

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
CHIEF POLICY OFFICER

MYRON A. BRILLIANT
EXECUTIVE VICE PRESIDENT AND
HEAD OF INTERNATIONAL AFFAIRS

December 9, 2020

The Honorable Jonathan Wilkinson, P.C., M.P.
Minister of Environment and Climate Change Canada
c/o The Executive Director Program Development and Engagement Division
Department of the Environment
Gatineau, Quebec K1A 0H3
eccc.substances.eccc@canada.ca

Dear Minister Wilkinson:

RE: Notice of Objection to the Proposed Order to add plastic manufactured items to Schedule 1 to the Canadian Environmental Protection Act, Canada Gazette, Part I, Volume 154, Number 41: Order Adding a Toxic Substance to Schedule 1 to the Canadian Environmental Protection Act, 1999 published Saturday, October 10, 2020
<http://www.gazette.gc.ca/rp-pr/p1/2020/2020-10-10/html/reg1-eng.html>

The U.S. Chamber of Commerce objects to the proposed order to add “Plastic Manufactured Items” to Schedule 1 of the Canadian Environmental Protection Act, 1999 (“CEPA”).

We maintain that CEPA is not the appropriate tool to address the issue of plastic waste in the environment. Classifying plastics as a toxic substance may impact our shared commitments under the USMCA Sectoral Annex-12A on chemical substances and Chapter 24.12 on marine litter. Those requirements call for risk-based assessments and for aligning approaches with your trading partners in the U.S.

Canada has been a leader in forging international coordination on plastics pollution, including the Ocean Plastics Charter of 2018, which Canada launched in 2018 as G7 leader. In G20, both Canada and the U.S. endorsed international coordination to address plastics litter by signing the Implementation Framework for Actions on Marine Plastic Litter (2019) and reaffirmed their commitments at the G20 Summit in November 2020. Canada is also a member of the ongoing OECD consultations on transboundary movement of hazardous plastic waste, which is a platform for forging an internationally acceptable control regime. The current global and regional public-private commitments and partnerships to drive solutions to plastic waste and marine debris should be given an opportunity to work.

We urge that the proposed order and any resulting measures be sent to the World Trade Organization’s Technical Barriers to Trade (TBT) Committee, consistent with Canada’s obligations under Article 2.9 of the WTO TBT Agreement. Bans resulting from the proposed order and additional associated measures may be restrictive to trade and therefore inconsistent with Article 2.2 of the TBT Agreement.

Plastics play a vital role in protecting patients, front-line essential workers, and the general public in controlling viral infection transmission during the COVID-19 pandemic. Plastic products are chosen because of their safety, durability, product performance, low carbon

footprint, and economic benefits, in addition to environmental benefits when compared to other man-made materials—from energy savings due to reduced weight in vehicles, sterility and safety in healthcare, and improved energy efficiency in the building and construction sectors.

There is a lack of reliable scientific evidence to support classifying plastics as toxic. We also agree with our Canadian industry partners that the absence of a robust and thorough consultation with both industry and the public undermines confidence in the regulatory outcome. The U.S. Chamber represents many companies with investments and customers in Canada. We urge the government to collaborate with industry in the U.S. and Canada, who have already been investing in and developing new recycling and disposal technologies, to find solutions rather than proceeding with the proposed order.

Sincerely,



Neil Bradley
Executive Vice President
and Chief Policy Officer
U.S. Chamber of Commerce



Myron Brilliant
Executive Vice President,
International Affairs
U.S. Chamber of Commerce

cc: Senators John Kennedy, Mike Braun, Chris Coons, and Sheldon Whitehouse