



ANSI Comments
FR Investigation No. TPA-105-008
Economic Impact of Trade Agreements Implemented
under Trade Authorities Procedures, 2021 Update
November 6, 2020

The American National Standards Institute (ANSI) welcomes the opportunity to provide its input to the International Trade Commission (ITC) in support of its investigation of the Economic Impact of Trade Agreements Implemented under Trade Authorities Procedures.

ANSI respectfully submits comments addressing the following topics:

- ANSI's role in facilitating U.S. companies' competitiveness and their access to foreign markets
- Issues related to technical barriers to trade
- The role of market-driven standardization activities in enhancing trade and competitiveness
- The role of Free Trade Agreements and capacity building to support trade and investment
- Examples of capacity building successes

ANSI's Role

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 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 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 Technical Barriers to Trade 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.

In its role as coordinator of the U.S. voluntary consensus standardization system, ANSI oversees the creation, promulgation, and use of thousands of norms and guidelines that directly impact businesses in nearly every sector. Through its wholly owned subsidiary, the ANSI National Accreditation Board (ANAB), ANSI is also actively engaged in accreditation of conformity assessment bodies – assessing the competence of organizations determining conformance to standards. And via its affiliate, Workcred, ANSI supports efforts to strengthen workforce quality by improving the credentialing system, ensuring its ongoing relevance, and preparing employers, workers, educators, and governments to use it effectively.



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 ISO, ANSI plays a strong leadership role in its governing body while 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 78% 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 more than 94% of IEC TCs and SCs and administers over 14% of TC and SC Secretariats.

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 significant time and cost to market. A June 2016 report¹ from the U.S. Department of Commerce estimates that 92% of U.S. exports are subject to 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. When foreign governments recognize and use these standards, this expands market opportunities – particularly for small businesses that 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 trade policy tool to discriminate against products from other countries or regions.

U.S. law and policy encourages the public and private sectors to follow the World Trade Organization (WTO) Technical Barriers to Trade (TBT) principles guiding the development of international standards. These principles include transparency, openness, impartiality, and consensus, and are the hallmarks of the flexible and responsive U.S. system. In past submissions and testimony, ANSI has recommended that all U.S. Free Trade Agreements (FTAs) uphold these principles and grant the presumption of conformance to international standards as defined in the WTO TBT principles. This allows for the actual technical qualities, relevance, and effectiveness of specific standards to be the basis for selection, regardless of the developer.

¹ https://legacy.trade.gov/td/osip/documents/osip_standards_trade_full_paper.pdf

ANSI also supports provisions that enable all affected stakeholders to access pertinent information and provide comments in the development of technical regulations, in adherence to WTO TBT Agreement provisions. ANSI believes FTAs must emphasize accountability, transparency, and coordination to ensure foreign regulators consider such comments when finalizing a measure. This will work to ensure that legitimate objectives are met efficiently, and with as little trade disruption as possible.

In support of the above-referenced items, in past submissions, ANSI has recommended referencing existing international standards to avoid duplication, support coherence, and minimize barriers to trade at all levels, which is best exemplified by the recent U.S.-Mexico-Canada Agreement (USMCA). To this end, ANSI strongly emphasizes the recognition of intellectual property rights and the need to obtain appropriate permissions when original content is used to create adoptions or derivative works.

Market-Driven Standardization Activities

Standards are a key component of U.S. trade relations and all existing trade agreements. ANSI believes regulatory cooperation mechanisms developed by the U.S. and our trading partners must continue to ensure that regulators, companies, and consumers can choose international standards from multiple sources. Allowing foreign regulators this flexibility will enable them to select standards that best meet their requirements and will provide an important mechanism for greater regulatory alignment between the U.S. and our FTA partners. These mechanisms will also ensure more predictable market access for U.S. businesses by promoting the development of our partners' regulatory infrastructure.

Additionally, the coordination and alignment forged through trade agreements establishes an important foundation for broader standards and regulatory harmonization. This is particularly true as many regions continue to develop plurilateral trade arrangements that could otherwise weaken U.S. position in global markets. For example, the African Union seeks to implement the African Continental Free Trade Area, the largest free trade area since the establishment of the WTO. Maintaining strong relationships with FTA partners like Morocco will help minimize the threat of trade divergence and will continue to benefit U.S. industry.

