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Helping our world work better

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U.S. Department of Commerce
Room 28019
14th and Constitution Avenue NW
Washington, DC 20230

**Re: “Summit on Trade-Related Standards Issues”
FR Doc No: 2017-24605**

ASTM International is pleased to submit these comments in response to the International Trade Administration’s (ITA) Federal Register Notice 2017-24605 and the planned summit on trade-related standards issues. We welcome the opportunity to participate in the March 6-7, 2018 event and request the opportunity to present the views of one of the world’s largest standards developers. As such, we offer the following input on trade-related standards trends in foreign markets and ITA’s trade related standards services and programs.

ASTM International’s Global Presence

ASTM International is a globally recognized leader in the development and delivery of voluntary consensus standards. Today, over 13,000 ASTM standards are used in the United States and around the world to improve product quality, protect the environment, enhance health and safety, and strengthen market access and trade. Over 30,000 individuals from 150 countries, including manufacturers, retailers, consumers, regulators, academics and researchers, serve on ASTM’s 147 technical committees. In those committees, members develop standards in areas such as consumer products, medical services and devices, textiles, metals, paints, plastics, petroleum, construction, aviation, energy, water, and the environment. ASTM International is accredited by the American National Standards Institute (ANSI) and the Standards Council of Canada, and our standards development process meets the World Trade Organization’s (WTO) six principles for the development of international standards.

ASTM International is appreciative that ITA continues to support the standards development work that we conduct with our members and partners around the world, including over 100 signatory nations in our memoranda of understanding program. As part of its important mission to promote trade, ITA has been steadfast in its support for the use of international standards as a basis for technical regulations and trade wherever possible. ASTM standards are most commonly utilized in the buyer and seller agreements and contracts that enable the specification and worldwide trade of products and materials. In addition, over 7,000 ASTM standards are referenced in technical regulations or adopted as national standards in over 80 countries in every region of the world.

Trade-Related Standards Issues: Policies, Perceptions, and the Multiple-Path Approach

Existing U.S. standards policies affirm and ensure that the nation has a decentralized system of standardization driven by diverse and evolving needs of stakeholders from every sector of the economy.

Under the U.S. Standards System, technical experts from manufacturing companies, suppliers, test labs, consumer advocates and regulators engage and collaborate under an open, transparent and balanced process. Together, they develop voluntary consensus standards that can be used: to meet regulatory objectives; to promote health, safety and the environment; and/or to advance innovative new technologies and methods in many industries. Forward looking policies, such as OMB A-119, emphasize that Federal agencies should evaluate whether a standard they want to use was created through a process that: is open, balanced, and consensus-driven; provides for due process; and, meets principles outlined by the WTO. The guidance also encourages Federal agencies to consider whether the standard is of sufficient technical quality, whether it is performance-based, and whether the standards body keeps the standard up-to-date as new technologies and changes enter the marketplace.

Many of today's most complex legislative and regulatory policy initiatives require deployment of new technologies which are linked to the development and application of standards. Fortunately, Federal agencies in the U.S. have flexibility to choose from a broad portfolio of standards to best meet their specific needs and objectives. The flexibility to choose standards based on important considerations such as technical quality, market relevance, and global coherence often results in the utilization of standards that best match the emerging regulatory need. This is a model regulatory policy for other nations, and ITA should continue its efforts to raise awareness of this system's benefits as the U.S. government pursues regional or international regulatory cooperation or standards convergence initiatives.

Looking outside the U.S., an array of factors such as government policies, perceptions, preferences, and emerging market demands impact the acceptance and use of ASTM standards. When standards from ASTM International and other U.S. domiciled standards development organizations (SDOs) are not accepted or recognized as international standards in foreign markets, manufacturers of products and materials report that they often incur additional time-to-market and access costs due to additional testing and certification, product reformulation, or product redesign. In some cases, costs and uncertainties are too high and companies choose to forgo export opportunities due to standards related regulatory and trade barriers. What is especially frustrating is that in many cases the technical content embedded in the standards from ASTM and other U.S. domiciled SDOs are more advanced, performance-based, or rigorous, yet they are not accepted since they do not strictly bear the logo of other standards that have been mandated for market access.

