



**INTERNATIONAL**  
Standards Worldwide

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September 28, 2011

Administrative Conference of the United States  
Committee on Regulation  
1120 20th Street, NW, Suite 706 South  
Washington, DC 20036

**RE: Comments on “International Regulatory Cooperation, 20 Years Later: Updating ACUS Recommendation 91-1,” Committee of Regulation**

To Whom It May Concern:

ASTM International (ASTM) is pleased to submit these comments to the Committee of Regulation in response to the report entitled, “International Regulatory Cooperation, 20 Years Later: Updating ACUS Recommendation 91-1.”

ASTM is a leading non-profit organization devoted to the development of voluntary consensus standards that are utilized by ninety industrial sectors in the U.S. and in most geographic regions of the world. For more than 100 years, ASTM has served society as a leading venue for consumers, industry and regulators to work together in the development of voluntary consensus standards that promote health, safety, the environment, and that improve the overall quality of life. ASTM is accredited by the American National Standards Institute and meets World Trade Organization principles for the development of international standards.

**The U.S. Standards System**

The Office of Management and Budget (OMB) Circular A-119 and the National Technology Transfer and Advancement Act (NTTAA) of 1995 establishes existing federal policy and guidance on the development and use of private sector technical standards. The policies foster public-private collaboration and a decentralized system of standardization driven by the diverse and evolving needs of stakeholders from every sector of the economy. The OMB Circular A-119 and the NTTAA continue to be extremely effective by benefiting the federal government and the regulated community alike and making government regulation and procurement more efficient and globally relevant.

The flexibility of the U.S. standards process empowers the U.S. government and private sector to participate in international standards activities in a variety of ways, including: through organizations such as ISO and IEC where the United States is represented by a single national body organization; through treaty organizations where governments are members; through consortia, whose membership is typically technology based; and through professional and technical organizations and U.S.-domiciled standards development organizations (SDOs) whose membership is on an individual or organizational basis. For example, as the largest and most prolific SDO domiciled in the U.S., ASTM International is a globally recognized venue for technical experts, consumer advocates and regulators from over 125 WTO member countries to engage directly under an open, transparent and balanced process in the

development of international voluntary consensus standards that can be utilized to meet regulatory objectives, promote safety and the environment, or to improve the overall quality of life.

### **WTO Technical Barriers to Trade (TBT) Agreement and International Standards**

As a signatory to the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement, the U.S. government pledged to use international standards as the basis for technical regulations whenever possible, with a view towards eliminating the use of standards as barriers to trade. The U.S. government's commitment to base technical regulations on international standards that meet the principles embodied in the WTO TBT Agreement has led to an increased use of voluntary standards in the U.S. and elsewhere. While the U.S. standards system is rooted in the principles of consensus, openness and assistance to others, unfortunately, the standards policies of other countries and regions are more restrictive and often result in U.S. companies (including SMEs) having to comply with unfamiliar technical standards that were developed with limited U.S. input.

In some instances, foreign governments dictate that international standards can only emanate from organizations such as ISO and IEC where countries are represented by a single national body organization. In Europe, the absence of a legal mechanism that exists in the European regulatory infrastructure to allow standards from U.S. domiciled organizations to achieve the same acceptability as European standards presents a barrier to trade and international regulatory cooperation. U.S. government agencies have the flexibility to choose from a broad portfolio of standards based on important factors such as technical quality and relevance. In some cases, U.S. agencies utilize European standards for U.S. government purposes. 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. It is a model regulatory policy for other nations and should be promoted as the U.S. government pursues regional or international harmonization of technical regulations. It also creates a mode of effective, enforceable, and transparent, and coherent regulations based on sound science.

