



February 8, 2019

European Commission
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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

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.