The most significant factor impacting the recognition and use of international standards is government policy. Standards decisions in certain countries or regions are limited due to the establishment of regulatory frameworks which erect standards barriers or create preferences for standards from certain standards bodies. As an example, European Union (EU) Regulation No 1025/2012 specially designates the Geneva-based standards bodies ISO, IEC and ITU as the official international standards bodies for purposes of national adoption or reference of international standards. As such, European Norms (ENs) can be harmonized through these three standards bodies to serve as the basis for European regulations and rules covering trade within the European trade block. There are no pathways for recognizing standards from ASTM International or other U.S. domiciled SDOs on equal footing with ISO, IEC or ITU, even in the many cases in which market actors prefer and actively use the former. Thousands of companies and manufacturers are impacted by the EU Regulation No 1025/2012 and we appreciate ITA's effort to engage the European Commission regarding this disturbing and unfair standards policy.

Other important factors include perceptions and preferences. In many countries of the Middle East, Latin America, and Southeast Asia, standards decisions are often made based on perceptions or personal preferences of individuals. For example, some countries have the false impression that the WTO TBT Agreement grants special status to ISO, IEC and ITU, perceiving a pyramid approach or global

standards hierarchy in which the “bottom rung” is national, followed by regional, and finally ISO/IEC on top as the WTO-preferred global standards bodies. Standards bodies and policymakers in Europe expend resources perpetuating this false view to their global trade partners, particularly those in the developing world. A second perception challenge is that some countries refer to ASTM International and other U.S.-domiciled SDOs as “American” standards bodies that develop “American National Standards”, without regard to the fact that such standards can meet WTO principles. ASTM International appreciates that ITA invests resources dispelling these common misperceptions through the deployment of Standards Attaches, Commercial Service staff, Standards Dialogues and other engagements and actions.

Other factors shaping standards preferences in the global marketplace include social commitment, familiarity, history, culture, language, perception, travel and education. A combination of these factors have led actors in certain fast-growing countries (i.e. Brazil, China) to believe that active participation and secretariats in ISO/IEC raises their global prestige, particularly in emerging industries. This challenges the U.S. Standards Strategy which recognizes ISO and IEC as one pathway to international standards, but not the exclusive pathway. Under this multiple-path approach, companies, individuals and governments choose international standards based on actual qualities of standards, such as the excellence of technical content and relevance to global markets. This approach benefits consumers, advances industrial competitiveness, empowers small and medium-sized businesses and facilitates greater trade. ITA’s global messaging and engagement in standards should continue to affirm the numerous benefits of the multiple-path approach.

ITA’s Standards-Related Programs and Services

1. ASTM International has participated in many ITA standards dialogues and other bilateral and regional engagements with trading partners. We find these to be very useful, particularly when segmented by industry and with significant private participation. In our experience, companies and individuals outside the U.S. are interested in learning more about our standards and our development process because their global customers may require such standards in buyer/seller agreements and contracts. ASTM International suggests that ITA expand education and awareness building activities to highlight more examples that show how recognizing multiple paths to international standards promotes innovation and creates global business opportunities while also advancing regulatory objectives of governments worldwide.
2. ASTM International has not directly participated in the preparation of standards information in ITA publications such as Top Market reports and Country Commercial Guides. However, ITA including more information about standards policies of countries in Top Markets reports would be beneficial to ASTM International and our members as it may help separate government policy from market perceptions and enable us to engage in a more targeted effort to address standards related barriers. ITA would also be able to better link standards with emerging trade opportunities in Top Markets, opening more export opportunities for U.S. companies.
3. ASTM International routinely works with ITA to address adoption, implementation, and enforcement of technical regulations and conformity assessment procedures inconsistent with WTO and free trade agreement obligations. In the last year, ASTM International joined ITA staff in international venues such as APEC where ITA assisted us by providing opportunities to make presentations on relevant standards topics such as the WTO TBT Agreement and Good Regulatory Practices. Strategic partnering to address these challenges should be continued by ITA.

