



January 15, 2019

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

RE: American Chemistry Council Public Comments on U.S. Objectives for U.S.-UK Trade Negotiations

Dear Chairman Gresser,

The American Chemistry Council (ACC) and our members appreciate the opportunity to provide comment on a possible trade agreement between the United States and the United Kingdom. Such a trade agreement would cement the special relationship between both countries, demonstrate their shared values on trade and investment to the rest of the world, and solidify the already strong political, security, and military ties with a necessary economic component.

Our comments assume that the United Kingdom will cease to be a member of the European Union (EU) on March 29, 2019, and that it will be able to negotiate trade agreements with non-EU members. They also assume that the United Kingdom's tariff schedule at the World Trade Organization will be roughly consistent with that of the European Union's.

However, we recognize that intervening variables between now and then may result in facts inconsistent with this assumption. Indeed, it may be the case that the United Kingdom is not able to negotiate its own trade agreements and will continue to rely on the European Union for that competency. Nonetheless, we offer our input to the interagency to help its preparations for a negotiation with the United Kingdom if the conditions for such a negotiation arise.

Trade in chemicals is a strong feature of the U.S.-UK trading relationship, totaling \$5.7 billion in 2017. U.S. exports of chemicals to the UK were \$2.8 billion in 2017 and U.S. imports of chemicals from the UK were \$2.9 billion. Importantly, a significant portion of U.S.-UK chemicals trade is to related parties -- 54 percent of chemical imports from the UK, and 39 percent of chemical exports to the UK, are to related parties. The UK is an important market for U.S. chemicals exports, advantaged by significant investments in chemical manufacturing in the United States and highly integrated value chains.

As the Administration defines its negotiating objectives, we submit below our ideas for how both the United States and United Kingdom can achieve concrete and tangible outcomes for chemicals manufacturers that will lower their costs, promote greater exports, and maintain high levels of protection for human health and safety and the environment.



- 1. Tariff Elimination and Market Access:** The United States and United Kingdom should immediately eliminate their respective chemicals tariffs under Harmonized System Chapters 28-40 without any transition periods or staging of tariff reductions. As the amount of trade is substantial in both directions, our respective chemical industries would benefit from the savings enabled by eliminating tariffs on chemicals. The average tariff rate on chemicals trade in both directions is 3 percent (NB: this is the average tariff rate for chemicals trade between the United States and European Union). Eliminating U.S. tariffs on chemical imports from the United Kingdom could save U.S. chemical manufacturers \$88 million annually. Eliminating UK tariffs on chemical imports from the United States would reduce tariffs paid in the United Kingdom by \$84 million annually. Tariff elimination would increase the competitiveness of U.S. exports of chemicals, resulting in increased exports of U.S.-made chemicals to UK customers and partners.

The United States and United Kingdom should further consider the benefits of making chemical tariff elimination a multilateral goal. As 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 around the world to follow suit rather than maintain higher cost environments through higher tariffs. We also recommend that any U.S.-UK trade agreement allow companies to engage in duty drawback, which emphasizes that imports are essential to export competitiveness.

Furthermore, ACC urges the United States to eliminate its Section 232 tariffs on steel and aluminum imports from the United Kingdom. We do not yet know whether the UK will apply retaliatory tariffs against the United States after it ceases to be a member of the European Union. As the European Union is applying retaliatory tariffs on \$500 million in exports of U.S.-made chemicals, it is possible that the United Kingdom includes chemicals on its own retaliation list. UK retaliatory tariffs targeting chemicals would limit the ability of U.S. chemical manufacturers to access the UK market. We also urge the United States and United Kingdom to avoid the imposition of quotas of any kind on imports of UK steel and aluminum. Such quotas would undermine the construction of chemical manufacturing plants in the United States.

- 2. Regulatory Cooperation:** We believe that regulatory cooperation remains a powerful mechanism for preventing barriers to trade, aligning regulatory procedures, and creating efficiency gains for U.S. chemical manufacturers, particularly small and medium-sized enterprises. Our goal of regulatory cooperation does not assume the wholesale replacement of one chemical system for another, however.