The *U.S. Standards Strategy*,² developed and maintained under the leadership of ANSI, promotes a flexible, multiple-path approach, and recognizes the growing need for standards designed to meet stakeholder needs irrespective of national borders. U.S. law and policy calls for federal agencies to base technical regulations on voluntary consensus standards developed by the private sector – and, in particular, relevant international standards – wherever possible, rather than creating government-unique standards. In addition, U.S. regulators are given the flexibility to select standards that best suit their regulatory objectives. Regulatory cooperation is also encouraged to address common issues as well as unnecessary differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts that may impair economic growth, innovation, competitiveness, and job creation.

² https://www.ansi.org/standards_activities/nss/usss

* The first edition of the U.S. Standards Strategy (USSS) was developed in 2000. The USSS is revised every five years to ensure the strategy is accurate and up to date. The USSS is currently being reviewed and an updated USSS is scheduled to be released in early 2021.

When it comes to global trade, transparent, consensus-based international standards are not an obstacle – they are part of the solution. If used effectively, in conjunction with conformity assessment mechanisms, they can remove trade barriers, spur innovation, and fuel business growth.

ANSI commends the language used in the agreed text of the USMCA Chapter 11 on Technical Barriers to Trade and Chapter 28 on Good Regulatory Practices. This textual language supports the inclusion of both governmental and non-governmental standardization bodies, which promotes private-sector involvement and the use of public-private partnerships. Implementation of a comprehensive TBT framework, along with provisions on Good Regulatory Practices, provides the regulatory reform that results in U.S.-friendly systems.

Free Trade Agreements (FTAs) and Capacity Building

U.S. FTAs form a foundational component of U.S. trade policy and are essential to encouraging equal treatment among trade agreement partners. The principles established in U.S. FTAs have helped to guide progress toward lowering trade barriers and encouraging two-way trade between the U.S. and FTA signatories. However, many countries are unable to meet the high standard commitments of U.S. FTAs. In this context, trade-capacity building is recognized as critical to assisting developing countries in implementing a trade agreement and assuring U.S. trading partners can meet the requirements of a trade agreement.

Capacity building provides a wide array of immediate and strategic benefits to U.S. trade policy and U.S. industry. These efforts help the U.S. unlock the full benefit of existing trade agreements while paving the way for future trade relationships. At this time, four U.S. FTAs include specific provisions for capacity building (CAFTA-DR, Colombia, Panama, and Peru). The most fully developed text to support partner implementation of trade commitments was included in the former Trans-Pacific Partnership, specifically Article 8.9, Article 21, and Article 23.

These provisions are increasingly important as the U.S. seeks to create bilateral trade agreements with a broader range of trade partners. For example, capacity building assistance will be an essential component of the U.S.-Kenya FTA that is currently under negotiation. Without these strategic provisions, partners will be unable to comply with FTA commitments and the economic benefits will be muted. For this reason, ANSI emphasizes the importance of FTA chapters that support capacity building and cooperation on agreement implementation.

However, capacity building provisions alone cannot meet the immense need of FTA partners. These provisions must be backed by technical programs that work directly with FTA partners to support the implementation of FTA commitments. Ideally, these programs incorporate the U.S. private sector, which allows industry to build relationships with FTA partners while building the institutional capacity to fulfill FTA commitments.

As the ITC reviews the effectiveness of existing trade agreements, ANSI highlights the importance of capacity building in addressing partner nations' technical gaps and strengthening the implementation of FTAs. In particular, FTAs should take into account a partner's capacity to fulfill the terms of an agreement.



ANSI encourages the consideration of capacity building mechanisms to support a partner's ability to execute high-quality agreements and to help unlock the full economic benefit of each FTA.

Capacity Building Success: Supporting Existing FTAs

In support of U.S. trade and FTA implementation, ANSI maintains a growing portfolio of capacity building programs. These programs engage partner countries on issues related to technical barriers to trade, good regulatory practice, national quality infrastructure, aspects of trade facilitation and intellectual property rights, as well as sector-specific issues.

