

Article	ANSI comment/suggestion
1	<p>ANSI continues to recommend specific references to China's World Trade Organization (WTO) commitments at the outset of this law. ANSI encourages reliance on a robust, diverse and open consensus standards development process, consistent with the WTO Technical Barriers to Trade Agreement (TBT) principles, in order to achieve China's stated goals.</p>
2	<p>ANSI appreciates the revisions made to clarify mandatory and non-mandatory standards. This will provide clarity to ANSI members that have experienced confusing scenarios where a mandatory standard includes both mandatory and non-mandatory content. Nonetheless, ANSI continues to request that there be further elaboration on the hierarchical relationship between the national, industry and local standards, as well as association and enterprise standards. In addition, ANSI strong urges China to indicate under what circumstances and through what process one type of standard may become another type of standard, <i>e.g.</i>, an association standard become an industry or national standard.</p> <p>ANSI requests clarification on the extent to which "recommended" standards do or do not legally equate to "voluntary" standards, as defined in the WTO TBT Agreement. ANSI recommends the language be added to the Article stating, "Proposed mandatory technical requirements should be based on international standards unless ineffective or inappropriate, and should be notified to the WTO in accordance with TBT Agreement rules."</p>
5, 32	<p>ANSI remains concerned that this article lacks the same scope as Article 34 of the March 2016 version of the draft law. Article 34 of the 2016 version called for the establishment of a national dispute resolution mechanism to address standards-related disputes upon request and coordinate all standards issues reflected from the public. This revised version suggests that dispute resolution occurs for interagency disputes only. ANSI requests that a dispute resolution mechanism be required for all levels of standards-setting organizations and that all interested parties have a right to appeal on standards-related issues. The language should be similar to Article 34 of the March 2016 draft Standardization Law.</p>

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7	ANSI recommends that China acknowledge and reinforce its WTO TBT Agreement commitments with respect to international standardization in this article. The text of Article 7 should include stronger language based on the TBT Agreement, including reference to Annex 3 of the TBT agreement and language that upholds the globally accepted principles of international standardization set forth in the TBT Committee decision (G/TBT/1/Rev.8, 23 May 2002). ANSI also recommends China encourage coordination between national standardization work and national mirror committees to ISO and IEC.
9	ANSI recommends the language be added to the Article stating, “Proposed mandatory technical requirements should be based on international standards unless ineffective or inappropriate, and should be notified to the WTO in accordance with TBT Agreement rules.” Finally, ANSI and its members are concerned over the inclusion of the phrase "meet the basic need of social and economic management" as it is unclear as to scope and is problematic if used as a justification for developing mandatory national standards that are inconsistent with WTO TBT provisions. ANSI recommends removing the phrase.
9, 10, 11, 12	Regarding the development of national, industry, local, and social organization standards, ANSI urges China to apply relevant TBT rules prioritizing use of existing international standards, and the WTO Code of Good Practice for the Preparation, Adoption, and Application of Standards. In particular, ANSI recommends language be added to each of these clauses stating, “Where international standards exist, they shall be used as the basis for the standard except where they would be ineffective or inappropriate.” ANSI also recommends that China’s international adoption process include a public review period with a mechanism for addressing claims of duplication or conflict with national, industry, local or other standards.

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9, 10, 11, 12	<p>In delegating responsibility for the development of national, industry, local and social organization standards, ANSI respectfully recommends that China consider the benefits of fair and open participation in standards development, through published procedures that allow engagement of all relevant stakeholders, domestic and foreign. In the U.S., many stakeholders, including representatives of non-U.S. headquartered organizations, contribute to the success of the diverse standards system, including the American National Standards system, which is implemented in accordance with published procedures that reflect WTO principles. The U.S. economy and society have benefitted greatly from the open public-private partnership model our system reflects.</p>
11, 12	<p>With respect to this law’s guidance on industrial, local, and social organization standards, ANSI recommends that the WTO TBT principles be applied consistently, including rules on adequate public notice and comment included in the Code of Good Practice. Public notice and encouraging participation by diverse stakeholders at all levels of standards development will help with coordination efforts and the transition from one category of a standard to another. ANSI recommends editing this Article to state: “Industry, local, and social organization standards shall be based on relevant international standards except where such standards would be ineffective or inappropriate” and “Industry, local, and social organization standards shall ensure that their standards undergo a public review and comment period in accordance with the TBT Agreement before they are finalized.”</p> <p>ANSI further recommends that China educate all levels of government engaged in standards development activities about adherence with the WTO principles, the goal of global relevance and the long-term benefits and efficiencies that will result.</p>
13	<p>ANSI agrees that there may be occasions whereby standards are urgently required for the reasons outlined in the Article. Notwithstanding, ANSI respectfully recommends that China considers fair and open participation in developing standards that might be urgently required. Under such circumstances, the engagement of all relevant stakeholders, domestic and foreign, might lead China to a useful and effective solution.</p> <p>In addition, ANSI urges China to apply relevant TBT rules prioritizing use of existing international standards during such times of urgency. In particular, ANSI recommends language be added to each of these clauses stating, “Where international standards exist, they shall be used as the basis for the standard except where they would be ineffective</p>

