



**Comments of the American National Standards  
Institute Regarding Docket ITA-2017-0007  
Notice of Meeting: Summit on  
Trade-Related Standards Issues**

December 13, 2017

The American National Standards Institute (ANSI) welcomes the opportunity to provide its input to aid the International Trade Administration (ITA) in its review of how to improve services and programs to best meet the needs of U.S. stakeholders in the standards arena.

ANSI respectfully submits the following comments addressing four main topics:

- The role of market-driven standardization activities in enhancing trade and competitiveness
- ITA's standards-related programs and opportunities for improvement
- Trade-related standards trends in foreign markets, and
- ANSI's role in facilitating U.S. companies' competitiveness and their access to foreign markets

#### **Standardization and U.S. Competitiveness**

ANSI is a federation whose members are government agencies, trade associations, standards developing organizations, professional societies, companies, academic and international bodies, and consumer organizations. ANSI represents the interests of more than 270,000 companies and organizations and 30 million professionals worldwide. As the voice of the U.S. standards and conformity assessment system, ANSI empowers its members and constituents to strengthen the U.S. marketplace position in the global economy while helping to assure the safety and health of consumers and the protection of the environment.

The U.S. standardization system is fundamentally built on the needs of the marketplace, where users decide which standards best meet their needs, and in which standards development venues they wish to work. Ultimately, the U.S. standardization community supports the fact that there are multiple paths to global relevance – as articulated by the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement – and that it is the marketplace that decides the utility or applicability of any given standard.

Voluntary consensus standards for products, processes, and services are at the foundation of the U.S. economy and society. The United States has a proud tradition of developing and using voluntary standards to support the needs of our citizens and the competitiveness of U.S. industry in world markets.

However, the system is facing new challenges. Increasing global concern for health, safety, and the protection of the environment combined with dramatic increases in world trade and competition from other countries have altered the business and standards landscapes. The exclusion of technology

supporting U.S. needs from international standards can be a significant detriment to U.S. competitiveness. The U.S. will lose market share as foreign competitors work hard to shape standards to support their own technologies and methods. Equally important, standards are the basis for protection of health, safety, and the environment. When our standards in these areas are not accepted elsewhere, we are all at risk.

ANSI oversees the creation, promulgation, and use of thousands of norms and guidelines that directly impact businesses in nearly every sector: from acoustical devices to construction equipment, from dairy and livestock production to energy distribution, and many more. ANSI is also actively engaged in accreditation – assessing the competence of organizations determining conformance to standards.

The Institute promotes the use of U.S. standards internationally, advocates U.S. policy and technical positions in international and regional standards organizations, and encourages the adoption of international standards as national standards where they meet the needs of the user community. ANSI is the sole U.S. representative and dues-paying member of the two major non-treaty international standards organizations, the International Organization for Standardization (ISO), and, via the U.S. National Committee (USNC), the International Electrotechnical Commission (IEC). As a founding member of the ISO, ANSI plays a strong leadership role in its governing body and U.S. participation, via the USNC, is equally strong in the IEC.

ANSI is a permanent member of both the ISO Council and Technical Management Board. ANSI and its members participate in more than 80% of ISO Technical Committees (TC) and Subcommittees (SC) and administer 14% of TC and SC Secretariats. ANSI's USNC is a permanent member of the IEC Council Board, Standardization Management Board, and Conformity Assessment Board. The USNC participates in over 93% of IEC TCs and SCs, and administers 12% of TC and SC Secretariats. Jim Shannon, former CEO, National Fire Protection Association (NFPA), is IEC President.

### **Technical Barriers to Trade**

Together with intellectual property rights (IPR) enforcement, standards and technical barriers to trade (technical regulations and related compliance programs) are consistently identified by U.S. industry as top barriers to export – adding to significant time and cost to market. A June 2016 report by the Department of Commerce estimated that 92% of U.S. exports may face foreign technical regulations that make it difficult to compete in key markets. U.S. industry is increasingly global and invests in relevant international standards forums to develop standards. If foreign governments use these standards, this expands market opportunities – particularly for small businesses, which do not have the resources to comply with different homegrown requirements in different markets.

Conversely, where countries arbitrarily limit their consideration of standards to particular bodies rather than selecting the best standard for their regulatory needs, the result can be unnecessary regulatory divergences; suboptimal health, safety, and environmental solutions; and trade disruptions. Standards development and use should not be employed as a tool of trade policy to discriminate against products

from other countries or regions. ANSI wholeheartedly supports the designation of technical barriers to trade as a strategic issue in bilateral, regional, and multilateral negotiations.