Accordingly, ASTM recommends that the U.S. government collaborate with other U.S. stakeholders to do more to help foreign stakeholders understand the benefits of the approach embodied in the U.S. Standards System. To advance the diverse international standards objectives and interests of U.S. stakeholders, the U.S. government should continue to seek full implementation of the WTO TBT Agreement and annexes as well as decisions taken in the WTO TBT Committee. ASTM encourages the U.S. government to engage their international counterparts and recommend that they incorporate the international standards principles outlined in the Decision of the WTO TBT Committee<sup>1</sup> into its legal framework. Lastly, the U.S. government should continue to foster and support the unique character and strengths of the public-private partnership in standards development as it pursues trade and other international agreements, regulatory cooperation, and legislative and regulatory approaches. Currently, the U.S. government is engaged in numerous bi-lateral and multi-lateral fora where international regulatory cooperation and standards are being discussed, including the Transatlantic Economic Council (TEC), Trans Pacific Partnership (TPP), Regulatory Cooperation Council (RCC), Asia Pacific Economic Council (APEC), and others.

### **Value and Significance of Standards for Business Productivity and Profitability**

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<sup>1</sup> See the USTR TBT Agreement web page for a review of the Agreement, Decisions and Annexes at: <http://www.ustr.gov/trade-agreements/wto-multilateral-affairs/wto-issues/technical-barriers-trade>

The U.S. standards process offers enormous benefits to businesses, consumers, and society, facilitating innovation and strengthening economic competitiveness. Realizing such benefits, U.S. companies of all sizes invest their technical resources in the development of standards that match their interest and business objectives. When international barriers to the acceptance of such standards impair the companies' ability to utilize them, it is these companies who are most affected through the need for additional product testing or possibly the need for product redesign to achieve the desired international market access.

An internationally agreed-upon approach on adopting and implementing the principles embodied in the WTO TBT Agreement into law would have far-reaching and significant effects, including: increase in harmony, efficiency, choice, flexibility, and much needed relief from expensive, duplicative procedures for companies that trade internationally. Fast moving areas involving advanced technologies stand to benefit the most from the ability to utilize a broader array of international standards through lower costs and time spent in developing standards.

### **Coherence and Convergence**

ASTM International embraces the WTO TBT principle of coherence which is defined as follows: "In order to avoid the development of conflicting international standards, it is important that international standardizing bodies avoid duplication of, or overlap with, the work of other international standardizing bodies. In this respect, cooperation and coordination with other relevant international bodies is essential".<sup>2</sup> ASTM International encourages its technical committees and the industries they represent to carefully and strategically develop a standards strategy that meets their needs: minimize the duplication of international standards, utilize the standards that exist, normatively reference existing standards instead of duplicating standards, harmonize if possible and necessary, respect the intellectual property of developers and allocate the resources to support the standardization strategy. While differing regulatory approaches and other factors often makes harmonization of international standards unable to achieve, ASTM International promotes technical and commercial collaboration with other SDOs to achieve greater compatibility. Recent examples include technical cooperation with other bodies to achieve greater standards compatibility in emerging areas such as toy safety, biofuels, and additive manufacturing.

### **Conclusion**

In summary, existing U.S. standards policies promote public-private sector standards development efforts that reduce the cost and improve the management and effectiveness of government, while reducing global technical barriers to trade. It is vital to the competitiveness of U.S. industry and the safety of the public that U.S. government agencies continue to engage strategically with SDOs in the development of standards, and to promote the global implementation of technical regulations based on international standards that meet WTO TBT Agreement principles. This will not only promote the use of regulatory best practices around the world but serve as a mechanism to reduce divergent regulations, and eliminate the regulatory complexity all companies, especially small and medium size enterprises face when moving goods across borders.

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<sup>2</sup> See the USTR TBT Agreement web page for a review of the Agreement, Decisions and Annexes at: <http://www.ustr.gov/trade-agreements/wto-multilateral-affairs/wto-issues/technical-barriers-trade>

Committee on Regulation  
PG 4

ASTM International is pleased for the opportunity to provide comments on this important review conducted by the ACUS Committee on Regulation. Please contact Jeff Grove in the ASTM Washington Office at 202-223-8505 for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "James A. Thomas". The signature is written in black ink and is positioned below the word "Sincerely,".

James A. Thomas