DuPont Government Marketing &
Government Affairs
601 Pennsylvania Ave., N.W.
Suite 325 North Building
Washington, DC 20004

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Via www.regulations.gov

Douglas Bell
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, NW
Washington DC 20508

RE: Docket number: USTR-2013-0019 - Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement (TTIP)

Dear Mr. Bell,

This submission is being filed on behalf of the E.I. du Pont de Nemours and Company (DuPont) in response to the Federal Register notice 2013-07430 issued on April 1, 2013, seeking public comments on the proposed Trans-Atlantic Trade and Investment Partnership (TTIP), regarding US interests and priorities in order to develop U.S. negotiating positions.

Since 1802, DuPont has brought world-class science and engineering to the global marketplace through innovative products, materials and services. Our market-driven innovation introduces thousands of new products and patent applications every year, serving markets as diverse as agriculture, nutrition, electronics and communications, safety and protection, home and construction, transportation and apparel. With corporate headquarters in Wilmington, Delaware, we operate in more than 90 countries around the world and have significant presence and investments in the European Union.

DuPont supports policies that promote trade and investment within a rules-based trading system. Therefore, we welcome the decision to begin negotiations on a Transatlantic Trade and Investment Partnership [TTIP] following the recent release of the Final Report of the US-EU High Level Working Group on Jobs and Growth. A comprehensive 21st Century trade and investment agreement between the US and EU will not only directly benefit the two sides involved, but also stimulate the global economy and may persuade such large economies as Brazil, India, and China to re-engage in multilateral trade liberalization efforts.

We look forward to an ambitious and comprehensive single undertaking with respect to the TTIP. In this submission, we highlight several areas that we would like to see addressed during the negotiations:

Tariff and Non-Tariff Barriers

- DuPont urges elimination of all remaining conventional barriers to trade in goods, such as tariffs and tariff-rate quotas. For example, elimination of the remaining import duties on chemicals, currently averaging between 3-6%, would result in considerable savings to our company and remove many economic barriers to shipping technical and chemical intermediates.

- DuPont strongly supports elimination of all non-tariff barriers to trade. We believe that one of the most important areas to be addressed in the TTIP should be the promotion of regulatory cooperation and coherence between the United Sates and the European Union, resulting in the reduction and prevention of unnecessary divergences between regulations and directives.

- DuPont believes that the greatest potential cost savings and therefore potential for economic growth and job creation in US-EU regulatory cooperation lie in the areas of promoting enhanced scientific cooperation, data and information sharing (while ensuring appropriate protection of confidential commercial information), and coherence in science-based risk assessment. We call on the negotiators to address such issues as Classification and Labeling (i.e., UN GHS) implementation; Chemical hazard management (TSCA versus REACH); Endocrine active substances (EU hazard-based vs. US risk-based approaches); nanotechnology and the definition thereof, and Polymer safety.

- We encourage not only harmonization and elimination of duplicative and redundant technical regulations, but also establishment of a cooperative process for the development of future regulations that would allow more transparency, openness and opportunities for stakeholder engagement.

- DuPont recognizes the importance of addressing technical barriers to trade (TBT) issues in the context of this trade agreement, and supports the inclusion of "TBT plus" commitments similar to those outlined in the Korea-U.S. FTA and under consideration in negotiations on the Trans-Pacific Partnership Agreement.

- In addition, we are particularly concerned with the latest developments in the EU related to the lack of clear and uniform implementation of certain EU directives. For example, DuPont has made significant investments to develop and produce a product relying upon and developed solely for a compliance obligation for automobile producers under the EU Mobile Air Conditioning (MAC) Directive (2006/40/EC). The failure of EU Member States to properly implement and enforce the Directive from the beginning of this year is a clear barrier to trade. This matter is elaborated in the supplementary comments attached.

- DuPont also sees TTIP as a unique and important opportunity to call upon the European Union (EU) to re-affirm its commitment to a science-based approach to agricultural biotechnology. We therefore urge negotiators to seek agreements that will bring timelines for EU biotech approvals more in line with those in the rest of the world. We also recommend the creation of a mechanism under the TTIP that will mandate regular, sustained, and substantive bilateral discussions on agricultural biotechnology for the purpose of facilitating trade.