ANSI's flagship program, the Standards Alliance, is a public-private partnership between ANSI and the United States Agency for International Development (USAID). The initiative supports capacity of developing countries in the areas of legal and regulatory framework, standards development, conformity assessment procedures, and private sector engagement. Achieving these goals helps companies succeed globally by increasing market access for U.S. companies through more predictable and transparent avenues for trade and investment in partner markets and regions. An added benefit to the public-private partnership model is the opportunity for U.S. industry to engage in business development and landscaping of new or emerging markets to capitalize on the benefits of FTAs.

For example, the Standards Alliance worked directly with the governments of Mexico and Colombia to improve market access for U.S. automotive manufacturers through technical trainings on the "Blue Ribbon Letter" program, leveraging experience in Ecuador. This effort began in 2016 when Ecuador agreed to accept the use of the "Blue Ribbon Letter" program to verify Original Equipment Manufacturer (OEM) certification of compliance for vehicles in Ecuador. This certification option provided U.S. automakers with means to certify vehicles (safety requirements) to Ecuadorian authorities without incurring costs not born by products built to competing regulatory certification regimes.

Colombia and Mexico participated in Standards Alliance training activities held in Guayaquil, Ecuador, in April 2016, and a subsequent orientation visit to the U.S. to address best practices for automotive standards, regulations, and conformity assessment. These training activities provided an opportunity to discuss approaches to reduce trade concerns as well as to assure countries are able to meet their legitimate regulatory-and standards-related goals in the least trade-restrictive way.

Impact: If standards and compliance systems are not mutually recognized or accepted in foreign markets, fewer U.S.-manufactured cars will be eligible for export to these markets. The U.S. and other countries may also lose investment and supply chain integration opportunities, increasing prices, and limiting consumer choice. The automobile industry support 9.9 million American jobs or about 5.1 percent of private-sector employment.

FTA Relevance: These agreements encourage the U.S. and its trade partners to work together on standards, technical regulations, and conformity assessment procedures to facilitate access to each other's markets. This includes cooperation on regulatory issues, such as convergence, alignment with international standards, and reliance on a supplier's declaration of conformity, the use of accreditation to qualify conformity assessment bodies, as well as the recognition and

acceptance of the results of conformity assessment procedures. Regulators in various Latin American countries have shown a willingness to work with the United States to ensure products built to U.S. standards and certified under the U.S. system will continue to have access to their markets.

Capacity building activities like those described support partner country resilience. As partner nations increase their capacity to fulfill trade commitments, they establish a culture of quality that decreases future need for similar assistance.

ANSI maintains six additional capacity building programs that focus on vertical and horizontal aspects of FTA implementation. These include five programs that are sponsored by the U.S. Trade and Development Agency (USTDA), as well as a global initiative for water and sanitation standards, which is sponsored by the Bill and Melinda Gates Foundation. This portfolio of capacity building programs is designed to support capacity in FTA partner countries to fulfill their trade commitments and build U.S. industry relationships in foreign markets. Currently, ANSI capacity building programs directly target more than half of our 20 trade agreement partners including Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Nicaragua, Panama, and Peru.

Standards Alliance Phase 1 – A public-private partnership between ANSI and USAID designed to provide capacity building assistance to developing countries, specifically related to the implementation of the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement.

Standards Alliance Phase 2 – A public-private partnership between ANSI and USAID that supports capacity of developing countries in the areas of legal and regulatory framework, standards development, conformity assessment procedures, and private sector engagement

Non-sewered sanitation standards – ANSI engages with national standards bodies (NSBs) and key government, NGO, and private-sector water, sanitation, and hygiene (WASH) partners in Africa, South Asia, and China to promote the adoption and use of international non-sewered sanitation standards (primarily ISO 30500 and ISO 24521).

U.S.–Africa Clean Energy Standards Program (CESP) – Sponsored by the USTDA and coordinated by ANSI in partnership with Power Africa, the CESP enhances U.S.–African relations on standards-related aspects in the clean energy space. This program fosters the relationships necessary to facilitate U.S.-Africa technical exchange on standards, conformity assessment, and technical regulations.

