

South-East Asia Goods Branch (SGB)
Free Trade Agreement Division
Department of Foreign Affairs and Trade
R.G. Casey Building
John McEwen Crescent
BARTON ACT 0221

Email: rcep@dfat.gov.au

Dear Madam/Sir

Accord is pleased to provide the following comments for the Regional Comprehensive Economic Partnership (RCEP) negotiations.

Accord Australasia is the peak national industry association representing the manufacturers and marketers of formulated hygiene, cosmetic and specialty products, their raw material suppliers, and service providers. Accord has just over 100 member companies which range from smaller Australian-owned family businesses to the local operations of large consumer brand multinationals with 80 percent of members operating as small to medium businesses (<200 employees). A full membership list is attached.

Headline features and statistics¹ for our industry's economic footprint include:

- Estimated annual retail-level sales of industry products nudging the \$10 billion mark.
- Accord member companies directly contribute more than 15,000 full-time equivalent jobs.
- Nationally more than 180 offices and more than 60 manufacturing sites are operated by Accord member companies.
- Approximately 75% of members export product.

There are two main areas of interest which Accord members would like the government to consider in addressing non-tariff measures (NTMs) when developing Australia's position for RCEP negotiations. Modelled on the chapters in the Trans-Pacific Partnership (TPP) the two areas include consideration of chapters on regulatory coherence and technical barriers to trade (TBTs). The chapter on TBTs could include annexes for cosmetics and chemicals.

Chapter on regulatory coherence

The work of the Asia-Pacific Economic Cooperation (APEC) towards the eventual realization of a Free Trade Area of the Asia-Pacific (FTAAP) has led to a Collective Strategic Study on Issues Related to the Realization of FTAAP. The Strategic Study identified that the TPP and RCEP provide possible future pathways to an FTAAP.

Importantly, the Strategic Study found that while tariff levels have fallen over time, the use of non-tariff measures (NTM) has become more common. NTMs include a range of measures such as technical barriers to trade (TBTs) or conformity assessment requirements; quotas; price controls; or behind the border measures such as local content requirements, trade related investment measures and measures related to government procurement. There has been a faster growth of trade in intermediate inputs than trade in final goods. This is because transaction costs imposed by policy and non-policy

¹ Results from Accord Industry Size and Scale Survey 2016

factors and behind the border measures accumulate along value chains. SME's and micro business are particularly disadvantaged by these practices.

The Strategic Study also found that accumulation of costs across the supply chains disadvantages consumers through higher costs. Addressing NTMs to reduce unnecessary transaction costs is important and can be achieved by enhancing regulatory cooperation within APEC economies to lower the costs of doing business. The proliferation of FTAs and RTAs in the region may have a detrimental effect. It has led to the creation of the so called 'spaghetti bowl' effect which has resulted in a complicated web of overlapping agreements which can lead to high costs for verifying rules of origin (ROO). The additional administrative costs and resulting trade diversion may offset any initial gains. An analysis of the data indicates that a simplification of ROO across trade agreements could address the spaghetti bowl effect by reducing transaction costs and contribute to creating more trade in the APEC region.

The Strategic Study indicated that trade agreements can have a role in promoting regulatory coherence and cited TPP's Chapter 25 on Regulatory Coherence as an example. Regulatory coherence is taking good regulatory practice one step further whereby domestic regulatory systems can interface as seamlessly as possible with systems in other countries.

We note that discussions on the RCEP to date have not included a chapter on good regulatory practice (GRP) or regulatory coherence like that of the TPP.

Chapter on TBTs

A chapter on TBTs can introduce common terms and definitions. This is important to ensure that there is a common understanding amongst economies as to what is meant by TBTs as well as the objectives and scope of such an agreement as outlined in Chapter 8 of the TPP.

Cosmetic annex

The cosmetic and personal care products industry is a global industry that requires open markets and transparent, consistent regulatory environments. International trade is a critical component to the success of the industry, and significantly contributes to its ability to compete globally, to expand manufacturing and employment, and to support other industries such as advertising, packaging and transportation. The personal care products industry also promotes continued technological innovation and supports small and medium sized businesses.

The TPP provides a model for the type of agreement which could be considered in the RCEP for cosmetics. Accord's position statement on the TPP Cosmetic Annex 8-D is at Attachment 2. In addition, industry has also provided a collective statement on its support for the RCEP at Attachment 3.