Although early indications are that the United Kingdom will continue to participate in the chemical management regime for the European Union (REACH - Registration, Evaluation, Authorisation and Restriction of Chemicals) after it ceases to be an EU member, this in no way should preclude the United States and the United Kingdom from engaging in efforts to enhance regulatory cooperation in the assessment and management of chemical substances.



The United States and European Union made progress on regulatory cooperation for the chemicals sector during the TTIP negotiations. We hope that the United Kingdom will want to build on that progress in regulatory cooperation discussions with the United States. The United States has since made further progress in the Sectoral Annex for Chemical Substances in the U.S.-Mexico-Canada Agreement (USMCA), and the ongoing U.S.-Canadian Regulatory Cooperation Council (RCC) has made some significant progress in coordination and cooperation on chemical assessments.

Based on this progress, we recommend that the U.S.-UK negotiations create a distinct track for regulatory cooperation for the chemicals sector and build on the outcomes of the USMCA and the RCC. Such an approach will allow the U.S. and UK governments and industry the opportunity to identify what we can accomplish in the short-term and how we can lay the ground work for longer term progress and success. It would also be useful in helping to advance progress in U.S.-EU regulatory cooperation discussions. In particular, we hope that there would be an opportunity to facilitate regulator-to-regulator dialogue on critical issues such as prioritization of chemicals for review, and classification. ACC will provide additional input on regulatory cooperation for the chemicals sector as the 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 specific rules of origin as the negotiations progress.
- 4. Digital Trade:** The United States and the United Kingdom 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, which generate data for regulatory compliance, technical innovation, employee development, and global customer management. State-of-the-art provisions to promote data privacy, enable open cross-border data flows, prohibit data localization requirements, and strengthen cybersecurity, while respecting intellectual property rights, will be critical. Data flows are essential for establishing and maintaining global value chains. They are, therefore, essential for strengthening manufacturing in both the United States and United Kingdom and also vital for the downstream industries that the business of chemistry supports (e.g., aerospace, agriculture, and autos).

We recommend that the United States and United Kingdom take the digital trade outcomes of the USMCA as their starting point and build on and strengthen 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 United Kingdom pursue a World Trade Organization (WTO) Trade Facilitation Agreement “plus” approach to customs and trade facilitation efforts in their bilateral negotiations. 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.

6. **Dispute Settlement**: The U.S. and United Kingdom are global leaders in trade and investment and must maintain their leadership in the dispute settlement area. We recommend that the United States and United Kingdom agree on binding and enforceable state-to-state dispute settlement. 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 around the world 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.-UK political, security, and military relationship globally, we believe that a U.S.-UK 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 the inclusion of timeframes for an early termination or sunset of the agreement.
8. **Addressing Sources of Marine Litter**: The United States and the United Kingdom are significant maritime countries and leaders in addressing marine litter through market-based and innovative means. We recommend that the U.S.-UK 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 UK 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.-UK trade agreement promote global and regional cooperation in facilitating trade in used plastics. Many countries lack adequate capacity to recycle used plastics and so 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.
9. **Addressing Trade-Distorting Practices**: Lastly, we believe that the United States and United Kingdom must work with like-minded governments to address trade-distorting practices by other countries. In specific, both the United States and United Kingdom should develop new rules on protecting and enforcing trade secrets; eliminating forced technology transfer; ensuring the free flow of data across borders; reducing barriers to foreign direct investment; and championing free markets over state-led capitalism, including by addressing state-owned enterprises and illegal subsidization of industries inconsistent with World Trade Organization (WTO) rules. We stand ready to assist the Administration in achieving these objectives and creating the necessary larger coalition of like-minded allies in the WTO.



We look forward to working with USTR and interagency leaders and staff to achieve success in the negotiations with the United Kingdom. As U.S. preparations proceed, please do not hesitate to reach out to us for more information.

Sincerely,

Ed Brzytwa
American Chemistry Council
Director for International Trade

