June 9, 2020

Megan Grimball
Assistant General Counsel
Office of the U.S. Trade Representative (USTR)
Email: 301aircraft@ustr.eop.gov

RE: Request for the Office of Management and Budget To Provide Emergency Clearance of a New Collection of Information Titled `Large Civil Aircraft Dispute Portal' (85 FR 31845)

Dear Ms. Grimball:

The American Chemistry Council (ACC) appreciates the opportunity to comment on the Request for the Office of Management and Budget To Provide Emergency Clearance of a New Collection of Information Titled `Large Civil Aircraft Dispute Portal' (85 FR 31845). As you prepare for the review of the action taken on October 18, 2019 to address certain EU subsidies to its large civil aircraft industry, we would like to offer the following perspectives.

ACC represents a diverse set of companies engaged in the business of chemistry. An innovative, $553 billion enterprise, we work to solve some of the biggest challenges facing our nation and our world. Our mission is to deliver value to our members through advocacy, using best-in-class member engagement, political advocacy, communications and scientific research. We are committed to fostering progress in our economy, environment and society.

The business of chemistry drives innovations that enable a more sustainable future; provides 529,000 skilled good paying jobs—plus over four million related jobs—that support families and communities, and enhances safety through our diverse set of products and investments in R&D.

We commend the Administration for its efforts to address European Union subsidization of its large civil aircraft industry, which the World Trade Organization (WTO) found to be inconsistent with the EU's WTO commitments. We continue to urge both sides to reach a negotiated outcome at the WTO as soon as possible to remove the current countermeasures and avoid the imposition of additional countermeasures. Chemicals should not be included in the U.S. and EU countermeasure lists, however, for the following reasons.

The Success of the U.S. Chemical Sector is Closely Tied to the Civil Aircraft Industry

In short, planes cannot get off the ground, fly safely, or fly efficiently without a number of products that chemistry makes possible. The state-of-the-art planes that Boeing and Airbus manufacture contain components made with chemicals essential to aerodynamics, light weighting and structural strength – from lightweight plastics that can withstand high mechanical stress, temperature extremes, and a hostile environment, to polycarbonate windshields that deliver optical clarity and impact-resistance. Chemistry is also essential to seats and seat belts, wheels and brakes, fuels, coatings, paints, lubricants, and electronics – the list goes on.

The success and export potential of the U.S. chemical industry is closely tied to that of the civil aircraft industry. U.S. chemical manufacturers sell to companies that contribute to the production of civil aircraft in both the United States and the European Union. Higher tariffs on civil aircraft and components for civil aircraft in both markets would raise prices for those goods, weaken demand for civil aircraft, and ultimately lead to less demand for U.S.-made chemicals.

Proposed U.S. and EU Countermeasure Tariffs Would Undermine the Competitiveness of the U.S. Chemical Sector

Our analysis of the proposed U.S. and EU countermeasure lists indicates that the chemical industry is again in the crosshairs of yet another set of possible tariff actions. The chemical products listed in HTS Chapter 33 are essential oils and resinoids and represent about 3 percent of the $11 billion total value of imports listed. The U.S. imported an estimated $365 million worth of these products from the European Union in 2018. For the majority of the twelve HTS Chapter 33 eight digital tariff lines, there other sources of these products outside the European Union. For two of these tariff lines, the EU supplies over half of the global market (resinoids and essential oils of orris). If the Administration decides to include these chemicals in a future version of its countermeasure list, the result could be more limited availability of specific inputs made in the European Union and therefore lead to higher prices in the United States.

We understand that the EU will soon make public its final countermeasure list in advance of the WTO's expected authorization later this summer. EU officials have publically stated that they will apply these countermeasures in order to "level the playing field." The proposed EU list of products covers a range of traded goods, including $3 billion in traded chemicals and plastics (5 products in Chapter 29, 5 in Chapter 30, 1 in Chapter 32, 15 in Chapter 33, 16 in Chapter 35, 4 in Chapter 38, and 22 in Chapter 39). Chemicals and plastics represent 15% of the total value of U.S. exported goods that are covered by the EU's tariff list.

The most extreme effects of the EU countermeasures could be dire. If the European Union imposes tariff rates up to the maximum level allowed (100 percent), it would effectively block U.S. chemical manufacturers from accessing the EU market for the products on its countermeasure list. Assuming all the chemicals and plastics on the European Union's proposed list are on its final list, U.S. chemical manufacturers would therefore not be able to export those products to the European Union and its member states. If they seek to maintain access to the EU market may decide to move production and jobs out of the U.S. other jurisdictions.

