

Statement from the ExSC to the NPC

WTO Requirement: WTO Section L of Annex 3 states that “[b]efore adopting a standard, the standardizing body shall allow a period of at least 60 days for the submission of comments on the draft standard by interested parties within the territory of a Member of the WTO.”

ExSC Discussion Question: Does the American National Standards (ANS) process as described in the *ANSI Essential Requirements: Due process requirements for American National Standards* (www.ansi.org/essentialrequirements) satisfy the WTO Requirement?

ExSC Discussion:

Although the *ANSI Essential Requirements* does not state a blanket 60-day period for submission of comments, a number of requirements, when read in combination, arguably meet and exceed the WTO’s 60-day rule.

- Comments are solicited more than once during the American National Standards (ANS) development process.
- Public review opportunities of the draft standard exist that routinely vary in length from 45 to 60 days through ANSI’s Standards Action. (www.ansi.org/standardsaction), which is freely available and posted on ANSI Online (www.ansi.org).
- Additional public comment periods through an ANSI-Accredited Standards Developer’s own mechanisms may also take place; these may solicit comments prior to, concurrent with or after, ANSI’s announcements.
- Under Section 2.6 of the ANSI Essential Requirements all comments received “subsequent to the closing” of a public review period (whether such period is 45 days, 60 days or some other period) are to be considered by ANSI-Accredited Standards Developers (ASD) whenever they are received – either in connection with the then-current draft standard or as a new proposal for a revision to that standard.
- ANS that are maintained under Continuous Maintenance are open in their entirety at all times to recommendations for change to any part of them according to a documented schedule for consideration and action by the consensus body.
- Substantive changes made to a standard that has been announced for public comment are subject to another public comment period via ANSI Standards Action.
- ANSI-Accredited Standards Developers may extend public comment periods upon request, such as requests by interested parties within the territory of a Member of the WTO.

ANSI’s understanding of the WTO TBT obligation on the US government is to “take reasonable measures as may be available” to them to ensure non-governmental standards bodies domiciled in the US accept and comply with the Code of Good Practice.

Conclusion:

In light of these facts, the ANSI Executive Standards Council (ExSC) believes that compliance with the 60-day comment period – even for draft standards announced under ANSI’s 45-day public review option – is fully achievable without any revision to the *ANSI Essential Requirements*, and, in any event, reflect “reasonable measures” to show compliance with the WTO requirements.