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	<p>or inappropriate.” ANSI also recommends that China’s international adoption process include a public review period with a mechanism for addressing claims of duplication or conflict with national, industry, local or other standards.</p> <p>ANSI and its members are concerned over the inclusion of the phrase "meet the needs of social and economic development" as it is unclear as to scope and is problematic if used as a justification for developing mandatory national standards that are inconsistent with WTO TBT provisions. ANSI recommends removing the phrase.</p>
14	ANSI commends China for requiring a thorough investigation into stakeholder needs when developing mandatory or recommended standards. Though ANSI supports robust stakeholder outreach, our concern is that the proposed standards development process appears to be driving the outreach process. Instead, ANSI recommends China clarify that the stakeholder outreach process drives the standards development process. Since advanced public notice helps to raise awareness of standards activities, ANSI further recommends that organizations developing mandatory or recommended standards publish their work plans in accordance with the TBT Agreement.
15	ANSI welcomes the additional clarification that the expert groups, in addition to the technical committee, should be broadly representative. However, ANSI remains concerned that, in the case technical committees do not exist, an “expert group” may be formed to undertake the drafting and technical review of mandatory standards. This is concerning to the extent that such expert groups are allowed to develop mandatory standards but are not subject to the same rules as technical committees. ANSI recommends that this Article clarify expert groups are subject to the same rules as technical committees. This includes, but is not limited to, rules on membership (which should be assembled in a fair and impartial way), process, intellectual property protection, etc.
16	ANSI notes that the phrase “compulsory standards should be made publicly available at no charge” infers broad application of this requirement, including when mandatory standards are based on international standards. In this regard, ANSI would appreciate China's clarification on whether this applies to non-Chinese standards. If this is the case, ANSI recommends China consider the following alternative language: “Mandatory standards shall be made reasonably available to the public.” ANSI makes this recommendation in light of the challenges associated with allowing across-the-board free access to standards, namely the protection of intellectual property. ANSI would also like to reiterate the importance of protecting the copyright of standards as stated in the Copyright Law, which was referenced in the March 2016 version. ANSI recommends reinserting language from the March 2016 version into the final version of the law.

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17	<p>Regarding the development of national, industry, local, and social organization standards, ANSI urges China to apply relevant TBT rules prioritizing use of existing international standards. In particular, ANSI recommends language be added to each of these clauses stating, “Where international standards exist, they shall be used as the basis for the standard except where they would be ineffective or inappropriate.” ANSI also recommends that China’s international adoption process include a public review period with a mechanism for addressing claims of duplication or conflict with national, industry, local or other standards.</p> <p>ANSI welcomes the expansion of the list of entities that can participate in the drafting of the social organization standards, which was not included in previous versions of the law. ANSI and its members are also pleased to note that the principles of openness, transparency, and fairness are mentioned in the formulation of social organization standards in this Article. ANSI is of the view that following the principles of openness, transparency and fairness should be included in the formulation of all standards, not just social organization standards. In delegating responsibility for the development of national, industry, local and social organization standards, ANSI respectfully recommends that China consider the benefits of fair and open participation in standards development, through published procedures that allow engagement of all relevant stakeholders, domestic and foreign. In the U.S., many stakeholders, including representatives of non-U.S. headquartered organizations, contribute to the success of the diverse standards system, including the American National Standards system, which is implemented in accordance with published procedures that reflect WTO principles. The U.S. economy and society have benefitted greatly from the open public-private partnership model our system reflects.</p> <p>ANSI and its members would also to clarify whether the social organization standards could be adopted as national or industry standards. If so, ANSI requests that China provide more details on the steps necessary for social organization standards to be adopted as national or industry standards.</p> <p>With respect to this law’s guidance on industrial, local, and social organization standards, ANSI recommends that the WTO TBT principles be applied consistently, including rules on adequate public notice and comment included in the Code of Good Practice. Public notice and encouraging participation by diverse stakeholders at all levels of standards development will help with coordination efforts and the transition from one category of a standard to another. ANSI recommends editing this Article to state: “Industry, local, and social organization standards shall be based on relevant international standards except where such standards would be ineffective or inappropriate” and “Industry, local, and</p>