The EU Countermeasures Could Undermine the Production of Polyethylene in the United States

One example of a product that proposed EU tariffs could impact is polyethylene (PE). New U.S. PE capacity is predominantly aimed at the global export market. This is approximately one-third of the total U.S. PE industry production and represents essentially all the new capacity introduced to the market from 2016-2019. This capacity is a result of tens of billions of dollars' worth of investment in the U.S. Gulf Coast, and currently supports thousands of U.S. jobs.

The two largest global markets for plastics and chemicals imports are China and the EU. In 2018 China implemented prohibitory import tariffs on most grades of U.S.-sourced polyethylene, resulting in price dislocations for U.S. sourced products in global markets, as the global supply chain rebalanced. Should the EU implement similar tariffs (for example in retaliation for U.S. trade measures) trade data indicates that U.S. sourced product may struggle to 'find a home' as total U.S. export capacity would exceed the combined net import demand from other regions (e.g. including Africa, South America, South East Asia, etc.). As a result, one could expect a further major price dislocation for U.S. sourced export product, to the extent that U.S. production becomes un-economic to export.

Without the ability to competitively access overseas markets for these products, some existing U.S. capacity may be forced to shut down, and possible new projects may not be sanctioned. This would have direct impacts on the U.S. Gulf Coast and wider economy, including on employment, investment expenditure and U.S. export revenues. There are also potential implications for other industry segments, including the U.S. upstream oil and gas sector which provides the vast majority of ethane feedstock used in the production of U.S. chemicals and plastics, and the petrochemicals logistics and infrastructure sectors which transport feedstocks and plastic product exports.

The Proposed U.S. Tariff on Palladium Could Lead to Production Moving Outside the U.S.

Palladium (Pd) is used for automotive emissions catalysts, which accounts for nearly 70 percent of its total demand. The Pd market is already very tight with prices and lease rates increasing significantly above historic levels over the past 6 months, driven by use in autocatalyst production to meet tightening emission regulations. Additional duties on imports of Pd from the European Union could limit material availability even further in the United States, driving prices and lease rates even higher, potentially forcing production of automotive emissions catalysts outside of the US.

Catalysts platforms are not readily interchangeable, so it is not feasible to simply substitute another precious metal for Pd in the manufacture of an automotive catalyst. The catalyst itself and vehicle platform would have be completely redesigned. Pd has high temperature durability which allows original equipment manufacturers (OEMs) to continue to move the catalyst closer to the engine and exhaust manifold in a gasoline engine. This means that the catalyst can activate quicker (versus a platinum catalyst) due to being closer to the heat source and perform nearly as soon as you start your engine, providing the best solution for reducing engine emissions at start up. The highest amount of emissions occur within the first two minutes after starting the car's engine. OEMs could speak more knowledgably as to the impact if Pd were not available to support production of catalysts for existing automobile platforms.

The financial ramifications of placing additional duties on imports of Pd from the EU are significant – businesses cannot bear these costs. They will have to be passed down through the value chain, most likely reaching the end consumer.

The Proposed EU Countermeasures would lead to another harmful Market Closure for U.S. Chemical Manufacturers

For reference, China's Section 301 retaliation targets $11 billion in exports of U.S.-made chemicals; the EU's Section 232 retaliation targets $500 million in U.S.-made chemical exports; India’s Section 232 retaliation targets $289 million in U.S.-made chemical exports; and Turkey’s Section 232 retaliation targets $170 million in U.S.-made chemical exports.

For the last several years, the U.S. chemical industry has sought – and continues to seek – greater market access around the world to take advantage of the historic expansion of chemical manufacturing capacity in the United States. We are most assuredly not seeking new tariffs or closed markets. After all, tariffs are taxes on the American people, as recent studies have confirmed that consumers are the ones who ultimately pay for these tariffs in the form of higher priced goods. We respectfully request that the United States and the European Union eliminate their chemical tariffs in their ongoing bilateral trade agreement negotiations and remove chemical tariffs from their respective countermeasure lists under the Large Civil Aircraft dispute.

Thank you again for the opportunity to submit written comments. We look forward to serving as a resource for the Section 301 Committee during its review of U.S. countermeasures.

Best regards,

Edward J Brzytwa III

Ed Brzytwa
Director, International Trade
American Chemistry Council