KEYS TO EXPORT GROWTH FOR THE CHEMICAL SECTOR
EXECUTIVE SUMMARY

The global economic crisis has underscored the need to find the most creative, resourceful and efficient means to energize economic growth and job creation in the United States (U.S.). Boosting U.S. exports, with the support of key policies and regulations is one of the most promising avenues through which the U.S. can facilitate and expedite economic recovery, expansion and job creation.

Free trade agreements are particularly important tools to promote economic growth, notably through increased exports of U.S. manufactured goods, most of which depends on the business of chemistry. However, future economic expansion and export growth made possible by the domestic chemical industry will depend on getting key policies right: trade, energy, transportation, tax and regulatory.

The chemical manufacturing sector is one of America’s top exporting industries, with $189 billion in annual exports, accounting for 12 percent of all U.S. exports. The industry employs 788,000 men and women, and of these jobs, more than 200,000 are export dependent. Chemistry is the primary building block for a broad range of downstream industries, including automotive, agriculture, buildings and construction, pharmaceutical, transport, textiles, and many others. The chemical manufacturing industry plays an important role in stimulating future growth and overall U.S. export competitiveness.

Reflecting the key role of the chemical sector to overall U.S. export performance, the American Chemistry Council (ACC) proposes the following policy and regulatory recommendations that, if implemented, would provide a significant boost to U.S. export competitiveness. These steps will strengthen the competitive position of the U.S. chemical industry, create jobs, and contribute to broader U.S. export growth. In this analysis, we provide order-of-magnitude estimates of the export-expansion effect of these policy and program recommendations, adding up to more than $58 billion in potential export growth.

PROMOTING EXPORT GROWTH THROUGH AN IMPROVED BUSINESS ENVIRONMENT:

Export performance for the chemical sector depends on establishing a business environment that helps reduce production costs and promotes innovation and growth. The quality of the overall regulatory environment, including areas such as energy, rail, and tax policy, has a significant impact on the industry’s competitiveness. The introduction of the right policy and regulatory settings would lead to significant cost savings, resulting in higher production, job creation, and export expansion.
Success in today’s global economy requires companies to compete effectively in international markets. Regional and global initiatives to reduce trade barriers and open up foreign markets have been critical to boosting U.S. export competitiveness. For domestic chemical companies, trade liberalization has helped eliminate punitive tariffs and taxes, and provides new market opportunities. Advancing open trade policies, through bilateral and multilateral agreements, accounts for an increasing portion of U.S. economic growth and employment. For the chemical sector specifically, approximately 200,000 jobs are dependent on access to important external markets.

U.S. – EU TRADE AGREEMENT
Meeting the shared goal of expanding U.S. exports requires a concerted effort by the U.S. government to pursue new multilateral and bilateral trade deals. The U.S. and the European Union (EU) already have the world’s largest commercial relationship; total two-way trade in the chemical sector exceeded $139 billion in 2011. However, major opportunities for increased trade and cooperation remain. Recent economic troubles on both sides of the Atlantic have underscored the need to deepen and strengthen trade and investment ties and boost economic growth. The potential impact of a comprehensive U.S.-EU trade agreement would be overwhelming in terms of creating jobs, boosting innovation, improving industry competitiveness, and ensuring long-term growth and prosperity. An ambitious
and comprehensive trade agreement between the U.S. and the EU that addresses regulatory and trade barriers would provide a significant boost to the U.S. chemical sector’s competitiveness. ACC and its members strongly support the development of a trade agreement between the U.S. and the EU, and believe now is the time to forge a strategic economic partnership across the Atlantic.

U.S. companies exporting to the EU already enjoy low tariffs across the Atlantic, but ACC supports the total elimination of tariffs. Currently, import duties on chemicals on both sides of the Atlantic are on average about 3%. The elimination of the industrial tariffs would entail considerable savings – more than $600 million per year for intra-company trade alone.4

These savings would immediately reduce the costs of production and the benefits should be reflected throughout the economy. In addition to cost savings associated with the total elimination of tariffs, a U.S.-EU trade agreement should also make progress towards eliminating non-tariff barriers (NTBs). For the chemical industry, most NTBs are driven by inefficiencies in the regulatory process. A commitment to regulatory cooperation in a U.S.-EU trade agreement should focus on developing and agreeing to key principles on several priority areas in chemical management. Agreement on a small set of discrete principles may well be the most constructive method to foster improvements in the chemical regulatory environment. Such principles could also form the basis of regulatory cooperation globally.

