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RE: NEGOTIATING OBJECTIVES REGARDING MODERNIZATION OF THE NORTH AMERICAN FREE TRADE AGREEMENT WITH CANADA AND MEXICO

ORAL TESTIMONY

Thank you for the opportunity to testify before you today. My name is Greg Skelton, and I am Senior Director of Regulatory and Technical Affairs at the American Chemistry Council (ACC). ACC represents the leading companies engaged in the business of chemistry, one of the largest manufacturing sectors of the U.S. economy. The chemical industry is an \$800 billion dollar enterprise, supporting nearly 26 percent of U.S. gross domestic product (GDP), and providing over 800,000 skilled, good-paying American jobs, with production in nearly every State. Thirty percent of these jobs are export dependent. The American chemical industry produces 15 percent of the world's chemicals, and accounts for 10 percent of all U.S. exports (excluding pharmaceuticals), amounting to \$121 billion in 2016.¹

The U.S. has an impressive trade surplus in industrial chemicals of \$28.2 billion in 2016. That surplus is likely to grow significantly as increased production from more than \$185 billion in announced new investment in domestic chemical manufacturing comes on stream. This investment is a direct result of the shale gas revolution, which has made the U.S. one of the most competitive producers of chemicals in the world. In 2016, expenditures on chemical plants accounted for half of all capital investment in U.S. manufacturing, according to the Census Bureau. A 2015 ACC report projects that exports of specific key chemistries directly linked to shale gas, such as polymers, plastics resins, and specialty chemicals will more than double, from \$60 billion in 2014 to \$123 billion by 2030.² To maximize this competitive advantage, it is essential to strengthen and expand access to key foreign markets, as this increased production cannot all be consumed domestically.

Over the past two decades, NAFTA has provided enormous benefit for the chemical sectors in Canada, Mexico and the United States. NAFTA has facilitated expanded economic growth, job creation, and enhanced North American competitiveness in the global marketplace. Since NAFTA entered into force, trade in chemicals between NAFTA countries has more than tripled, from \$20 billion in 1994 to \$63 billion in 2014. Canada is the single largest national market for

¹ American Chemistry Council, 2016 Fact Sheet on the Business of Chemistry by the Numbers.

² <https://www.americanchemistry.com/Policy/Trade/Fueling-Export-Growth-US-Net-Export-Trade-Forecast-for-Key-Chemistries-to-2030.pdf>



U.S. chemical exports (\$24 billion in 2016, a \$1.9 billion trade surplus) and Mexico is the second largest (\$21 billion, a \$14.6 billion trade surplus).

NAFTA's success lies in the economic partnerships and supply chain synergies and efficiencies that have been created through reduced barriers to trade. This has not only lowered the cost of chemical production, it has also strengthened the sector's relevance in the region's overall manufacturing economy. More than 95% of manufactured goods — from textiles, to electronics, to automobiles — are touched by chemistry. As a result, the chemical industry has a multiplier effect on job creation and economic growth in the region. The chemical industry's oversized share of economic activity in North America is a direct outcome of NAFTA's effectiveness in reducing barriers to trade. This includes trade in energy products, particularly natural gas — a critical building block for chemical production. More than 10% of NAFTA trade is in energy products, and there are more than 100 cross-border energy infrastructure projects in place between the three economies.

After more than 20 years, modernization of NAFTA is an opportunity to upgrade the agreement to address inefficiencies and reflect procedures adopted or proposed in subsequent negotiations. The agreement should be modernized to facilitate digital trade, especially establishing strong protections for cross border data flows, an essential element of global value chains. NAFTA should also codify process on regulatory coherence and simplification, including cooperation on embodying sound science, and promoting risk assessment principles and mutual recognition of chemical approvals. A modernized NAFTA would especially benefit from enhanced trade and customs facilitation, including streamlining duty drawback procedures and prioritizing infrastructure projects that support export growth. ACC's overriding objective is for a modernized NAFTA to result in efficiencies that deepen economic integration, and make North America's co-produced products and services more globally competitive.

Specific ACC priorities for NAFTA modernization include:

- Maintaining duty free trade for all qualifying chemical products. A large proportion of chemicals trade within NAFTA is intra-company, which enables companies to realize significant savings on intra-company shipments within North America. ACC estimates that intra-company trade makes up 50% of U.S. chemical exports and 70% of chemical imports. Imposing tariffs or other trade barriers on trade in chemicals would be like putting a wall in the middle of a factory.
- Modernizing the NAFTA rules of origin to bring them into line with rules adopted in subsequent U.S. trade agreements, such as the Korea-U.S. Free Trade Agreement (KORUS). In particular, the current NAFTA rules should be revised to eliminate the Regional Value Content (RVC) requirement, and provide for greater flexibility in determining origin, beginning with tariff shift and proceeding through a menu of options including substantial transformation, chemical reaction, purification, changes in particle size, etc. The “de minimis” amount under NAFTA should be revised to 10% (from 7%), which would bring NAFTA into alignment with other U.S. FTAs. ACC also recommends that the polymer content rule should be consistent with the language negotiated for the Trans-Pacific Partnership (TPP).
- ACC recommends that the U.S. should pursue a World Trade Organization (WTO) Trade Facilitation Agreement “plus” approach to customs and trade facilitation efforts under a



modernized NAFTA. This includes promoting digital trade, including electronic filing and digital signature; targeting infrastructure projects to remove bottlenecks on the movement of exports; modernizing transport security requirements; and harmonizing clearance procedures.

- A modernized NAFTA should strengthen regulatory coherence and implementation of Good Regulatory Practices (GRPs). This should include: addressing areas of regulatory divergence and options for narrowing them, developing mechanisms to ensure that potential future areas of regulatory divergence are identified and addressed, determining whether differing regulatory approaches are equivalent in meeting a similar regulatory objective, and promoting greater regulatory transparency, including in regulator-to-regulator dialogue.
- ACC would support the establishment of a Regulatory Cooperation Council under NAFTA, along the lines of that envisaged under the TPP. Such a Council would help to set overall priorities, and coordinate regulatory cooperation and coherence efforts on a sectoral basis. To be clear, ACC believes that existing bilateral regulatory cooperation efforts (such as the U.S.-Canada Regulatory Cooperation Council) should continue at their own pace outside of the NAFTA agreement. Results from these bilateral efforts, where appropriate, could then be extended throughout North America under NAFTA.
- ACC's top priority for enhancing regulatory cooperation under NAFTA is to strengthen and align the risk- and science-based approach to chemical regulation adopted in the U.S. and Canada throughout the region. The Canadian Chemical Management Plan (CMP) and the U.S. Toxic Substances Control Act (TSCA) – recently updated in June 2016 – rely upon a common set of concepts and principles to ensure appropriate health and environmental protections while preventing the imposition of regulatory barriers to trade, reducing costs and creating other efficiencies for regulators and industry. In promoting such a “North American model” for chemical regulation (and extending it to Mexico), NAFTA could help provide a model for other countries and regions around the world considering developing or updating their own chemical regulations, and push back against the spread of more hazard-based approaches.

ACC strongly supports the effort to modernize NAFTA. A strengthened NAFTA has the potential to provide a significant boost to growth and job creation, which in turn would promote innovation and strengthen the international competitiveness of U.S. exporters. A successful conclusion of negotiations on modernizing NAFTA would also send an important signal to the rest of the world, particularly in terms of promoting risk and science-based decision making. ACC looks forward to maintaining a dialogue with negotiators and regulators as the NAFTA negotiations proceed.

Thank you again for the opportunity to testify before you today. I look forward to your questions.