### **ITA's Standards-Related Programs and Opportunities for Improvement**

ITA occupies a unique role among trade agencies in the federal government, due both to its staff presence in the domestic and foreign fields, and its industry and global market analytical expertise.

It is important that the Department continue to empower ITA staff in Washington and in the field to identify and work on standardization issues to support the needs of industry. Current programs that ANSI has supported or engaged in include:

1. Work related to the adoption and recognition of standards

ITA consistently reinforces messaging with trading partners on the definition of an international standard as outlined in the WTO TBT Agreement, rather than sole reliance upon specific standards developing organizations. ITA's outreach, education, and promotion of market-driven standards support U.S. industry's competitiveness abroad.

ITA Standards Attachés play a central role in this effort, and ANSI works hand-in-hand with the U.S. government to enhance U.S. competitiveness and business success, a powerful public-private partnership as described further below. ANSI meets with each Attaché prior to and during their in-country assignments, and values their feedback from priority markets such as Europe and China. To supplement the Standards Attaché program, which is limited to a few overseas locations, basic standards expertise should be a core competency of each ITA staff member posted overseas. To that end, ANSI offers to partner with ITA to train staff in embassies and consulates around the world on how to recognize a standards-related market access issue and be better aware of the resources available to assist companies.

2. Highlighting standards issues through bilateral dialogues

The U.S.-India Commercial Dialogue and U.S.-Brazil Commercial Dialogue have each included dedicated tracks of work related to standards and TBT issues. Featuring these issues in high-level government-to-government dialogues promotes greater awareness and supports U.S. industry's competitiveness in those markets, and ANSI has been pleased to participate in public-private sessions of these dialogues. In order to improve the effectiveness of these sessions, ITA could facilitate increased transparency and coordination on the scope and objectives of work plans under Commercial Dialogues. Opportunities for public comment and advance notice for all stakeholders would add value to the dialogue and yield greater positive outcomes.

3. Participation in regional and international meetings

ITA staff have traditionally represented Commerce at regional and international standards-related meetings such as the general assemblies of the Pan American Standards Commission (COPANT), Pacific Area Standards Congress (PASC), and International Organization for

Standardization (ISO). ANSI welcomes and values this participation, as it demonstrates to our foreign partners the U.S. public-private partnership in action. ANSI recommends that Commerce continue to support this participation.

4. Financial support for market development and capacity building projects

The Market Development Cooperator Program (MDCP) is not a specifically “standards-related” program, but ANSI members and other stakeholders have leveraged it successfully to support standards-related market enhancement projects. Foreign governments – China and the EU, for example – are outspending the U.S. government in this respect, and ANSI supports the continuation of programs such as the MDCP. Commerce should also review Department programs managed outside of ITA, such as the Commercial Law Development Program (CLDP), housed in the Office of the General Counsel for the Department, where these programs incorporate standards-related components to ensure consistency of message and stakeholder engagement.

ITA is also well positioned to facilitate coordination or outreach needed for capacity building projects implemented by other agencies, when the projects incorporate standards-related issues. ANSI has observed that these projects can sometimes lack input from relevant experts. An interagency coordination mechanism would alleviate these concerns.

## Trade-related standards trends in foreign markets

1. China

China has been executing plans for over 15 years to expand their engagement and leadership in international standards, and otherwise reform their national standards system. In the international standards space, ANSI has observed that the central government is heavily funding participation, leadership positions, and contributions in ISO, IEC, and the International Telecommunication Union (ITU-T). Recent Chinese nominees for the presidency of both ISO and IEC reflect this commitment. China is also funding activities in countries where they see commercial opportunities – Africa, Asia, and Latin America. The net result of these investments may mean restricted opportunities or access for U.S. companies.

China’s Standardization Law revision holds both opportunities and risks. In general, ANSI welcomes the opportunity for greater openness and transparency, as well as a potential reduction in government oversight of the process. However, U.S. companies perceive risks such as requirements for so-called “enterprise standards,” lack of protection of intellectual property rights, and others. ANSI has remained deeply engaged and commented on several draft laws and other guidance. Some key elements of our comments include:

- ANSI continues to feel strongly that the law should reference and uphold the WTO TBT Agreement;

- ANSI remains concerned regarding the self-disclosure requirements for “enterprise standards” and requests that they be more limited and focused in scope;
- ANSI is also concerned with the lack of language on fair and open participation in standards development activities;
- ANSI notes there remains a lack of clarity on the circumstances under which one type of standard may become another type of standard; and
- ANSI also maintains its requests to reference the copyright law within the standardization law and to provide a dispute resolution mechanism for all levels of standards-setting organizations and that all interested parties.
- ANSI members had also expressed concerns that support for indigenous technologies could end up establishing trade barriers inconsistent with the law and with China’s WTO TBT obligations.

