.

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