

Testimony for Mark Grimaldi, Equinox Chemicals
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Promoting Innovation, Competition, and Economic Growth: Principles for Effective Domestic and International Standards Development

My name is Mark Grimaldi, and I am the President and CEO of Equinox Chemicals and Adco Products located in Albany, Georgia. Thank you for having me here today. It is an honor to be here to represent my company. We are an industry leader in the chemical innovation, R&D, specialty manufacturing, and product commercialization. The industries we serve include aerospace products, specialized industrial, pharmaceutical, lubricants, flavors, cleaning, and cutting edge research products for a very diverse group of markets globally. When I started Equinox 8 years ago, I had a vision of building a high tech product development and manufacturing company that could vertically integrate from innovation and R&D through manufacturing and commercialization. I knew this would be the key to be able to compete both domestically and globally. We have grown more than 300% in sales and 389% in employees in the last three years, investing millions in infrastructure and facilities during a period of time when the rest of the industry was pulling back. It is our ability to compete both domestically and globally that in a very short time has allowed us to excel both in innovation and in manufacturing.

Establishing solid standards and being involved in the development of new standards or updating the existing standards, both domestically and globally, is one of the most crucial factors in our success. The US leads the way globally by setting the bar for existing standards, as well as in the development of new ones, as world markets, products, and technologies evolve. The key to the US remaining in this pinnacle position and continuing to improve the process is to ensure that the following four basic principles in the standards process are maintained and further developed:

1. **Private-sector led:** A private sector led process, with government, industry (small, medium and large), and consumer involvement is necessary to ensure maximum flexibility and applicability with minimal impact on innovation, competition, and economic growth.
2. **Consensus based:** A transparent decision making process, where participation is available to all stakeholders, regardless of size or location is essential. I would like to emphasize that guaranteeing a balance in the process inputs from all stakeholders is key to avoid favoring one group over another, creating unfair competitive advantages, and/or creating an environment where the end user or consumer is not getting the best possible products.
3. **Voluntary:** Mandating standards hampers competition and the innovative process by limiting a company's ability to work outside the box and on the cutting edge of new technologies. There is a time and a place in the development cycle for standards. Incorporating standards too early can stunt company growth and product development.
4. **Promoting the U.S. standard setting system and standards set under that system domestically and abroad:** Having to comply unnecessarily with multiple standards both domestically and globally adds a significant amount of unneeded redundancy and complication to many companies. It also impacts the end user's ability to navigate the process efficiently and effectively. It would be nice to be able to just choose the best standard program for our company, but when you're diverse and are competing in the global market place with over 1000 products in dozens of countries, the reality is that each customer wants a different standard. Complying with multiple overlapping standards globally, adds a significant burden to our business and our competitiveness. Therefore, whenever possible the U.S. government should

encourage our trading partners to utilize standards set in accordance with the above principles, where U.S. companies are allowed to participate in a transparent process. Further, it would be even more helpful for the U.S. government to promote these standards to third party countries or promote a system of mutual recognition where the third party country recognizes a standard set in the U.S. and allows our company to comply with fewer redundant standards.

The US has consistently led the way in developing globally accepted standards, but as the EU and developing countries start to develop standards of their own, we need to ensure that we continue to lead the way and work closely with these trade partners. We have to ensure that other countries do not create unnecessary trade barriers or otherwise use standards to cause unfair competition for our company.

Equinox has greatly increased its business through leveraging standards employing the above principles. A great example occurred in 2005, when SOCMA developed its ChemStewards program, a comprehensive management system and performance improvement program. It was founded on three key principles which are the foundation of an effective standards development process:

1. It is a standard created by the industry
2. It is adaptable
3. Its participants are audited by an independent third party

We realize it is imperative to produce innovative products in an environment that guarantees safety and environmental compliance to all stakeholders including: employees, communities and consumers. Performance Improvement (PI) programs are proactive responses to these obligations.

The ChemStewards program is designed to promote continual improvement in chemical production over all facets of EHS&S. The chemical trade associations create environmental, health, safety, and security programs designed as management systems. Other standards which are partially compliant with ChemStewards include: **OHSAS 18001, ANSI Z-10, OSHAVPP, OSHA SHARP Aspects, ISO 14001, RC 14001 and RCMS.**

The key advantage to ChemStewards Performance Improvement Program is its adaptability and recognition of the diversity of the batch and specialty chemical industry. It is imperative that chemical companies have systems, practices and procedures in place to safely and effectively operate in a manner that protects and gains the confidence of stake-holders resulting in a conceptual "license to operate".

To what extent has Equinox been able to contribute to both domestic and international standards development processes that affect your company?

Equinox and its affiliates have been heavily involved in more domestic than international standards setting processes. However, with our global expansion and growth we are adding resources to get more involved in the international standards process. Domestically, our biggest contributions have been through trade associations like SOCMA, and getting more directly involved in technical committees such as our seat on the NFPA for garment care that sets the standards in the dry cleaning industry. This committee is made up of 12 people including users, consultants, manufacturers (chemical companies, equipment companies), regulatory agencies such as OSHA, fire department officials, and international members. Being a key member of this standards setting committee significantly impacts our business and our customers. It directly relates to the requirements put on our customers and our ability to produce and develop better products that raise the bar to not only meets the standards, but to exceed

them wherever possible. If we are a part of the process, we can be sure that the best products make it to the market and that our customers and the end users are protected, and use the products correctly.