4. ASTM International has partnered with ITA to address standards related trade challenges and take advantage of export opportunities. In particular, ASTM International has benefited from ITA's Market Development Cooperator Program (MDCP) grant program. Through MDCP, ASTM International and other U.S. domiciled SDOs are involved in the Standards and Codes for Sustainable Construction project to enhance the Gulf region's efforts in areas such as energy efficiency, water conservation, materials management, building safety and overall economic growth. ASTM International already has signed memorandums of understanding with all Gulf nations and the GCC Standardization Organization, engaged 150 experts from GCC countries, and has been cited more than 4,000 times in Gulf-region standards and regulations, including many related to construction.

As we look at the world through countries and regions, ASTM international offers the following comments to ITA:

Europe

ASTM International has nearly 1,500 members from Europe active in our technical committees and we maintain an office in Brussels to interact with European stakeholders and institutions.

While the European approach to standardization has been very effective to facilitate the workings of the Internal Market, it does not connect well with the U.S. Standards System and the standards systems of our free trade partners. ITA's continued engagement to address unfair policies such as EU Reg No. 1025/2012 is greatly appreciated.

Brazil

We are engaged in Brazil via ITA's standards dialogues and workshops as a way to allow the government-to-government dialogue to support the public-private partnership which underpins the U.S. Standards System. For example, we participated in the standards dialogues and workshop in Brasilia in 2015. Such opportunities allow us to connect with our partners in the region, promote standards activities, and strengthen our relationships with organizations such as the Brazilian Association of Technical Standards (ABNT). We recommend that ITA continue their important standards dialogues with Brazil. In particular, progress was made in 2015 with the Ministry of Development, Industry and Foreign Trade (MDIC), but government policy creating preferences for ISO and IEC continue to undermine U.S. export opportunities.

China

In 2004, four U.S.-domiciled SDOs established the Consortium for Standards and Conformity Assessment (CSCA) through a partnership with ITA's MDCP program. The consortium's members included the American Petroleum Institute, ASME International, ASTM International, and CSA America. The MDCP grant enabled each organization to engage in China on standards and conformity assessment issues and to establish and maintain relationships with peer agencies and individuals in China. Once the funds for the MDCP grant were exhausted, ASTM International and several other organizations decided to maintain a presence in Beijing. To date, about 1,000 ASTM standards have been nationally adopted in China or referenced in their regulations covering petroleum, construction and the environment. Sustained strategic engagement by ITA in China is critical at this time as the government attempts to implement sweeping reforms of its standards system. We are at risk of China creating a European-like approach to international standardization.

Middle East / Gulf

Most recently, the International Code Council and ASTM International partnered through a project called “Standards and Codes for Sustainable Construction,” funded in part through the ITA MDCP program. The goal is to enhance the Gulf region’s efforts in areas such as energy efficiency, water conservation, materials management, building safety and overall economic growth. Although we maintain great relationships with numerous standards bodies in the region, companies using our standards in the region still face numerous challenges. In Saudi Arabia, some ASTM standards are being replaced in favor of EN/ISO standards which pose unnecessary burdens for U.S. companies. For example, a large shipment of a U.S. manufacturer’s product was left sitting at port until – through our communication and established government channels – we resolved the situation. (The solution was for Saudi Arabia’s standards organization (SASO) to adopt part of an ASTM test method as an acceptable alternative to the ISO standard, with anticipation that the permanent SASO standard will include both ISO and ASTM tests.) Very similar situations happened in Oman and the UAE. ASTM International has benefited from ITA’s help in these efforts, but challenges will likely continue to emerge in the coming years.