Intellectual Property

- DuPont urges negotiators to include strong provisions related to trade secrets in the TTIP. At the present time, there is no EU unfair competition legislation providing for protection against trade secret theft, nor is there an EU law to prevent infringing products from entering the market (e.g. through customs control). The poor quality, or even absence, of trade secret protection in some EU Member States is problematic for DuPont, e.g., certain technologies are not brought to Europe because of the risks that certain sensitive countries represent. The lack of clear EU trade secret legislation resulted in DuPont deciding on a few occasions *not* to litigate. Even in EU Member States with trade secret protection, DuPont has decided against taking legal action because the quality, clarity and complexity of the legislation: ‘first mover advantages’ would have been lost by the time litigation yielded any results. Thus, we strongly support adoption of community-wide rules and procedures that will protect trade secrets and confidential business information. We believe this will send a clear message beyond EU borders and make it more difficult for violators of IP rights to take advantage of the current discrepancies between EU Member State legislation.

The European Union is the largest international economic partner of the United States and together the US and EU create more than half of the global GDP. DuPont sees TTIP as an important vehicle for increasing US exports, bolstering economic growth, and increasing jobs and thus we call for a speedy launch and conclusion of the negotiations. We thank your office for the opportunity to provide the above comments and look forward to working with the USTR and with the EU partners throughout the TTIP negotiations process to achieve mutually beneficial and harmonious outcomes.

Sincerely yours,

Barry M. Granger

Barry M. Granger
Vice President
DuPont Government Marketing & Government Affairs

Supplementary Comments of E.I. DuPont de Nemours and Company, Inc. Regarding the Transatlantic Trade and Investment Partnership (TTIP) (Docket Number USTR–2013–0019)

EU MAC Directive

- In response to the 2006 enactment of European Union Directive 2006/40/EC (aka the Mobile Air Conditioning (MAC) Directive) to reduce the emission of refrigerants with global warming potential in automotive air conditioning applications, DuPont invested resources to jointly develop (with Honeywell) HFO-1234yf as an option for automakers to consider for compliance with this Directive.

- The Directive required that starting January 1, 2011, all new type-approved vehicles being registered for sale in the EU would be required to use a low Global Warming Potential (GWP) refrigerant. In 2017, this requirement would apply to all new vehicles being sold in the EU.

- The combination of the multi-year period between adoption of the Directive and its implementation and connecting the Directive to the type approval process provided significant preparation time and a gradual phase-in so the auto industry and its suppliers would have abundant time to develop, test and select appropriate technology options and develop the manufacturing capacity for the selected refrigerant(s) and associated equipment.

- The global auto industry, through the SAE Cooperative Research program, evaluated a range of potential technology options to comply with the Directive. After evaluating HFO-1234yf the SAE CRP announced in November 2009 that HFO-1234yf could be used safely in automotive air conditioning. Automakers had a number of years to identify a refrigerant to use in complying with the MAC Directive, and industry members evaluated a range of candidates. The auto industry consensus view was that HFO-1234yf is the most suitable MAC Directive compliance alternative when considering safety, sustainability, performance, implementation costs and industry readiness.

- Subsequently DuPont further invested to establish a commercial production capacity for HFO-1234.

- Two international standards bodies, ISO and SAE, subsequently published automotive industry standards (ISO13043, SAE J639, SAE J2842) reconfirming the safe use of HFO-1234yf.

- Due to a delay in new chemical registration which impacted planned HFO-1234yf product supply, the European Commission asked Member States to delay enforcement of the MAC Directive until December 31 2012 so that supply issues could be resolved. This did not affect the type of approval process that continued to require design for the use of low GWP refrigerants, which delayed the requirement for the actual use of such MAC Directive compliant refrigerants.

- Germany's and other EU Member State authorities' failure to properly implement and enforce the Directive has led to non-transparency and market uncertainty that has significantly impacted DuPont's investment.