

May 10, 2013

Via [www.regulations.gov](http://www.regulations.gov)

Mr. David Weiner  
Deputy Assistant US Trade Representative for Europe  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Re: Docket USTR-2013-0019 – Proposed Transatlantic Trade & Investment Agreement

Dear Mr. Weiner:

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments to the United States Trade Representative (USTR) on his intention to enter into negotiations for a Transatlantic Trade and Investment Partnership (TTIP) agreement with the European Union (EU) (Docket USTR-2013-0019).

The Association of Home Appliance Manufacturers (AHAM) represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members employ tens of thousands of people and produce more than 95% of the household appliances shipped for sale. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

The USTR is seeking public comments on the proposed TTIP, including regarding U.S. interests and priorities, in order to develop U.S. negotiating positions. AHAM is committed to doing its part to protect the environment, but we have concerns with the recent European Commission proposal to change its F-gas regulations (No. 842/2006). This proposal is currently being considered by the European Parliament and European Council and, as proposed, is a technical barrier to trade for US exports. The Agreement on Technical Barriers to Trade “tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles, while also providing members with the right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or the environment.”<sup>1</sup> This proposed F-Gas regulation creates an unnecessary obstacle and does not achieve a significant environmental objective for the reasons outlined below.

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<sup>1</sup> [http://www.wto.org/english/tratop\\_e/tbt\\_e/tbt\\_e.htm](http://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm) (last visited May 1, 2013).

The European Commission's proposal would ban the use of hydrofluorocarbon (HFC) with global warming potential of 150 or more in residential refrigerators and freezers on January 1, 2015 and room air conditioners on January 1, 2020. The consultant report that the European Commission used for this proposal considered this ban for refrigerators/freezers ban and concluded that the ban on domestic (residential) refrigeration is not recommended because of its low effectiveness and "a strict regulatory instrument such as a ban would need to be justified with a substantial contribution to the EU's emission reduction targets. This is unlikely, given the limited potential of these options" (Öko-Recherche, p. 295). Regarding the proposed ban for room air conditioners, there are not any economically viable replacements for the current refrigerant.

### **Refrigerator/Freezers**

AHAM strongly supports the recommendations of the consultant's report to exclude domestic (residential) refrigeration from bans of HFCs. A ban does not meet the minimum effectiveness criterion of the consultant's report, which is an expected emission reduction of 1,000 kt CO<sub>2</sub> eq or more. As the consultant's found, 1,000 kt CO<sub>2</sub> eq is equivalent to 1% of current EU-27 emissions of fluorinated gases. Policies with an emission reduction potential below 1,000 kt CO<sub>2</sub> eq for the EU-27 would contribute to a very limited extent to the overall necessary emissions reduction while adding costs.

In addition, the volume of products impacted by a ban is not significant based on other EC policies established through EC Directive (2009/125/EC) that states a significant volume of sales is more than 200,000 units a year.<sup>2</sup> U.S. Census data reveals that in 2010 only 57,646 refrigerator/freezers were exported from the U.S. into the EU-27, which is far below 200,000 units/year threshold.<sup>3</sup> Therefore, for these reasons, there are clearly no significant environmental issues that this part of the proposal would be addressing.

Banning the use of HFCs in domestic refrigeration would create an unnecessary obstacle to trade for U.S. exports to the European Union due to the following differences in the regulatory regimes and due to different effectively mandatory safety standards.

#### **i) US Environmental Protection Agency SNAP**

The use of isobutane, which is an alternative refrigerant with a GWP below 150, in household refrigerators/freezers in the U.S. must be approved through the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. The EPA only just last year (February 21, 2012) allowed the use of this substance in household refrigerators and freezers.<sup>4</sup> The EPA's allowance for the use of isobutane includes a number of conditions that manufacturers must meet. Should manufacturers decide to use isobutane as a refrigerant, they will need to spend significant time and resources to

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<sup>2</sup> Article 15, paragraph 2(a) of the EC Directive (2009/125/EC) establishing a framework for setting of ecodesign requirements for energy-related products states: the product shall represent a significant volume of sales and trade, indicatively more than 200 000 units a year within the Community according to the most recently available figures.

