



April 15, 2019

Ms. Katherine Hiner
Acting Secretary
U.S. International Trade Commission
500 E Street SW
Washington DC 20436

Re: 19 CFR Part 220, Submission and Consideration of Petitions for Duty
Suspensions and Reductions, Proposed Amendments to Rule with Request for
Comments

Dear Ms. Hiner:

The American Chemistry Council (ACC) appreciates the opportunity to comment on proposed changes by the U.S. International Trade Commission to the “Rules Relating to the Submission and Consideration of Petitions for Duty Suspensions and Reductions.”

ACC represents a diverse set of companies engaged in the business of chemistry. An innovative, \$526 billion enterprise, we work to solve some of the biggest challenges facing our nation and our world. 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. ACC and its members are committed to fostering progress in our economy, environment and society.

Tariff elimination is a core priority for the business of chemistry. U.S. chemical manufacturers compete and succeed when tariffs are zero and trading costs are low. In order to compete in the United States and globally, chemical manufacturers must be able to import certain chemicals, feedstocks, and raw materials that are not available in this country.

We thank the Commission for its deliberative and inclusive conduct of the most recent of the previous Miscellaneous Tariff Bill (MTB) petition process under the American Manufacturing Competitiveness Act. ACC members were active petitioners, as they viewed the process as a critical opportunity for enhancing the competitiveness of the U.S. chemicals sector by reducing the cost of many essential imports.

As the Commission considers possible changes to the petition rules, ACC recommends that it reflect the following principles in its review:



- 1. Keep the lines of communication open.** Filing MTB petitions is inherently a labor-intensive, dynamic process. U.S. chemical manufacturers take the process seriously, as duty suspensions and reductions can have a commercially meaningful impact on their operations. Throughout the process, we recommend that the Commission keep lines of communications with stakeholders open to reduce the number of overlapping or improperly filed petitions and, more importantly, avoid the rejection of petitions based on insufficient, confidential opposition without a full and fair analysis. We ask the Commission to commit resources to arranging direct conversations between companies and USITC staff. ACC also welcomes the proposed change to Section 220.11(d) on additional opportunity for public comment.

One example of why keeping line of communication between relevant U.S. government agencies and industry stakeholders open concerns rejections of specific petitions by U.S. Customs and Border Protection (CBP) (see Appendix H on Category VI Petitions in the USITC's Preliminary Report from June 9, 2017). In issuing these rejections, CBP has claimed that it is not able to administer the duty suspensions or reductions. In the experience of ACC members with this document, CBP did not provide specific details on exactly what administrative issues there were in a timely enough fashion to enable petitioners to correct petitions.

Consequently, certain petitions were rejected a second time and were not included in the final MTB. The final report issued to Congress by the USITC ("Report of the Department of Commerce Under Section 3(c) of the American Manufacturing Competitiveness Act of 2016") contained the specific detailed objections from CBP in Appendix B of said report. Unfortunately, this was too late to allow petitioners to submit corrected petitions, so the process suffered by excluding a number of products in the final MTB. ACC recommends that the USITC provide the specific objections from CBP to petitions as early as possible, prior to the period allowed for the submission of amended petitions, to allow the petitioner to submit a corrected petition that will be administratively acceptable (i.e., able to be administrated by CBP) for inclusion in the final MTB report to Congress and in the final MTB legislation.

- 2. Ensure that the petition process is simple, clear, transparent, and easy for petitioners to use.** The experience of ACC members who participated in the previous process was positive, largely due to the process's simplicity, clarity, and transparency, and ease of use. We recommend avoiding changes that introduce unnecessary complexities or make the rules too stringent. For example, the proposed changes to Section 220.6 could cause stakeholders to avoid filing petitions due to the complexity of describing articles consistent with the rule change. The existing language in this section regarding the description of articles – "sufficiently clear as to be administrable by CBP" – strikes the right balance. We recommend that the Commission maintain this language, which is easier for stakeholders to understand.
- 3. Protect Confidential Business Information (CBI).** U.S. chemical manufacturers depend on the ability to protect confidential business information when engaging in public comment processes. Some requests for information from government agencies, whether in the United States or globally, go too far in the direction of asking companies to provide information which, if disclosed to the public, would put them at a competitive disadvantage. In this regard, the proposed rule change to Section 220.05 on providing an estimate of share of total

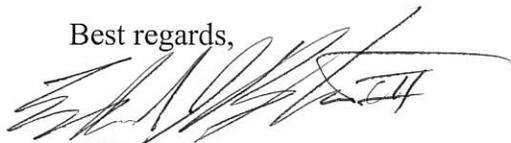


imports for articles in question could deter companies from filing petitions. We recommend that the Commission provide a discrete Confidential Business Information process if it determines that such information is necessary for its review of the petition.

- 4. Ensure flexibility in petition review.** ACC members filed numerous petitions in the previous process. As filing petitions can be a trial and error exercise, it is important for the Commission to provide opportunities for petitioners to correct improperly filed petitions or overlapping petitions. We recommend that the Commission avoid rule changes that limit the flexibility of the USITC in petition review. In this regard, we request that the Commission maintain the term “generally” in Section 220.07, which in our view strikes the right balance for petition review.

Our members look forward to engaging with the Commission in the next MTB petition process. As USITC staff reviews public comments regarding the proposed rule changes, ACC and our members are happy to serve as a resource. We thank the Commission and USITC staff again for their leadership on MTB, which is a critical tool for enhancing the competitiveness of the business of chemistry in the United States.

Best regards,



Ed Brzytwa
American Chemistry Council
Director for International Trade