To provide the maximum impact, any U.S.-EU trade agreement must be robust and comprehensive. Significant commercial and strategic benefits would accrue to industry as a result of stronger trans-Atlantic economic ties, both in the short-term through the elimination of trade barriers, and exponentially into the future through the increased productivity and growth that would result from further liberalization.

**TRANSPACIFIC ECONOMIC PARTNERSHIP AGREEMENT**

ACC also calls for the swift conclusion of negotiations on the TransPacific Economic Partnership (TPP) negotiations. The chemical sector strongly supports the TPP, and views it as an opportunity to build consensus around new, high-standard trade disciplines that address current and emerging trade issues. ACC analysis shows that the **TPP agreement has the potential of generating $1.2 billion in export growth.** In addition to the TPP, the U.S. government must explore options for free trade agreements with key APEC economies not already part of the TPP.

Recent economic troubles on both sides of the Atlantic have underscored the need to deepen and strengthen trade and investment ties that will boost economic growth.

Regional and global initiatives to reduce trade barriers and open up foreign markets have been critical to enhancing the competitiveness of U.S. businesses.
Recommendations:
- Trade policy must create a level playing field with fair and reciprocal market access with key trading partners;
- Trade negotiations should result in comprehensive and ambitious agreements that address the elimination of tariff and non-tariff barriers in all areas of trade, as well as addressing “21st Century” trade issues, such as regulatory coherence and trade facilitation;
- ACC recommends that leaders launch negotiations on a comprehensive U.S.-EU trade agreement as soon as possible;
- The Administration should pursue an aggressive trade policy, including expanding the TPP to include key APEC economies not already a part of the negotiations;
- A U.S.-EU trade agreement should mandate the development of an agreed work plan to specific areas of regulatory cooperation;
- The U.S. government should dedicate significant resources to ensuring trading partners are complying with their FTA and/or WTO commitments, with an emphasis on non-tariff barriers (e.g. local content rules) that impose unreasonable delays and cost to U.S. companies.

EXPORT CONTROLS
A pro-competitive, export-growth agenda must include a thorough modernization of the U.S. export controls system. The system should be tailored to achieve national security objectives in a manner that minimizes negative impacts on industry while supporting the reasonable policy goals of our export control regulations. At present, the export control system is governed by a complex set of laws, regulations, and processes involving multiple federal agencies. The system has been mired in weaknesses leading to unnecessary restrictions on technologies that do not warrant control. The business community has complained about the lack of clarity and necessary guidance to comply with the rules while trying to remain competitive globally.

Many of the current controls on chemicals and chemical processing equipment are outmoded in light of global availability, and hinder U.S. companies’ competitiveness in the global market. Current U.S. license processing and unilateral controls put U.S. manufacturers at a competitive disadvantage. The U.S. system requires five different U.S. government agencies to review and approve an export license application instead of only one for many competitors. The U.S. government often denies or conditions approvals at levels where our regime partners would not. For example, the Department of Defense (DoD) has denied or severely restricted some export license authority to share certain chemical or biological equipment technology with 1) a wholly-owned subsidiary in India, 2) a joint venture in Brazil, and 3) a chemical plant in Mexico that while not wholly owned is wholly controlled and operated by the U.S. company. U.S. industry faces unilateral controls such as deemed exports, foreign policy controls, and re-exports controls which require industry to get licenses in circumstances when our trading partners would not have to do so. The U.S.
government issued a rule in 2007 requiring U.S. manufacturers exporting certain controlled goods to China to obtain an export license — goods that previously could be shipped to China without a license. In addition, the U.S. government requires the importer in China to obtain an End-User Certificate issued by the Chinese Ministry of Commerce (MOFCOM). These administrative burdens disadvantage U.S. manufacturers exporting to China relative to competitors in countries that do not impose an import certificate requirement. Overall these requirements harm member companies’ ability to sell certain chemicals to importers in China.