<sup>3</sup> US Department of Commerce, Bureau of Census, World Trade Atlas, 2010

<sup>4</sup> The appliance industry operates in a US-Canada consumer market, and Canada only approved of the use of isobutane in March 2013.

redesign products and retool factories. Modifying factories for the use of flammable refrigerants is a costly and time consuming endeavor. If the EC were to finalize this regulation by the beginning of 2014 and include a ban less than a year later, it would likely not be enough time for a manufacturer to redesign and retool its products and factory.

## ii) Charge Limits – UL vs EU

An additional barrier for imports into the EU should this ban become effective in 2015 is the differing amount of refrigerant that is allowed in a refrigerator or freezer between the U.S. and the EU. Underwriters Laboratories (UL) safety standards for flammable refrigerants (UL 250) “applies to self-contained household refrigerators and freezers designed to be installed and used in residential occupancies in accordance with the Canadian Electrical Code, Part I, CSA Standard C22.2, and the National Electrical Code, ANSI/NFPA 70.” UL 250 only allows 50 grams (1.7 oz) of a flammable refrigerant.<sup>5</sup> This is far below the 150 gram limit in the EU.<sup>6</sup> Work is currently underway to review the UL standard charge size limitations for flammable refrigerants, but this has not been finalized. And if it were to occur, a significant amount of time and resources will be needed to alter a manufacturing process and redesign products should a company choose to make this change.

## Room Air Conditioners

A ban of HFCs in room air conditioners is also problematic. Currently, there are no economically viable replacements for R410A. Possible alternates are hydrocarbons and R32 but there are the flammability issues with both, and R32 is an HFC. Further, EPA does not allow the use of propane in room air conditioners. The IEC standard for air-conditioners (IEC 60335-2-40 at 22.115) has maximum charge size limits for flammable refrigerants depending on floor area. For example, R290 (propane) use in a window mounted unit has a maximum charge size range from 80 grams for a 4 m<sup>2</sup> floor area to 300 grams for a 50 m<sup>2</sup> floor area. Therefore, there are continued code compliance and safety issues to overcome. Further, an assessment of the comparable efficiency of any alternative refrigerant, the safety, ozone depleting potential, global warming potential, life cycle climate performance, and cost to determine its effective viability should be conducted.

## Lack of non-European Stakeholder Consultation

We are also concerned with the inability of stakeholders from the U.S. to have a significant and real ability to participate in the European Commission rulemaking process. AHAM tried to discuss this proposal at various stages of its development with DG-Climate Action, but they would not meet with us. We met with the EU Delegation in Washington, DC to try to request assistance on this, but that did not lead to a meeting or telephone conversation. We even took the time and expense to travel to Brussels for the public consultation meeting and, while there, asked repeatedly through emails, calls and at the public consultation meeting, which we attended and had literally a few minutes to state our views, but we were denied any meeting each time. In fact, at one point, DG-Climate Action representatives said they will have no meetings (although we are aware they met with local interests) until after the Impact Assessment, but even then there

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<sup>5</sup> UL 250, SA3.3(d)

<sup>6</sup> EC Regulation No 842/2006 of the European Parliament and of the Council of May 17, 2006, on certain fluorinated greenhouse gases.

“likely will not be a window to meet.” In the very early stages, we also tried to discuss the matter with the EC consultants as they were drafting their preparatory study for the EC, but they would not discuss the matter with us either.

Based on these concerns, again, banning the use of HFCs in domestic refrigeration in 2015 and room air conditioners in 2020 is a clear technical barrier to trade for U.S. exports to the European Union due to the differences in the regulatory regimes and due to different effectively mandatory safety standards.

AHAM appreciates the opportunity to provide these comments on the potential negotiations for a TTIP agreement with the EU and would be glad to further discuss these matters with USTR.

Sincerely,



Kevin Messner  
Vice President, Policy & Government Relations

cc: Julia Doherty, Senior Director, Technical Barriers to Trade (WTO & Multilateral Affairs), USTR  
Amy Wan, International Trade Specialist, Technical Barriers to Trade, Department of Commerce  
Cindy Newberg, Branch Chief, Stratospheric Protection Division, EPA  
John Thompson, Deputy Director, Office of Environmental Policy, Department of State