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	<p>social organization standards shall ensure that their standards undergo a public review and comment period in accordance with the TBT Agreement before they are finalized.”</p> <p>ANSI further recommends that China educate all levels of government engaged in standards development activities about adherence with the WTO principles, the goal of global relevance and the long-term benefits and efficiencies that will result.</p>
18	<p>ANSI and its members welcome the revision stating that enterprise standards can be developed independently OR jointly with other enterprises. ANSI recommends China further clarify the hierarchical relationship between not just national, industry, and local standards, but also between these three and the remaining two categories of standards, i.e., association and enterprise standards.</p>
19	<p>ANSI members have expressed concern that Article 19 be used as a means to create exclusivity for indigenous technologies and establish trade barriers that would be inconsistent with Article 21 below as well as Article 4.1 of the WTO TBT Agreement which requires all measures to be consistent with the Code of Good Practice (Annex 3). The inclusion of such provisions could result in the unequal treatment of products originating from different countries.</p> <p>Regarding the development of national, industry, local, and social organization standards, ANSI continues to urge China to apply relevant TBT rules prioritizing use of existing international standards. While ANSI recognizes the importance of supporting the development of social organization standards, ANSI recommends where international standards exist, they shall be used as the basis for the standard except where they would be ineffective or inappropriate.</p> <p>Given the above, ANSI thus recommends that this article be removed.</p>
21	<p>ANSI remains concerned that Article 21 of the March 2016 version of the draft law has not been reinstated in this second revised version. In particular, the March 2016 version called for government agencies, associations, and enterprises to protect the copyright of standards as stated in the Copyright Law. ANSI recommends reinserting this language in the final version of the law.</p>

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	<p>In this article, ANSI recommends China make specific reference in this clause to the WTO TBT Agreement requirement in Annex 3 that “standards shall not create unnecessary obstacles to international trade.”</p>
22	<p>ANSI notes that this Article should only apply to standards developed by the Government's technical committees, i.e. national, industry or local standards. ANSI and its members are of the view that this provision should not be applied to social organization standards or enterprise standards as these are developed to meet the organization's objectives and the interests of the members and to fairly compete in the market.</p>
25	<p>ANSI recommends this article uphold related provisions under the WTO TBT Agreement calling for sufficient transition time in the implementation of technical regulations, or mandatory standards. A consistent and serious challenge faced by ANSI members operating in China is the short time period between the publication date and effective date of a standard. ANSI recommends including language requiring “sufficient lead time for implementation of a standard. The length of this transition time should take industry inputs into consideration. During the transition time, both the old and new versions of the standard should be valid.”</p>

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27	<p>ANSI remains seriously concerned over provisions regarding so-called “enterprise” standards. There is no concept of enterprise standards in the U.S. Companies may develop proprietary specifications for their own use and may disclose them publicly if they choose. Because they are not the result of an open, multi-stakeholder process, they are not considered part of the broader U.S. standards system, and there is no overarching law or mechanism that requires companies to disclose their standards to the public.</p> <p>ANSI remains unconvinced that enterprise standards belong within the scope of this law. Since many of the disclosure requirements are intended to provide greater protections for consumers, ANSI recommends China instead consider including language on the disclosure of market specifications in its consumer protection law(s).</p> <p>If included, ANSI and its members strongly recommend China limit and refine language requiring enterprises to self-disclose all standards, and instead focus these requirements on mandatory standards only. ANSI appreciates the revisions made by China to encourage enterprises to disclose these standards on the public service platform, but notes that there are still requirements for enterprises to make public certain details of the standards implemented. ANSI would like to reiterate earlier concerns that it would be impractical and overly burdensome for enterprises to disclose a comprehensive list of implemented standards on a per-product basis. Any self-disclosure requirement should be limited in scope in order to protect the intellectual property rights of the contributing enterprise. The Standardization Law should not require a participating enterprise to lose its ability to protect its intellectual propriety. Finally, the Standardization Law should limit and clarify the requirements and liabilities associated with the implementation of disclosed standards.</p> <p>If no action is taken to limit and refine the law’s language on enterprise standards, self-disclosure of standards, and the related liability of enterprises, ANSI members predict the requirements could have grave implications for their business in China.</p>
28	<p>ANSI members recommend this Article’s scope exclude tools and samples used in the process or research, improvement and technological upgrades. Such exclusion will ensure the application of this Article does not stifle innovation in the research and development process for enterprises.</p>

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29	ANSI is concerned to the extent this Article establishes “information feedback mechanisms” governing standards implementation that will serve as the basis for revising and abolishing relevant standards. ANSI recommends China clarify how these mechanisms will differ from regular review procedures undertaken by technical committees. ANSI also recommends China include language requiring these mechanisms be transparent and subject to public notice and comment.
34	ANSI respectfully suggests removing from the article mention of a monetary incentive for tip-offs of non-compliance with the law. Creating such an economic incentive may result in a proliferation of unfounded and unnecessary disputes and allegations.
35	ANSI notes that the phrase "causing harm to personal safety of loss to property of others" have been removed from this version of the law. ANSI suggests that the version from the May 2017 version be reinstated to make it clear that the criteria of harm has to be included before legal liability can be applied.
37	ANSI recommends China clarify that enterprises should only be punished if they do not follow an enterprise standard that they self-disclosed and declared to be implemented within a specific product or service, and such noncompliance results in harm to personal safety or loss of property.