With the inclusion of an Annex on cosmetic products, the TPP was the first trade agreement to promote regulatory convergence and address technical barriers to trade that impede the personal care products industry. The Annex provides an important framework for international regulatory best practices that will raise standards and allow industry to continue to provide safe, innovative products in a timely fashion to consumers around the world. These same approach could be adopted by the RCEP.

Chemicals Annex

Chemicals trade is important to the ASEAN region and is led by the US and China and to a lesser extent by Japan and Korea. The global chemical shipments for the APEC region totaled \$5.2 trillion in 2015. Industrialized economies accounted for 47% of world production but the main centers of chemicals sales and production are in emerging markets, especially in the Asia Pacific region. The chemical industries of APEC member economies account for 69% of global manufacturing operations

nearly quadruple that of the EU. The chemical markets of APEC account for about 71% of world demand for chemistry².

The development of a Chemicals Annex for the RCEP will provide a greater challenge than that for cosmetics given the nature and stages of development of chemical management frameworks within the RECP economies. Rather than provide a prescriptive Annex, this could be principles based and be similar to the Best Practice Principles for Chemicals Regulation³ as adopted by the APEC Chemical Dialogue.

An alternative approach could be the promotion of GRP for chemicals management based on accountability, consultation, protection of confidential business information and transparency. An agreement for enhanced regulatory cooperation on chemicals management could include agreement to cooperate when developing new chemicals regulations and where regulatory approaches differ, opportunities to minimize divergences in regulatory outcomes and reduce compliance costs could be considered. An example of such an agreement could be a commitment to promoting alignment in classification and labeling of chemicals through the adoption of United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

GHS is an international system created by the UN to address the classification of chemicals by types of hazard and harmonize hazard communication elements, including labels and safety data sheets. It aims at providing a basis for harmonization of rules and regulations on chemicals at national, regional and worldwide level, an important factor also for trade facilitation. GHS has been introduced to many countries/regions such as Europe, USA, China, Japan and Korea, via their own legislation or standards. Australia finalized implementation on 1 January 2017*.

As economies implement GHS several challenges have already been identified by industry such as:

- Different “building blocks” being implemented by different economies leading to divergent implementation of GHS.
- Different editions of GHS being implemented by different economies.
- Need for capacity building – shortage of expertise in SMEs, and in regulatory agencies for enforcement.
- Discrepancies in classifications of the same chemical by different economies.
- International GHS implementation schedule not being aligned.
- Keeping local legislation up to date with GHS revisions.
- Unclear implementation plan and timeline for local legislation when updating to incorporate revised GHS editions.
- Implementation of non-GHS building blocks by some economies.
- Difficulty finding necessary GHS compliance information from some APEC economies, including restricted access to regulations, information, and/or websites.
- Country requirements that include all options for mixture cut-off values without specifying which is appropriate for compliance.
- Divergence in the SDS requirements from GHS SDS format by different regulatory bodies.

An additional challenge faced by Australian industry is the implementation by States and Territories which is leading to further divergences.

² *The Economic Importance of the Chemical Industry in the APEC Economies* Economics & Statistics Department American Chemistry Council February 2017

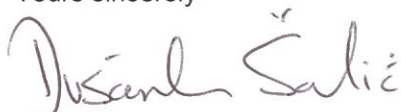
³ <http://www.apec.org/Groups/Committee-on-Trade-and-Investment/~media/B5821A4C2FCA4685A6192434457D6FF4.ashx>

* Except in Victoria, Western Australia and the Australian Capital Territory

For a system, which is meant to facilitate trade particularly for developing economies, the issues identified by industry already present challenges. An Annex in the RCEP could aim to minimize these challenges and help to deliver the intended benefits.

We hope that this information has been of assistance. Should you require any further information please do not hesitate to me on 02 9281 2322, 0422 569 222 or at dsabic@accord.asn.au.