Reforming the export control system will signal that the U.S. government is serious about providing the right regulatory environment to ensure companies maintain a strong competitive edge. The objective is to identify chemical-specific aspects of export control reform to help expedite the licensing process and lessen the compliance burden on both the Department of Commerce’s Bureau of Industry and Security (BIS) and industry. This would reduce compliance costs and reduce or eliminate barriers to trade.

**Recommendations:**

- Policymakers need to expand the general license authority for chemicals freely available outside of the Australia Group (AG) by:
  - “Tiering” chemicals on the Commerce Control List (CCL) by dividing the list according to the sensitivity of the item and its availability among regime members;
  - Revitalizing the Export Administration Regulations (EAR) Chemicals and Biological Controls designations for “CB Column 3”;
  - Removing the Import Certificate Requirement for chemical exports to China.

- Streamline the Licensing Process for commercially significant chemicals controlled under the Export Control Commodity Number (ECCN) IC350 chemicals;

- Create new Additional Permissive Re-exports (APR) license exceptions for re-exporting to and from regime members applicable to chemical and biological agents;

- Facilitate low-risk trade between corporate entities by creating an effective and efficient Intra-Company Transfer (ICT) license that allows trusted companies that maintain strong compliance programs and technology and property control plans to exchange technology freely within their own organizations.
RESIDUE CONTAINERS

The U.S. Customs and Border Protection (CBP) recently announced the enforcement of a modified ruling (CBP HQ Ruling H026715) that threatens to pose a significant, unnecessary burden on the U.S. The ruling affects the routine movement and reuse of containers that return to the U.S. with small amounts of product residue after export shipments have been delivered. CBP issued this ruling without regard for the burdens it imposes on U.S. exporting companies and the rail and truck carriers that transport products to customers in Canada and Mexico.

These containers, known as “Instruments of International Traffic (IIT),” are returned to the U.S. containing small amounts of residue where the same amount is usually re-loaded into the IIT. Although this residue has no intrinsic or commercial value to the exporter or the purchaser, the CBP ruling would force U.S. exporters and carriers to file a “manifest” and make a formal or informal customs “entry” as if the residue were a non-U.S. product being imported into the U.S. The ruling not only raises costs for U.S. trade firms by requiring that they pay additional custom broker fees for importing these residues, but it also negatively impacts potential jobs by creating incentives to outsource the washing of the container in the export country rather than the U.S. in order to avoid the reporting burden.

Rather than streamlining or minimizing regulatory burdens, CBP’s ruling creates unnecessary costs and stifles economic growth. ACC and its members strongly support the elimination of inefficient and unnecessary regulatory differences between the U.S. and other countries.

Recommendations:
• Industry is seeking a “manifest-only” program which would allow containers with residue that meet the threshold limit requirements to be manifested but not subject to entry.

DRIVING EXPORT GROWTH THROUGH TRADE LIBERALIZATION:

There is significant potential for continued export growth in the chemical sector, but this growth is dependent on greater access to overseas markets. Free Trade Agreements are an important tool to improve access to foreign markets, increase trade, and create jobs.
Access to energy is a key catalyst for economic growth and prosperity in the U.S. Ensuring an affordable and reliable energy supply is one of our country’s biggest challenges, and also one of our greatest opportunities. The business of U.S. chemistry uses energy both as a source of power and as a basic building block for producing the modern materials that our society needs. Chemistry is enabling a more sustainable energy future through clean, renewable and efficient energy materials and technologies – from high-performance insulation, windows and lighting, to wind turbines, solar panels and lithium ion batteries, to auto parts and lightweight plastic packaging. In fact, plastic products like roofing, insulation, wall coverings and windows save 467.2 trillion BTUs of energy per year, enough to power 4.6 million homes. The U.S. chemical manufacturing sector makes important contributions toward energy solutions, and impacts the overlapping issues of energy supply, feedstock security, and climate protection more than any other sector.

