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Sent: Monday, September 16, 2019 3:38 PM
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Cc: [redacted] <[redacted]@ec.europa.eu>;
[redacted] (GROW) <[redacted]@ec.europa.eu>; BURGSMUELLER
Christian (CAB-MALMSTROM) <[redacted]@ec.europa.eu>;
(TRADE) <[redacted]@ec.europa.eu>; WATSON John (SG) <[redacted]@ec.europa.eu>;
[redacted] (SG) <[redacted]@ec.europa.eu>; [redacted]
[redacted] <[redacted]@international.gc.ca>
Subject: Letter from Canada to the European Commission - Cobalt & TIO2 - September 16, 2019

Good afternoon,

Please see attached a letter from the Mission of Canada to the European Union, addressed to Mr. Daniel Calleja Crespo, Director General, Directorate General for Environment, and copy to:

- Mr. Timo Pesonen, Director General, DG GROW,
- Ms. Sabine Weyand, Director General, DG Trade,
- Mr. John Watson, Director Single Market and Connectivity, Secretariat General of the European Commission.

Original copy will follow by regular post.
With best regards,

[redacted]
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Mission of Canada
to the European Union



Mission du Canada
auprès de l'Union Européenne

Ref. Ares(2019)579743 - 16/09/2019

Avenue des Arts 58
1000 Brussels

September 16, 2019

Mr Daniel Calleja Crespo
Director General
Directorate General for Environment
Avenue de Baulieu 5
1160 Brussels

Subject: European Commission's proposal to amend Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling, and packaging of substances and mixtures.

Dear Director General,

I am writing regarding the European Commission's proposal to amend Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling, and packaging of substances and mixtures (CLP Regulations) under the 14th Adaptation to Technical Progress (ATP).

Over the past months, Canada has engaged the European Commission regarding the potential relevance of the proposed amendments, especially with regard to international trade flows for cobalt and titanium dioxide. As part of this engagement, Canada appreciated the opportunity to comment on the draft proposal as part of the European Union's notification G/TBT/N/EU/629 under the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement. For ease of reference, these comments are attached in annex to this letter.

As a Member of the WTO TBT Agreement, Canada fully recognizes that countries maintain a right to regulate to ensure the safety and protection of human health. Canada believes that it is important that those measures be taken in an informed manner to avoid creating unnecessary obstacles to international trade while meeting a Member's desired regulatory outcome.

In light of the potentially significant economic impacts they could have for Canada, Canada asks that due consideration be given to conducting a Better Regulation Impact Assessment to inform any decision pertaining to cobalt and titanium dioxide.

Canada would welcome consideration of, and a response to the points raised in this letter, and would be pleased to discuss them in further detail at your convenience.

Yours sincerely,

A redacted signature block consisting of three horizontal grey bars of varying lengths, obscuring the name and title of the signatory.

c.c.ed: Ms Sabine Weyand, Director General, DG Trade
Mr Timo Pesonen, Director General, DG GROW
Mr John Watson, Director Single Market and Connectivity,
Secretariat General of the European Commission



Global Affairs
Canada

Affaires étrangères
Canada

February 8, 2019

European Commission
EU-TBT Enquiry Point

Fax: • [REDACTED]

E-mail: [REDACTED]@ec.europa.eu

SUBJECT: CANADA'S COMMENTS ON THE EUROPEAN UNION'S NOTIFICATION G/TBT/N/EU/629

On behalf of the Government of Canada, I would like to express Canada's appreciation for this opportunity to comment on the European Commission's draft proposal to amend Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling, and packaging of substances and mixtures (CLP Regulations), further to the European Union's notification G/TBT/N/EU/629 under the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement. Canada is highly supportive of regulatory efforts aimed at improving consumer health and safety. At the same time, Canada believes it is important that regulatory amendments are undertaken in a predictable and transparent manner given the important and significant impacts that they can have on trade flows.