Yours sincerely



Dusanka Sabic
Director Regulatory Reform

28 March 2017

Members

Consumer, Cosmetic and Personal Care

Advanced Skin Technology Pty Ltd	Keune Australia
Amway of Australia Pty Ltd	Kimberly-Clark Australia
AVON Products Pty Limited	La Biothetique Australia
Beiersdorf Australia Ltd	La Prairie Group
BrandPoint Pty Ltd	L'OCCITANE Australia Pty Ltd
Chanel Australia	L'Oréal Australia Pty Ltd
Clarins Group/Trimex Pty Ltd	LVMH Perfumes and Cosmetics
Clorox Australia Pty Ltd	Mary Kay Cosmetics Pty Ltd
Colgate-Palmolive Pty Ltd	Muk Haircare Pty Ltd
Combe Asia-Pacific Pty Ltd	Natural Australian Kulture Pty Ltd
Cosimer Pty Ltd	Nutrimerics Australia
Coty Australia Pty Limited	NYX Pty Ltd
De Lorenzo Hair & Cosmetic Research Pty Ltd	Pacific SMM Pty Ltd
Edgewell Personal Care	Panamex Group
Elizabeth Arden Australia	Pierre Fabre Australia Pty Ltd
Emeis Cosmetics Pty Ltd	Procter & Gamble Australia Pty Ltd
Estée Lauder Australia	PZ Cussons Australia Pty Ltd
Frostbland Pty Ltd	Reckitt Benckiser
GlaxoSmithKline Consumer Healthcare	Revlon Australia
Hairjamm Pty Ltd	SC Johnson & Son Pty Ltd
Helios Health & Beauty Pty Ltd	Scental Pacific Pty Ltd
Henkel Australia Pty Ltd	Skin Health Pty Ltd
Inglot Cosmetics Pty Ltd	Syndet Works Pty Ltd
iNova Pharmaceuticals – A Valeant Company	The Heat Group Pty Ltd
Integria Healthcare (Aus) Pty Ltd	Ultraceuticals
International Beauty Supplies Pty Ltd	Unilever Australasia
International Hair Cosmetics Group Pty Ltd	Vitafive
Johnson & Johnson Pacific	Weleda Australia Pty Ltd
KAO Australia Pty Ltd	

Commercial/Hygiene & Specialty Products

A S Harrison & Co Pty Ltd	Lab 6 Pty Ltd
Albright & Wilson (Aust) Ltd	Novozymes Australia Pty Ltd
BP Castrol Australia Pty Ltd	Nowra Chemical Manufacturers Pty Ltd
Brenntag Australia Pty Ltd	Peerless JAL Pty Ltd
Castle Chemicals Pty Ltd	Recochem Inc
Clariant (Australia) Pty Ltd	Rohm and Haas Australia Pty Ltd
Crisp Solutions	Schulke Australia Pty Ltd
Deb Australia Pty Ltd	Solvay Interlox Pty Ltd
Dominant (Australia) Pty Ltd	Sopura Australia Pty Ltd
Ecolab Pty Limited	Symbio Australia Pty Ltd
E.D. Oates Pty Ltd	Tasman Chemicals Pty Ltd
Huntsman Corporation Australia Pty Ltd	Thor Specialties Pty Limited
Hypred SAS	True Blue Chemicals Pty Ltd
Ingredients Plus	Whiteley Corporation Pty Ltd

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Corporate Travel Services

Platinum Travel Corporation

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DibbsBarker

FCB Lawyers

K&L Gates

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Logistics

Bolloré Logistics Australia Pty Ltd

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Regulatory and Technical Consultants

Apittton Scientific Consulting

APPharma Pty Ltd

Clare Martin & Associates Pty Ltd

Competitive Advantage

Davoren Environmental Pty Ltd

Engel, Hellyer & Partners Pty Ltd

RFA Regulatory Affairs Pty Ltd

Seren Consulting Pty Ltd

Sue Akeroyd & Associates

Tudor Chem Pty Ltd

UL International Australia Pty Ltd

Specialist Laboratories and Testing

Dermatest Pty Ltd

D.Lab Solutions Pty Ltd

Eurofins ams Laboratories Pty Ltd

January 2017



General Australian cosmetic industry association comments in support of a TPP “cosmetics annex”:

- The Australian cosmetics and personal care products industry strongly supports the inclusion of a “cosmetics annex” in the TPP negotiations to achieve closer alignment of international regulations for our highly globalised industry.
- We believe that regulatory alignment (and approvals recognition) for cosmetic and personal care products is critical to facilitating trade, in order to provide the safe, quality products sought after by Australian consumers, and indeed all consumers globally.
- We are convinced that the TPP agreement would contribute to the industry’s growth and competitiveness, both within Australian and internationally.

