October 6, 2020

Secretary Lisa R. Barton
U.S. International Trade Commission
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Washington, DC 20436

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RE: SOCMA Testimony on the Economic Impact of Trade Agreements Implemented Under Trade Authorities Procedures, 2021 Report

Dear Secretary Barton:

Thank you for the opportunity to testify today on the Economic Impact of Trade Agreements Implemented Under Trade Authorities Procedures, 2021 Report. My name is Robert F. Helminiak representing the Society of Chemical Manufacturers & Affiliates (SOCMA).

SOCMA is a U.S.-based trade association solely dedicated to the specialty and fine chemical industry – a $300 billion sector that supplies innovative batch chemistries to numerous downstream industries whose products are vital to the health, safety and functionality of society. SOCMA members play an indispensable role in the global chemical supply chain, supporting the development of critical technologies in markets ranging from pharmaceuticals and electronics to aerospace and agriculture.

My testimony focuses upon two issues: **(I)** Chemical Rules of Origin; and **(II)** Technical Barriers to Trade, *e.g.* Registration, Evaluation, Authorization and Restriction of Chemicals (REACH).

I. Chemical Rules of Origin

Chemical rules of origin were recently modernized in the United States-Mexico-Canada Agreement (USMCA). The updates drastically improve conditions for specialty chemical sectors and should be utilized in future trade agreements.

Under the USMCA, there are eight individual rules to qualify chemical goods. These rules of origin offer a menu of options to help document origin and allow exporters to prove origin in a less burdensome manner. Proving originating content is simplified, for example, via the chemical reaction rule – a process that results in a molecule(s) with a new structure – which was not available as a means to confer origin in the North American Free Trade Agreement. Also, specialty chemical manufacturers are no longer required to determine Regional Value Content (RVC) in order to confer origin. These are marked improvements for the industry.

Lastly on rules of origin, SOCMA members utilizing the simplified chemical process rules are currently in the process of compiling data that reflects the aforementioned enhancements and so SOCMA hopes to submit such information in a post-hearing written submission by October 26.

II. Technical Barriers to Trade, *e.g.* REACH

Technical barriers to trade pose significant challenges to the specialty chemical industry. In short, the U.S. regulatory system utilizes a risk-based analysis while some foreign systems, e.g. the European Union, incorporates a precautionary hazard classification system. Cooperation between the U.S. and its trading partners towards an integrated, risk-based approach would greatly reduce regulatory burdens on specialty chemical manufacturers, many of whom are small- and medium-sized enterprises.

A major part of the REACH Regulation – the 'R' – stands for registration. This obliges manufacturers and importers to submit extensive data on new and existing chemical substances based on hazard and volume. Where reformed Toxic Substances Control Act (TSCA) strikes a balance between industry and the Environmental Protection Agency, REACH registration requires that importers and manufacturers individually authorize (the 'A' in REACH) and demonstrate that chemical risk is adequately controlled, without any order from the European Chemicals Agency.

Regarding volume, Specialty chemicals by nature are low-volume, high-value. Full registration, even at a low tonnage, can prove too costly to justify given the size of a potential product line or market.

Additional burdens include, but are not limited to disproportionately high data-sharing costs, testing costs, product substitution, reformulating costs, chemical safety assessment for each end use, and fees payable to the agency. Product reformulations, for example, which the EU requires to maintain market presence may result in shrinking product offerings and downstream uses.

TSCA also utilizes an 'unreasonable risk' criterion, whereas REACH utilizes inconsistent health and safety standards under its several constituents. If utilized across the board, the TSCA approach appears better equipped to ensure regularity in safety levels.

Lastly, I would like to stress the importance of avoiding regulatory overlap, which can also result in unnecessary burdens on industry. Labelling overlaps can be particularly burdensome when exporting to foreign counterparts with REACH-like regulation, e.g. Korea. Consistency here via Global Harmonized System for Labeling Chemicals – a UN-sponsored program that dictates the way products are labeled and how Safety Data Sheets are formatted – promotes efficiency, consumer understanding effectiveness, and enhanced risk management.

While industry has adapted to the aforementioned technical barriers to trade, SOCMA encourages the Commission and Congress to continue to be forward-looking when negotiating FTAs and developing future framework for integrated regulatory cooperation and chemicals risk management as doing so will best allow for greater innovation, transparency, and consistency for enhanced market access and domestic competitiveness.

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Thank you again for the opportunity to testify today on the Economic Impact of Trade Agreements Implemented Under Trade Authorities Procedures, 2021 Report.

I am happy to answer any questions you may have or if unable to answer at this time, am happy to follow up in a post-hearing submission. Thank you.

Respectfully submitted,

Robert F. Helminiak
Vice President, Legal and Government Relations
Society of Chemical Manufacturers & Affiliates (SOCMA)