It is in our global interest for China to move toward internationally accepted practices of standardization and open its system, consistent with WTO principles. ANSI is in a strong position to influence developments, through our close, long-standing connections with Chinese policy makers. ITA can support this effort through consistent high-level messaging to China reflecting ANSI and coordinated U.S. private-sector positions. These positions should be reinforced through government channels such as the Comprehensive Economic Dialogue or other bilateral platforms.

## 2. European Union

The U.S. is a leader in driving development of standards around the globe. However, U.S. leadership is seriously challenged by interventionist policies championed by countries such as China, Brazil, Russia and the EU, in particular. The European Commission, for example, spends some \$13M annually plus a percentage of their trade budget on technical support. Trade agreements that specify acceptance of national or regional standards and conformity assessment to the exclusion of others, particularly U.S.-developed standards and compliance solutions, further hinder U.S. companies’ access in third countries. Another recent development is the "StandICT" initiative, which dedicates 1.4M Euros to support European technical experts to participate and lead international standards committees and working groups in the ICT sector. Some U.S. government funding programs exist, but they are woefully inadequate when compared to the investment by Europe. Given ITA’s experience addressing market access issues stemming from this support, the Department should reinforce across the government the need for U.S. funding in this area.

## **Importance of Public-Private Partnerships**

ANSI has a long history of working in partnership with ITA and the Office of the U.S. Trade Representative (USTR) on activities that foster trade development, market access, and standards

capacity building across the globe. ANSI's unique role in these partnerships is as a neutral forum – acting as the convener of diverse parties and sectors in a problem-solving approach focused on results.

A recent example of the success of this partnership involved ASTM International standards for footwear and apparel, which have been replaced in markets such as Ecuador and Saudi Arabia, in favor of EN/ISO standards that pose unnecessary burdens for U.S. companies. Through combined efforts by USTR, Commerce, ANSI and ASTM, these concerns were recently mediated and market access restored for the affected companies.

Another example of successful public-private partnerships working to help companies is in the automotive sector. The sector faces worldwide market access barriers resulting from the adoption of European standards and certification that prevent acceptance of U.S. vehicles. Working together with Commerce, USTR, and the Department of Transportation, ANSI leveraged its relationships through the Pan American Standards Commission (COPANT) and the ANSI-USAID Standards Alliance to resolve barriers in Latin America, the Middle East, and Vietnam.

### **ANSI Leadership of the U.S. Standardization System**

The U.S. standardization system is a vibrant and effective process that thrives on the active participation and engagement of all affected stakeholders. Industry and market forces determine prioritization for the most part. The government participates actively and also signals the private sector regarding national priorities. The system is fundamentally built on the needs of the marketplace. As such, it supports and enables innovation – market-driven standards play a role in promoting and sustaining technology breakthroughs and fostering competition by providing a common platform for broad technology deployment.

Currently, the United States has the most robust standards system in the world and has held a competitive advantage because of the strength and flexibility of this system and the results it delivers. In the United States, any entity or individual can participate in standards development activities. Hundreds of SDOs and consortia are engaged in the creation and maintenance of standards for virtually every industry sector, and often work cooperatively and collaboratively, in response to marketplace needs.

The U.S. approach to standardization helps mitigate the risk that the United States will be the source of divergences when it comes to international standards. A key premise of the U.S. system is that the global relevance of a standard cannot and should not be measured by which organization developed it. Rather, the critical issues are whether it is fit for purpose, and whether it was developed through a process that is equitable, accessible, and responsive to all stakeholder needs. Ultimately, the degree to which a standard is used in the marketplace is the best measure of an international standard.

## Conclusion

ANSI welcomes ITA's focus on improving its standards-related programs and services to best meet the needs of U.S. stakeholders and looks forward to working closely with ITA in these efforts. ANSI requests the opportunity to participate in ITA's internal summit, to outline ANSI's unique role in supporting U.S. government efforts to address standard-related market distortions and trade barriers identified in bilateral and global trading relationships in order to enhance U.S. competitiveness. We thank you for this opportunity to provide comments.

A handwritten signature in black ink, appearing to read "S. Bhatia". The signature is fluid and cursive, with a prominent initial "S" and a long, sweeping tail.

S. Joe Bhatia  
President and CEO  
American National Standards Institute