Additional comments on the current situation for our industry in Australia:

- Existing Australian regulation of our industry’s products has been recognised as being overly complex, fragmented and often out-of-step with that of other advanced nations by a 2008 Productivity Commission study and the ongoing COAG “seamless national economy” agenda. Australian regulation acts as a potential barrier to easy introduction of new products, ingredients and innovations already in safe and approved use in other advanced nations. This is especially when compared to New Zealand’s more ‘trade friendly’ regulatory regime for our sector’s products which employs ‘deemed to comply’ approaches for products in safe, approved use overseas.
- Progress with reforms agreed by the federal government (and the COAG) for streamlining Australian regulation have stalled. Inclusion of a “cosmetics annex” in the TPP negotiations would help to focus local effort on implementing needed reforms. This would benefit the entire Australian cosmetics and personal care industry.
- As is the case for advanced technology items – like smart phones and the iPad – Australian consumers are increasingly demanding access to the latest products and innovations available in the global marketplace, without delay; including cosmetic and personal care products. New York and Paris remain synonymous with luxury cosmetics as well as the latest product trends and innovations in such a way that products associated with these cultural centres are sought after by Australian and global consumers. Greater regional regulatory alignment, facilitated via a “cosmetics annex” in the TPP negotiations, will help consumers access the products on the global market that they are demanding.
- The Australian-based cosmetics and personal care manufacturing industry has a unique selling point in the global marketplace. Australian cosmetic products are sought after in the region, and in growing Asian markets, because of their reputation for quality and their ‘clean, green, natural’ image, especially those locally made products derived from Australian-grown botanical ingredients. Greater regional regulatory alignment, facilitated via a “cosmetics annex” in the TPP negotiations, will open export opportunities for this developing Australian manufacturing industry (e.g. the ongoing global expansion of the quality Australian brand, Aesop®)

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Products for healthy living and a quality lifestyle



THE PERSONAL CARE INDUSTRY SUPPORTS THE REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP (RCEP) AGREEMENT

The ASEAN Cosmetic Association (ACA), the Australian Accord Australasia Limited, PERKOSMI Indonesia, the Korea Cosmetic Association (KCA), the FMM-MCTIG Malaysia, the Chamber of Cosmetics Industry of The Philippines (CCIP), the Cosmetic Toiletry and Fragrance Association of New Zealand (CTFA), the Cosmetic Toiletry and Fragrance Association of Singapore (CTFAS), and Thailand Cosmetic Manufacturer Association (TCMA), believe that the Regional Comprehensive Economic Partnership agreement (RCEP) presents an extraordinary opportunity to facilitate international trade of cosmetics in Asia - Pacific through the alignment of regulatory policies. We are convinced that this could be very beneficial for both the industry we represent and for our consumers.

The cosmetic and personal care products industry is a global industry which requires open markets and transparent, consistent regulatory environments. International trade is a critical component to the success of our industry, and significantly contributes to our ability to compete globally, to expand manufacturing and employment, and to support other industries such as advertising, packaging, and transportation. The personal care

products industry also promotes continual technological innovation and supports small and medium sized businesses (SME's).

The RCEP Agreement goes beyond reducing tariffs. We recommend the inclusion of an Annex on cosmetic products, it will help the personal care products industry battle regulatory and technical trade barriers that impede our industry's ability to provide safe, innovative products in a timely fashion to consumers around the world.

In this context, we believe that:

- The RCEP will assist us in our goal of providing consumers with safe products, consistently regulated around the world;
- Differing national regulations increase the burden on industry and government;
- Regulatory alignment advances consumer safety and enhances global market growth;
- A common definition for cosmetics products would encourage greater alignment of regulations. An illustrative list of products considered as cosmetics would be a positive first step toward this goal;
- Consumers should have access to safe, innovative products that are available globally;
- Regulations should be risk-based and appropriate for industry. Cosmetics and personal care products represent very low risks to consumer health and safety;
- Manufacturers should have primary responsibility to assure the safety of cosmetic and personal care products. In-market supervision and enforcement is the most effective system of regulation; there is no need to have pre-approvals or Free Sale Certificates;
- Regulators should take steps to avoid re-testing or re-evaluating products or ingredients that have already been evaluated based on sound science. Rather than creating parallel testing systems which are costly for governments and industry, governments should consider assessments that have already been completed by other authoritative bodies, such as those in the USA or Europe. Reliance on Manufacturers Declaration of Conformity also reduces costs and strain on industry and government resources;
- Labeling requirements for cosmetic and personal care products should be harmonized to the greatest extent possible with a view toward providing consumers with meaningful information. It is unnecessary and burdensome to require specific numbers related to product registration or notification on the packages, as this does not provide any meaningful information to consumers;

- Animal testing should not be required where validated alternatives are available. The development, validation and regulatory acceptance of alternatives should be encouraged globally;
- International or regional cosmetic GMP standards should be accepted and recognized;

October 2014