



November 26, 2018

Edward Gresser
Chair of the Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street NW
Washington DC 20508

RE: Negotiating Objectives for U.S.-Japan Trade Agreement

Dear Chairman Gresser:

The American Chemistry Council (ACC) appreciates the opportunity to provide public comment regarding possible U.S. objectives for the upcoming U.S.-Japan trade agreement negotiations.

The United States and Japan have one of the strongest bilateral political and security relationships in the world. A comprehensive U.S.-Japan trade agreement, covering substantially all trade, will provide the necessary trade commitments to cement the economic component of this relationship. This will also set the precedent for future trade agreements in the Asia-Pacific region, where the world's most dynamic and high-growth economies operate.

U.S. chemical manufacturers stand to benefit from deep and meaningful new provisions on tariff elimination, rules of origin, regulatory cooperation, and digital trade, among others. Increased access to chemicals also magnifies benefits to all downstream manufacturing, which relies substantially on the products of chemistry. Greater access to chemicals will grow innovation, increase opportunity for exports, and create long-term, high-value jobs.

Our comments below outline our priorities. We look forward to providing additional material and support for the negotiations as they progress.

- 1. Duty-free Trade:** A high priority for both the United States and Japan should be eliminating all tariffs on chemicals upon entry into force without any transition periods (Chapters 28 through 40 of the U.S. Harmonized Tariff Schedule). Because chemicals touch on 96 percent of all manufacturing and play a critical role in global, regional, and bilateral supply chains, duty-free trade will reduce costs for chemical manufacturers and promote innovation, job creation, and competitiveness for both parties. It will also compel other economies in the region to follow suit rather than maintaining higher cost environments through higher tariffs. We also recommend that any U.S.-Japan trade agreement allow companies to engage in duty drawback, which emphasizes that imports are essential to export competitiveness.



- 2. Regulatory Cooperation for Chemical Substances and Good Regulatory Practices:** The United States and Japan have both taken great steps on regulatory cooperation built on the foundations of sound science and risk management in their recent trade agreements with other governments. ACC and our counterpart association in Japan have supported these efforts and are working in parallel with our respective governments to promote regulatory cooperation on chemicals in the Asia-Pacific and globally. We urge the United States and Japan to make new commitments on enhancing regulatory compatibility and fostering the sharing of data and information.

Such commitments will help to prevent trade barriers, reduce regulatory divergences, and create greater efficiencies for both governments and chemical manufacturers and downstream industries, while maintaining high standards for protecting human health and safety and the environment. We recommend that the United States and Japan build on the sectoral annex on chemical substances in the proposed U.S.-Mexico-Canada Agreement (USMCA), strengthening and adding to these provisions where possible. Similarly, we recommend that both parties build on and strengthen the Good Regulatory Practices chapter of the USMCA, which is an essential complement to any commitments on regulatory cooperation. Both governments should continue to promote national sound systems, but coordinate their respective regulatory cooperation efforts to support development of science- and risk-based regulations across the Asia-Pacific region. ACC will provide additional input on regulatory cooperation as negotiations progress.

- 3. Rules of Origin for Chemical Substances:** Chemical manufacturers will benefit from duty-free trade only if the rules of origin for chemical substances are flexible, simple, and transparent. We recommend that the United States build on the rules of origin outcomes of the USMCA, in particular by ensuring that the chemical reaction rule is available to traders for conferring origin and avoiding regional value content requirements. In this regard, we propose a menu-based approach that has the fewest number of exceptions as possible. ACC will provide additional input on rules of origin as the negotiations progress.
- 4. Digital Trade:** The United States and Japan are two of the world's digital leaders, with companies in all sectors transforming their operations through digital technologies. Digital trade based on the free flow of data across borders is critical to chemical manufacturers, who generate vast quantities of data for technical innovation, employee development, and global customer management. State-of-the-art provisions on promoting data privacy, enabling open cross-border data flows, prohibiting data localization requirements, and strengthening cybersecurity while respecting intellectual property rights will be critical. Data flows are essential for establishing and maintaining global value chains, in which chemicals are a strong feature. They are, therefore, essential for strengthening manufacturing in both the United States and Japan and also vital for the downstream industries that the business of chemistry supports (e.g., agriculture and autos). We recommend that the United States and Japan start with the digital trade outcomes of the USMCA, building upon and strengthening them where possible. Both parties must set the digital trade standard for the rest of the world, which will enhance and sustain their mutual global competitiveness.



5. **Trade Facilitation**: ACC recommends that the United States and Japan pursue a World Trade Organization (WTO) Trade Facilitation Agreement “plus” approach to customs and trade facilitation efforts in their negotiations. Specific commitments should address electronic filing and digital signature; target infrastructure projects to remove bottlenecks on the movement of exports; modernize transport security requirements; and harmonize clearance procedures.
6. **Dispute Settlement**: The U.S. and Japan are global leaders in trade and investment and must maintain their leadership in the dispute settlement area. We recommend that the United States and Japan agree on binding and enforceable state-to-state dispute settlement procedures. We also urge both parties to accept investor-state dispute settlement provisions for all sectors without limitations on the claims that investors can make on specific investment protections, which we expect would be the highest standard protections in the world. Outcomes that fall short of this standard will give other countries in the region ample reason to weaken the rule of law, due process, and transparency in their own domestic systems and in their trade agreements.
7. **Duration of the Agreement**: Given the critical nature of the U.S.-Japan relationship in the Asia-Pacific region and globally, we believe that a U.S.-Japan trade agreement should stand the test of time in order to provide maximum predictability and certainty to investors and traders. We support making improvements to the agreement as international trade evolves, but recommend avoiding early termination or sunset provisions. .
8. **Addressing Sources of Marine Litter**: The U.S. and Japan are world leaders in addressing marine litter through market-based and innovative means. We recommend that the U.S.-Japan trade agreement build on the marine litter language in the USMCA Environment Chapter. There is a global need to support infrastructure development to collect, sort, and process used plastics. Such infrastructure will create opportunities for trade and investment and help keep used plastics out of the environment, thereby reducing marine litter. The U.S. and Japan can play a strong role together in promoting better waste management capacity for used plastics in all countries. We also recommend that the U.S.-Japan trade agreement promote global and regional cooperation in facilitating trade in used plastics. Many countries lacking adequate capacity to recycle used plastics ship plastics to other areas for processing. Trade in used plastic enables efficient processing of those materials, while creating valuable new materials and business opportunities.

We look forward to working with USTR staff on the above priorities as they prepare for the negotiations with Japan. Thank you again for the opportunity to provide input on behalf of ACC members and the business of chemistry in the United States.

Sincerely,

Ed Brzytwa
Director, International Trade
American Chemistry Council