In particular, Canada would like to note the potential disruption to international trade flows caused by the European Commission's proposed changes related to cobalt and titanium dioxide (TiO₂).

Cobalt

The European Commission's proposal to classify cobalt as a category 1A carcinogen for all routes of exposure under the CLP regulations has the potential to disrupt trade in a wide variety of products that contain very small amounts of cobalt. In particular, the proposal could affect certain categories of stainless steel, of which nickel is a key part of the alloy, and all nickel produced under current technical methods contains a small amount of cobalt. Notably, stainless steel is the largest end use for nickel, accounting for two-thirds of total consumption.

EU business are big importers of Canadian nickel. In 2017, Canada exported 6 thousand tonnes of nickel concentrates, 39 thousand tonnes of refined nickel, and 35 thousand tonnes of unwrought nickel to the EU, together valued at CA \$1.1 billion or 29% of Canada's total exports of these products. Fluctuations in demand for nickel and nickel-bearing products in the EU will have implications for Canada's nickel industry. In 2016, Canada's nickel mining industry employed over 20,000 people directly and through upstream supply chains. Thousands more jobs are associated with nickel processing and metal product manufacturing downstream.

Canada seeks to confirm that the European Commission's proposal has taken into account the full range of risks that could result from the proposed classification of cobalt as a category 1A carcinogen for all routes of exposure. For instance, it is possible that as a result of the European Commission's proposal, consumers may unduly consider stainless steel as unsafe for use, particularly in appliances and products used for food preparation, in buildings, and in dental and medical environments. However, alternatives may be unavailable, overly expensive, or may not embody the health benefits provided by stainless steel, for instance the relative ease with which it can be cleaned and sterilized. As a result, given the very large potential for impact on trade, Canada requests that the EU refrain from making the proposed changes with respect to cobalt until a Better Regulation Impact Assessment

Canada

can be conducted that would take into account the full range of economic and health and safety impacts throughout the value chain of cobalt-containing products.

Titanium Dioxide

Canada has heard from implicated stakeholders that the European Commission's proposed amendments will have a significant and negative impact on trade of products that contain titanium dioxide (TiO₂). The proposed regulations would require warning labels for TiO₂ containing products available to consumers and would also have large downstream effects, including significant restrictions on the types of products available to consumers in which TiO₂ can be used.

Given these significant potential economic impacts, Canada would like to raise questions about the process that the European Commission has followed to arrive at the proposed amendments to the CLP Regulations. Canada understands that the European Commission has begun a Substance Evaluation for TiO₂ under the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regulations. The REACH Substance Evaluation process includes a detailed scientific evaluation of the risks posed by a particular substance, including detailed input from industrial users of that substance. Normally, following the substance evaluation, the European Commission would recommend risk mitigation measures as appropriate.

However, in this case the European Commission is already proposing to amend the CLP Regulations to mitigate risks of powder form TiO₂ even though the REACH substance evaluation has not yet finished and despite risks from powder form TiO₂ already being managed through EU workplace health and safety regulations. Canada understands that there was a much less substantial consultation process to arrive at CLP Regulation amendments than there would have been under the REACH Substance Evaluation. Impacted stakeholders have therefore had a limited ability to provide relevant input and the full impact of the proposed mitigation measures may not be known.

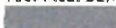
As a result, Canada would suggest that amendments to the CLP Regulations should be delayed until the REACH substance evaluation has been completed. Furthermore, Canada would suggest that the European Commission conduct a Better Regulation Impact Assessment prior to implementing any mitigation measures given the significant economic impacts of the proposed amendments.

Canada wishes to express its appreciation for this opportunity to comment. I would be pleased to discuss Canada's comments in further detail at your convenience.

Yours Sincerely,



Technical Barriers and Regulations (TPB) | Règlements et obstacles techniques (TPB)

@international.gc.ca

Global Affairs Canada | Affaires mondiales Canada
Government of Canada | Gouvernement du Canada