What has been the experience of your company with the use of technical standards in countries where you export?

An example of creating non-tariff barriers (NTBs) that quickly impacted innovation and our ability to compete in the EU market is REACH. Registration, Evaluation, Authorization and restriction of Chemicals—REACH—became law on June 1, 2007, designed to streamline and improve the former legislative framework on chemicals of the European Union (EU). REACH places greater responsibility on the industry to manage the risks that chemicals may pose to health and the environment.

In principle, REACH applies to all chemicals, not only chemicals used in industrial processes, but also in products such as cleansers, paints and appliances that touch our day-to-day lives.

Objectives

The aims of REACH are to:

- Improve the protection of health and the environment from the risks that can be posed by chemicals
- Enhance the competitiveness of the EU chemicals industry, a key sector for the economy of the EU
- Promote alternative methods for the assessment of hazards of substances
- Ensure the free circulation of substances on the internal market of the European Union

There are obvious consequences that include a drain on financial resources, coupled with the requirement by EU to share proprietary information with competitors in the industry. They not only create barriers to entry, but also slow down the process significantly to a point where you sometimes miss the technology window for your product. As new technologies develop faster and faster, the standards and regulations have to be flexible enough to keep up. There were many US companies that had little or minimal awareness of REACH when the standards were put in place. Companies based outside the EU cannot register directly. The law requires EU importers to register the substances they import. This requires that the non-EU supplier fully disclose formulations of products to its EU customers in order for them to register or to alternately register, for its EU customers utilizing an "Only Representative". We have no such barriers to trade or requirements to hire in-country representatives with European companies that seek to do business here in the U.S. REACH compliance is complex, expensive, and a serious factor in determining whether or not U.S. companies can participate in the European marketplace. We are currently in the process of launching several industry changing products in the EU, and our launch will take many months longer than it would have otherwise.

What actions can the Federal Government, standards development organizations and other companies take to minimize your vulnerability to the use of standards as technical barriers to trade?

Technical barriers to trade often appear in the form of standards and regulations. These non-tariff barriers (NTBs) are the hardest to change, even when they have questionable merit. We see NTBs in both developed and developing economies, for example through mandatory in country eco-tox testing in China, REACH in the EU, or additional regulations at Federal or Provincial levels in other countries. For many countries these are difficult to navigate and combat. The Transatlantic Economic Council (TEC), the Department of Commerce, and USTR are examples of ways we address NTBs currently. For more mature markets, many of the NTBs have been around for a while, are well established, and difficult to

reverse. There are real costs to businesses that face market access barriers and to consumers that lose out on innovative products. For emerging technologies, it is important to work within industries and across countries to develop industry standards that allow for maximum market access. For example, it would be highly beneficial if the US and EU work to establish standards that they can then push into third world country markets.

There has been an increased focus on regulatory coherence in the Asia Pacific Economic Cooperation (APEC) and in the US-EU High Level Regulatory Cooperation Forum. These are all avenues worth pursuing to address technical barriers to trade, both established and emerging.

Within the chemical industry, there are examples where standardizing testing requirements have worked well and brought down testing costs. The OECD [Test Guidelines](#) and OECD Principles of [Good Laboratory Practice](#) ensure quality and reliable test data related to chemical safety in the framework of the Mutual Acceptance of Data. As countries develop chemical control laws, we urge them to use OECD definitions and guidelines, so that we all start from a common point.

The MAD system - a multilateral agreement - allows participating countries to share the results of various non-clinical safety tests done on chemicals and chemical products, such as industrial chemicals and pesticides. This saves the governments and chemical producers around €150 million annually and removes potential non-tariff barriers. This is done due to the fact that OECD and other adhering countries must accept the data.

Please explain from your personal experience when it is helpful to develop a standard.

This is a very complex and difficult question to answer. I don't believe there is a universal answer for every situation. I think you have to evaluate every potential new standard and the need for each independently of others. If domestic or foreign governments attempt to establish a one-sized-fits-all or blanket statement regarding specifically when and how it would be appropriate to develop a standard, you will head down the path I believe you're all trying to avoid by having this hearing. You need to rely on your standards committees to make the determination based on the need in each individual case. We need to maintain our position in the global market when it comes to setting standards, but we also need to balance that with setting these standards at the appropriate times. If we rush out to set standards just because we are worried about not keeping the lead or to just develop a "me too" standard in response to another country's attempt, we will only lose our credibility and position as the global leader. It's better to work closely with our partners and fight bad and unfair standards than to retaliate with another one that we are not ready for here or globally. It is harder to undo a standard once it's implemented than to just do it right the first time. The world listens to us and we need to be sure we keep that position and push back when needed.

In closing, I would ask that as you continue to weigh this topic with your colleagues, staff and advisors, that you remember it is critical that standards are set to:

1. Create equal opportunity among domestic and international businesses
2. Involve no excessive fees
3. Minimize delays in development and approval
4. Include intellectual property protections to encourage investment in these endeavors world-wide.

Thank you for the opportunity.