Mexico

Modernizing NAFTA by addressing outdated standards policies will promote greater flexibility and choice in standards, driving greater prosperity, innovation, safety, and wellbeing for citizens and businesses in the U.S. and throughout North America. Mexico strictly limits its recognition and use of international standards to the specific bodies listed in NAFTA Article 915 despite more recent guidance from the WTO TBT Agreement and relevant Decisions of the TBT Committee. Mexico’s restrictive and out-of-date standards policy reflected in the implementation of the Law on Federal Metrology and Standardization (LFMN) and the Law on Procurement, Leases, and Services by the Public Sector (LAASSP) has proven to be problematic for many U.S. companies. As a result, U.S. manufacturers and providers of professional (i.e. engineering and environmental) services often need to incur additional costs and time-to-market in order to meet Mexico’s mandatory standards, or, in some cases, fail to achieve market access at all.

Recommendations

We offer the following recommendations to ensure that our nation’s vital public/private collaboration in standards development can address: negative trade-related standards trends in foreign markets, challenges U.S. exporters encounter in those markets, and the assistance needed from the U.S. Government (specifically ITA) to address these challenges and take advantage of export opportunities.

- **Continue to engage partners around the world via standards dialogues and workshops.**
 1. These programs help promote a better understanding of good regulatory practices procedures and how to engage the private sector on a global scale.
 2. NIST Standards in Trade (SiT) Workshops – Although ITA is not directly responsible for these, the SiT Workshops have been very beneficial for ASTM in connecting U.S. domiciled SDOs with standards officials and industry representatives from developing countries. Through one early SiT, ASTM connected with the trade federation known as ASOCRETO and has since grown into one of the most productive relationships for ASTM in Colombia.

- **Support education and awareness efforts.**
 1. Consider providing foreign commercial service officers with information on who to contact directly when they: receive standards questions, need standards insights, or see certain trends. It might be as simple as providing the SDO name and website.

2. Conduct a “Standards Boot Camp” periodically throughout the year as part of the commercial service representative’s time in the U.S. when they cycle home between assignments.
3. Maintain an up-to-date e-mail list so that SDOs or related organizations can send updates (Global Newsletter, European Newsletter, citations of ASTMs for the nations in their region) as needed.
4. Standards Alliance – While primarily funded by USAID, it is one program where the Federal government is helping to promote U.S. domiciled SDO’s to combat some of the European Commission’s standards promotion activities.
5. Reports and Economic Analysis – The ITA report “Standards and Regulations: Measuring the Link to Goods Trade” produced by the Office of Standards and Investment Policy successfully linked the economic significance of standards to trade. More analysis and research demonstrating the economic significance of the U.S. Standards System to the competitiveness of U.S. industry may prove to be useful in ITA’s global advocacy, education and awareness initiatives.

➤ **Invest in standards attachés:**

1. Add more leaders or standards attachés in key regions, and provide them with career enhancement opportunities. While Europe (Brussels) remains a priority region, the Middle East and Asia are particular areas of opportunity since their standards policies do not discriminate against ASTM International or other U.S. domiciled SDOs. While standards attachés have been excellent, ITA needs to provide them with more direct training on the U.S. Standards System as well as career advancement opportunities.

Summary

In summary, standards are the foundation for success in the new global trade system and are fundamental to continued innovation and the development of new and emerging technologies that can be commercialized. Given the already low tariff barriers and the many areas where the US and our free trade partners share a common regulatory approach and pursue similar policy goals, working to promote a greater awareness and global acceptance of US standardization policy should remain a priority for ITA in the years to come.

For more information regarding ASTM International’s comments and concerns, please contact Jeff Grove, Vice President of Global Policy & Industry Affairs, +1.202.223.8505 or jgrove@astm.org.