**American Chemistry Council Statement for the Record**

**Repatriation of Foreign Earnings as a Source of Funding for the Highway Trust Fund**
**Submitted to the Subcommittee on Select Revenue Measures,**
**Committee on Ways and Means**

**June 24, 2015**
**(submitted July 8, 2015)**

Thank you Chairman Reichert and Ranking Member Neal for holding this important hearing. The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC member companies apply the science of chemistry to create innovative products and services that make people's lives better, healthier and safer. The business of chemistry is an $801 billion enterprise and a major contributor to the nation's economy, accounting for fourteen cents of every export dollar. Last year, the chemical industry spent $59 billion on research and development. For every job created by the business of chemistry, 6.3 jobs are generated elsewhere in the economy, totaling six million American jobs.

ACC appreciates the opportunity to file a statement for the record following the Select Revenue Measures Subcommittee hearing on June 24, 2015 entitled "Repatriation of Foreign Earnings as a Source of Funding for the Highway Trust Fund."

ACC would be interested in playing a constructive role in broader international tax reform discussions. However, there is much uncertainty and an apparent lack of understanding on Capitol Hill with respect to the complexity of issues surrounding repatriation of foreign earnings. ACC strongly opposes proposals to tax historical foreign earnings, particularly if attempted outside the context of broader international tax reform. For that reason, ACC offers the following observations and comments.

For most chemical manufacturers, such proposals would tax earnings from previous years that have been reinvested abroad in physical plant and equipment and in the working capital necessary to serve our customers and grow our businesses in very capital-intensive foreign operations. In the case of the chemical industry, the capital expenditure necessary for construction of a world-class plant can be in the billions of dollars. A common scenario for the U.S. chemical industry when making a significant overseas capital investment in a chemical facility is the need to be near competitively-priced and ample sources of feedstocks and to be close to the prime markets for the products, with earnings often then reinvested in facility infrastructure or new physical versus paper investments.

In most cases, earnings are not held offshore as cash or cash equivalents, except for that level of working capital necessary to support the local businesses. It is critical to understand this, in contrast to the business models of some industries that require little or no reinvestment of foreign earnings in high-cost plant and equipment.

Among proposals under consideration for raising tax revenue to pay for highway and infrastructure projects, and subject of the June 24 hearing, is the device sometimes referred to as "deemed repatriation" of dividends from foreign subsidiary companies (also described as "mandatory repatriation"). Under deemed repatriation, the accumulated earnings of foreign subsidiary companies would be considered actually to have been paid to U.S. parent corporations as dividends, even though there is no pool of cash from which the subsidiaries could remit actual dividends. This is in contrast to proposals also under discussion for "voluntary repatriation" of dividends from foreign subsidiaries, under which dividends of cash actually would occur.

In the case of the chemical industry, reinvestment of foreign earnings in plant, equipment, and operating assets means, as noted, little or no cash actually available from which to pay dividends to the U.S. parent companies. With the exception of relatively small amounts of working capital to pay local taxes and receivables and meet other current expenses, foreign subsidiaries typically retain only incidental amounts of cash. Accordingly, for the chemical industry, the distinction between actual and deemed dividends is very real and has very serious economic consequences. Reinvestment of foreign earnings means there is insufficient cash available for dividends to the U.S. parent corporation from which the parent could satisfy tax liability arising from the deemed repatriation. The term "repatriation" in this context is inaccurate and misleading because the proposals do not require nor anticipate any actual return of cash. The deemed repatriation proposals simply mandate U.S. tax on foreign earnings as though the earnings *were* distributed to U.S. parent corporations as dividends.

ACC member companies oppose proposals for deemed repatriation all the more when such proposals are taken without regard to efforts to enact international business tax reform. Reformers regard the U.S. worldwide system of taxation as obsolete, with the U.S. virtually alone among developed countries retaining the system. Practically and fundamentally, deemed repatriation would disregard global economic and business realities to which the key sector of chemical manufacturing is subject. The timing of these proposals is unfortunate, given the unprecedented growth in domestic manufacturing as a result of the chemical industry's continued and looming expansion.

The chemical industry has budgeted over $140 billion over the coming years for facilities to take advantage of shale gas resources beginning to come on line. Shale gas will restore a historical cost advantage enjoyed in past years by U.S. chemical manufacturers. The new cost advantage will result in lower supply costs for all manufacturing sectors, because virtually all rely upon chemical products. The effects of shale gas should create a "manufacturing renaissance" expanding jobs and the U.S. economy, as well as growth of U.S. export markets. However, deemed repatriation and its demands against capital otherwise available to the chemical industry would slow and perhaps undermine construction of chemical facilities to exploit shale gas development.

ACC provides this statement for the record with the hopes that it will inform the discussion on broader international tax reform, as well as clearly articulate the inappropriateness of utilizing such proposals as a temporary fix for the Highway Trust Fund. Deemed repatriation has very real consequences for the manufacturing sector, and in particular the chemical industry. International tax reform may well be a topic of serious consideration in coming months, and we are hopeful that the complexities of deemed repatriation will be fairly understood for an informed discussion.

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