ACC and its member companies are focused on the next energy paradigm: a more comprehensive approach to production and consumption of all our energy sources to ensure the competitiveness of U.S. manufacturers in both domestic and international markets. To achieve this, sound energy policies at the federal and state levels that will enable our industry to reduce costs, grow, compete globally, and create jobs are vital. We are already seeing results from the shale gas revolution, which is a game changer for the chemical industry and is enabling a U.S. manufacturing renaissance in the global economy.

As part of our national advocacy and awareness campaign, “From Chemistry to Energy”, ACC has called for a comprehensive national energy strategy that promotes and develops all of America’s own energy resources—shale and conventional natural gas, oil, wind, solar, and biofuels—while also promoting energy efficiency and alternative sources, such as energy recovery.
SHALE GAS: A CATALYST FOR EXPORT GROWTH

The U.S. chemical manufacturing sector is one of the most important beneficiaries of the surplus of inexpensive natural gas and is among the leaders of the U.S. manufacturing revival. This manufacturing renaissance has allowed the chemical sector to reassert a strong position in global export markets.

SHALE GAS (ORDER OF MAGNITUDE EFFECT +$15-20 BILLION)

Natural gas from shale is a critical component of a comprehensive domestic energy plan that encourages the development of the entire portfolio of energy sources, including fossil fuels, renewables and energy efficiency. Access to vast new supplies of domestic shale gas, rich in the ethane needed for chemical production, is revitalizing the chemical industry and America’s manufacturing base. The shale gas boom has lowered input costs for the chemical sector, spurred demand for goods derived from chemicals in international markets, and is driving a huge competitive advantage for U.S. producers. In fact, exports of U.S. manufactured chemicals and plastics have increased by 15% since 2010 alone, resulting in a record $34.7 billion trade surplus. To continue to serve international and domestic markets, U.S. chemical manufacturers have announced more than $40 billion in new domestic capital investments. Chevron Phillips Chemical Co., ExxonMobil Chemical Co and the Dow Chemical Co. are all building plants in the U.S., and other North American producers are considering expanding or restarting their current facilities.

New production and associated activity is projected to accelerate economic growth by 30-40 basis points. By 2020, the cumulative impact could boost real GDP by 2.0% to 3.3%, creating from 2.7 million to as high as 3.6 million net new jobs. The cost advantage resulting from lower ethylene feedstock has put the U.S. on an entirely new path in cost competitiveness, creating permanent, high-paying jobs in the U.S, and opening new export markets. In order to fully realize the export potential of this renaissance in U.S. chemical manufacturing, energy policy must reinforce the long-term competitive advantage in fuel and feedstock markets that shale gas has provided.
Recommendations:

- Promote the development of all domestic energy sources, including renewables, coal, nuclear, oil and natural gas, particularly from revolutionary new shale finds;

- Promote greater energy efficiency in homes, buildings and industrial facilities;

- Employ economically competitive approaches to encourage the adoption of diverse energy sources, including energy recovery from non-recycled materials and other renewable sources;

- Adopt balanced regulatory policies and permitting practices that will protect the environment while allowing the U.S. to make the most of its vast resources;

- Encourage sound state and local policies and enhanced coordination at all levels of government;

- Policymakers should encourage environmentally responsible access to new sources of natural gas supply, and reject artificial restriction to this resource as proposed in the Five-Year Plan for Outer Continental Shelf Oil & Gas Leasing Program;

- Policymakers should refrain from taking action that would distort the rapidly changing market for natural gas. For instance, the government should not act to artificially inflate demand for natural gas by subsidizing the purchase of natural gas vehicles. Providing large government incentives to stimulate one sector of the natural gas market could put other sectors at a competitive disadvantage;

- If policymakers take steps to encourage demand growth in the natural gas market, notably for power generation, then policymakers should act to ensure that access to supply sources can also grow to keep pace with demand and prevent price volatility.