U.S.–Africa Information and Communication Technology Program (ICTSP) – The U.S.-Africa Information and Communication Technology (ICT) Standards Program is a workshop-based funding mechanism designed to share important commercial and industrial standards information and practices with government officials and industry in sub-Saharan African countries. The program ensures that decision-makers who develop and implement standards,

testing protocols, and regulatory procedures for the ICT sector are informed of internationally accepted industry-led standards.

U.S.–China Standards and Conformance Cooperation Program (SCACP) – China’s huge and steadily growing market drives American stakeholders to raise market access concerns that could have a significant impact on U.S. businesses. For this reason, ANSI implements the USTDA-funded U.S.–China SCACP. Since technical barriers still impede U.S. market access in certain sectors, the program assists prioritized U.S. industries to remove technical barriers to trade for U.S. goods and services, soften discriminatory industrial policies, and open up channels to maximize commercial benefits for U.S. companies.

U.S.–India Standards and Conformance Cooperation Program (SCCP) – Sponsored by the USTDA and coordinated by ANSI in partnership with the Confederation of Indian Industry (CII) and supported by the Bureau of Indian Standards (BIS), the U.S.-India SCCP Phase II convenes government officials and industry representatives from the U.S. and Indo-Pacific region to share important commercial, industrial, and technical standards information and best practices. Doing so enables decision-makers to develop and implement relevant standards, testing protocols, and regulatory procedures that align with international best practices specifically as it relates to smart and sustainable cities, water and sanitation, and clean energy sectors.

U.S.–Indo-Pacific Standards and Technology Cooperation Program (STCP) – As global tariffs have fallen in the past decade, non-tariff barriers such as standards have emerged as an emerging challenge in the Indo-Pacific region. The STCP supports both the Asia EDGE (Enhancing Development and Growth through Energy) and the Digital Connectivity and Cybersecurity Partnership (DCCP), and strengthens Indo-Pacific countries in building consistent standards-setting regimes that conform to WTO rules and technical regulations.

Capacity Building Success: Paving the way for Future Trade

Together, ANSI's capacity building programs serve as an important strategic tool for the U.S. government and industry to increase FTA compliance and to pave the way for more consistent, predictable, and fair trade and investment opportunities. For example, the Standards Alliance has helped to create a more predictable and transparent business environment in Southern Africa through its work with the government of Zambia to establish a thorough regulatory review process.

The Standards Alliance and the Zambian Business Regulatory Review Agency (BRRA) have collaborated since 2016 to bolster Zambia's regulatory accountability and improve transparency in the regulatory process. Through a series of training events, the Standards Alliance has supported a deeper institutionalization of regulatory impact assessment that represents an opportunity for Zambia to position itself as a leader in effective regulatory review on the African continent, and provides new ways for Zambia to engage with trade and investment partners, and enhance transparency across its government. These benefits directly impact U.S. business by increasing market predictability and decreasing barriers to trade.



Further, the Standards Alliance and government of Zambia continue to work to facilitate U.S. trade and investment with Zambia by fostering transparency and predictability in Zambian markets to contribute to a conducive business environment. These efforts lay the foundation for Zambia to meet high-level trade commitments that U.S. industry requires from FTA partners.

ANSI recommends that ITC highlights the importance of capacity building to ensure adherence to FTAs. ANSI further suggests that U.S. implementers of FTAs take advantage of existing capacity building mechanisms like the Standards Alliance to unlock the complete benefit of existing and future FTAs.

Conclusion

ANSI looks forward to continued international engagements that enhance U.S. FTAs and promote two-way trade and investment. Ensuring that U.S. FTAs continue to emphasize high-quality trade standards that are coupled with adequate capacity support will encourage compliance and enrich trade and investment opportunities for U.S. industry across the globe.

ANSI believes that capacity building provisions and accompanying programs greatly enhance the effectiveness of U.S. FTAs and lay the foundation for more U.S.-friendly business environments internationally. Strategic capacity building efforts, like those of the Standards Alliance, unlock the full benefit of high-quality U.S. FTAs for U.S. industry and provide supplemental opportunities for industry to build relationships with FTA partners.

Thank you for your consideration and the opportunity to comment. ANSI stands ready to provide clarification or engage further with you in any way deemed useful as you work toward continuing to enhance how the U.S. implements and utilizes FTAs to support strong and effective trade partnerships.