- Policymakers should avoid regulatory, tax, or other policies that would increase the cost of continued development of domestic shale gas.
Ensuring the flow of commerce through safe and efficient transportation is critical to industry. Rail provides a vital link for U.S. chemical manufacturers to reach the global market, and, for many chemicals, rail is the only economically viable choice for transportation in both interstate and international commerce. Many ACC members depend on the nation’s railroads to move a wide array of products, including plastics, chlorine, fertilizers, bulk petrochemicals, and industrial chemicals. The chemical industry shipped 186 million tons of products by rail in 2010 with at least 14 million tons of those shipments headed directly to ports and borders for export. Ensuring a competitive rail system and the flow of commerce through safe, efficient and sustainable transportation is an important factor in an export growth strategy.

The cost effectiveness of rail is vital for U.S. chemical manufacturers to maintain their competitive advantage in the global marketplace. There is, however, a significant lack of meaningful competition within the rail industry which has led to a broad range of service challenges such as non-competitive rates and exorbitant surcharges. ACC estimates that U.S. chemical manufacturers paid $4 billion in excess costs on rail shipments in 2010 alone. The unreasonably high and uncompetitive rates imposed by railroads affect the chemical sector’s ability to compete in both domestic and international markets. ACC and its members – and other affected industries – have actively advocated for the elimination of anti-competitive rail practices.

The U.S. economy would benefit from improved railroad competition, which would ensure that essential commodities can be shipped efficiently and cost-effectively to American manufacturers that depend on them. ACC and its members support policies that would improve access to competitive freight rail service, uphold the railroad common carrier obligation, and allow the movement of products wherever they are needed now and in the future.

Recommendations:

• Pursue policy reform to remove barriers that often prevent rail shippers from obtaining competitive service and address rail competition as a national policy priority.
Tax policy that drives innovation, increases productivity and promotes manufacturing competitiveness will also support increased chemical exports. The costs of U.S. manufacturing determine the ability of U.S. producers to compete in the global economy, with the cost of home-country taxes being a major factor affecting export success and global competitiveness. Currently, the U.S. statutory corporate tax rate is one of the highest in the world, with a rate that is 11 percentage points above the OECD average. This discrepancy is a handicap to greater exports and penetration of global markets by goods produced in the U.S.

Source: Business Roundtable Roadmap for Growth, December 2010
The current tax code should be reformed to lower the rate and to increase U.S. exports, expand manufacturing jobs, and enhance economic growth. The U.S. should not take steps to lower the rate in a manner that would make capital intensive industries, such as the chemical industry, internationally uncompetitive, which would lead to less economic growth and job creation.

**Recommendations**

- Business income tax rates should reflect the rates comparable to Organization for Economic Development and Cooperation (OECD) averages;
- Tax treatment of capital cost recovery is of key importance to enhance the global competitiveness of U.S. chemical manufacturers;
- Tax reform must produce a level playing field such that U.S. companies investing abroad can compete equally with foreign investors, and U.S. and foreign companies investing in the United States are treated equally;
- Tax policy should also incentivize R&D to make U.S.-based R&D competitive with similar OECD based activities.
Today, U.S. chemical manufacturers comply with a massive amount of data collection, reporting and other regulatory requirements, many of which are vital to ensuring the health and safety of our products. However, regulations not grounded in science or lacking a methodology for calculating risk typically impose massive, unnecessary costs for U.S. manufacturers with little or no public benefit. The U.S. chemical industry needs cost effective, science-based regulations that achieve both economic and social policy objectives.

**INNOVATION THROUGH REGULATION**

Innovation, including science and technological progress, is an important source of enhanced competitiveness for U.S. chemical manufacturers, and a driver of economic and export growth. In the chemical sector, innovation and chemistry are inextricably linked. From applied technology in medical devices, aerospace, energy efficiency, computing, cars, fuels and more, chemistry enables technological advancements that drive further innovation, create jobs and enhance safety in our everyday lives. The U.S. chemical sector’s growth and competitiveness depend on its capacity to innovate and commercialize new chemical products and applications.

Underpinning U.S. competitive success internationally is the effectiveness of our regulatory structures. Properly designed regulations that rely on risk assessment and risk management principles can both responsibly provide important protection for the environment and the health of Americans, and also allow for innovations that create social benefits. The chemical industry supports a reasonable, coordinated regulatory environment for products at global, national, and regional levels to complement industry voluntary efforts. Effective regulation must enhance the safety of chemicals while maintaining the ability of the U.S. chemical industry to be the international leader in innovation and manufacturing. Promoting workable approaches to chemicals management that advance safety, while also promoting innovation and protecting American jobs is achievable, and ACC stands ready to help with this effort.
Changes in just two U.S. chemical regulatory programs could help spur innovation, industry competitiveness and export growth if properly modernized to be in lock-step with modern science.

**TOXIC SUBSTANCES CONTROL ACT (TSCA)**
The current regulatory regime under the core U.S. chemical management law – the Toxic Substances Control Act – is in need of modernization. TSCA is more than 35 years old, and needs updating to reflect advances in science and technology, to provide for greater business certainty, to continue to promote innovation within the industry, and provide customers confidence that chemicals are safe for their intended uses. Domestic and foreign consumers should be confident that the U.S. employs a regulatory framework that bases decisions on chemical safety science and state-of-the-art testing and assessment methods. A more efficient and effective chemicals management system can serve as a catalyst for enhancing the industry’s export performance, while also protecting human health and the environment.

**INTEGRATED RISK INFORMATION SYSTEM (IRIS)**
EPA’s Integrated Risk Information System is not a regulatory program, but it drives many other important EPA regulatory and policy decisions that can have a major impact on jobs and the economy. IRIS is a leading source of health risk information for domestic and international regulatory bodies, including other EPA program offices. However, IRIS relies on outdated methods for assessing the safety of chemicals, and lacks the transparency needed by risk managers who use these assessments. Reforms to IRIS to ensure it employs a more transparent, rigorous, and science-based approach in its assessments, are essential to ensuring that our nation’s chemical management system delivers sound public health decisions, while at the same time encouraging innovation, competitiveness, and export growth.

A rational, efficient, and science-based regulatory framework is essential to fostering job creation, augmenting business competitiveness, and boosting export performance in the manufacturing sector.

**Recommendations:**
- Create an efficient and predictable regulatory environment that builds consumer confidence while preserving the U.S. standing as the world’s leading innovator, and enabling U.S. companies to compete globally and protect jobs;
- The U.S. regulatory system should reflect the best available science and technology in testing and assessing risks so well-informed policy and regulatory decisions can be made;
• U.S. agencies should collaboratively work with industry in the regulatory development phase to ensure better, more implementable standards are developed;

• TSCA must be modernized in a manner that results in effective chemicals risk management while retaining the industry’s competitiveness in both domestic and international markets;

• Policymakers should implement the National Research Council’s substantive suggestions for improving IRIS assessments;

• Effective and enforceable protection of intellectual property rights, such as the protection of confidential business information, must be available;

• Policymakers should encourage cooperation and interaction among researchers and laboratories, including through joint research and development, in order to accelerate innovations that have commercial application to both domestic and international markets.

CONCLUSION

A robust export-led growth strategy must address both domestic and international policies that systematically disadvantage U.S. manufacturing competitiveness. The purpose of ACC’s “Keys to Export Growth” is to provide insights and actionable recommendations that will lead to stronger export growth for the U.S. chemical sector, and the U.S. economy as a whole. ACC and its members support a broad and comprehensive policy approach that addresses a range of policy issues. From energy and tax to trade and regulations, ACC’s “Keys to Export Growth” presents clear recommendations on public policy issues that can make a positive contribution to the chemical industry’s efforts to drive innovation, increase productivity, and encourage investment.

ACC’S KEYS TO EXPORT GROWTH FOR THE CHEMICAL SECTOR

Advance trade deals that lead to significant commercial & strategic benefits for U.S. businesses
Drive a comprehensive and holistic energy strategy
Pioneer a pro-manufacturing tax climate
Ensure a competitive rail system
Promote economic growth through a modernized regulatory environment
1. ACC’s analysis consists of order-of-magnitude estimates based on a scenario expected to double exports by 2014. The effects of the policies considered will take years to accrue. This analysis outlines the full potential impact in each policy area.


4. American Chemistry Council analysis

5. The Australia Group (AG) is a multilateral forum consisting of 40 participating countries that maintain export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program.

6. “CB Column 3” designations refer to the third column of the Chemical & Biological Controls on the Country Chart


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