



ANSI White Paper on Foreign Participation in Chinese National Technical Committees

The extent to which interested foreign (*i.e.* non-Chinese) parties may participate on Chinese National Technical Committees (TCs) in the development of Chinese national standards has become a key issue for many U.S. companies and organizations. Until recently, interested foreign parties could participate as voting (P) members on some TCs, as observing (O) members on some, and not at all on others, with no clear overarching Chinese policy.

In its efforts to increase transparency and consistency among Chinese national technical committees (*i.e.* the committees that develop Chinese National “GB” standards), the Standardization Administration of the People’s Republic of China (SAC) recently released an announcement formalizing the operating procedures of Chinese TCs. This announcement was implemented following a 30-day public comment period. ([Click here](#) to view the notice in Mandarin Chinese; [Click here](#) to view a reference English translation). Transparency in China’s standards, conformity assessment and regulatory system has been a key area of concern for ANSI and its members ([Click here](#) to view 2006 ANSI membership survey; [Click here](#) to view ANSI White Paper on Transparency in China), and China’s efforts to formalize and publicly post Chinese TC Operating Procedures (as part of broader initiatives to make the Chinese system more transparent) is fundamentally a positive development.

However, one clause in the recent SAC announcement states that “it is permitted that the foreign enterprises can send people as observers to take part in activities of the related TCs.” Typically in such Chinese documents, an option not explicitly “permitted” is not permitted. SAC has not officially defined the term “foreign enterprises” but the leaders of various Chinese TCs have interpreted this to mean any foreign-owned company, any Chinese-registered subsidiary of a foreign company, and/or any representative of a Joint Venture (JV) between a foreign-owned company and a Chinese company. This has resulted in varying consequences for U.S. companies wishing to engage in Chinese TCs, with some parties reporting an increased level of participation, receiving O status on TCs from which they were previously denied access, others reporting stricter limitations, being demoted from P to O status, and some maintaining their P status despite the SAC announcement.

Concerns have been raised over the SAC notice and its implications for U.S. organizations’ influence on Chinese National “GB” Standards (some of which are mandatory), and some U.S. organizations have advocated that ANSI or the U.S. Government exert pressure on China to grant P status to foreign organizations. However, the SAC policy may not violate China’s WTO commitments. Also, on its face, it is consistent with participation policies for national standards committees in many other countries. Restricting participation of foreign organizations in national standards development processes is not uncommon; however, it is somewhat unusual to classify local subsidiaries of multinational companies as “foreign.” ([Click here](#) to view additional background).

Further, several ANSI members have stressed that any heavy-handed action against China could discourage future SAC initiatives to make the Chinese standards system more transparent, and may threaten the status of U.S. companies that still have P status on Chinese TCs.

This issue was discussed at the March 2008 meeting of the ANSI [International Policy Committee](#) (IPC), which determined that 1) the implications of Chinese policies and ANSI member positions on this matter were not well enough understood at that time to justify officially pursuing a position on this matter with China; and 2) any action to address this matter with China should be taken together by the U.S., European Union, Japan and other affected countries. ANSI staff is currently gathering additional information about the implementation of the SAC notice, and its impact on U.S. interests.

Additional Background on Foreign Participation in Chinese National Technical Committees

Relevant WTO Guidelines and Principles

Principles for International Standards Development: [G/TBT/9, Annex 4](#)

In its *Second Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade*, the WTO Technical Barriers to Trade (TBT) Committee outlined principles for international standards. Regarding openness, the Committee indicated that “membership of an international standardizing body should be open on a non-discriminatory basis to relevant bodies of at least all WTO Members. This would include openness without discrimination with respect to the participation at the policy development level and at every stage of standards development, such as the...voting and adoption of standards.”

Based on these principles, the standards developed by Chinese TCs could not, in and of themselves, be considered international standards if China does not allow voting rights to *all* affected stakeholders regardless of national affiliation. While China has indicated a strong desire to have its standards accepted internationally, its favored mechanism for doing so is submitting Chinese standards to ISO or IEC (rather than by meeting the principles outlined by the TBT Committee, as many U.S.-based SDOs do), at which point each ISO or IEC member would have voting rights to determine if and how the Chinese standard would move forward to become an ISO or IEC standard.

Code of Good Practice: [WTO TBT Agreement, Annex 3](#)

In accepting the TBT Agreement, WTO Members agree to ensure that voluntary standards, conformity assessment procedures and technical regulations do not create unnecessary obstacles to trade. The WTO/TBT Code of Good Practice calls WTO members to ensure that national and regional standardization bodies (governmental and non-governmental) also do not create unnecessary obstacles to trade, and includes the following principles:

- National standardizing bodies should make every effort to achieve national consensus and avoid duplication with international or regional standardization (Paragraph H).
- Standards should not be prepared which create unnecessary obstacles to international trade (Paragraph E).
- Standardizing bodies should request comments from interested parties and take them into account when adopting a standard (Paragraph N).

Limiting voting rights to domestic stakeholders in the development and adoption of national standards is not addressed by the WTO/TBT Code of Good Practice.

Policies for Foreign Participation in the U.S. and EU

United States

Developers of American National Standards: The ANSI Essential Requirements (ER) is used as the basis for accreditation of organizations that develop American National Standards (ANS). The ER states that participation “shall be open to all persons who are directly and materially affected by the activity in question.” The ER does not exclude participation (voting or otherwise) by non-U.S. interests, nor does it provide specifically for it. The ER also states the following: “The interest categories appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed.” Thus, a developer has the right to limit participation based on the nature of the standard under development.

Mirror Committees to ISO and IEC: The ANSI accreditation procedures for U.S. Technical Advisory Groups (TAGs, *i.e.* mirror committees to ISO and IEC) state that “membership shall be open to all U.S. national interested parties who indicate that they are directly and materially affected by the activity of the U.S. TAG.” The procedures further define “US national interested party” as 1) an individual representing a corporation or an organization domiciled in the U.S. (including U.S. branch offices of foreign companies authorized to do business in one or more states as defined by the relevant State’s Corporation law within the U.S.); 2) an individual representing a U.S. federal, state or local government entity; or 3) a U.S. citizen or permanent resident.

European Union

National level standardization in Europe is conducted in national standards bodies and national committees. Participation in these national level committees is generally limited to the stakeholders from the respective European countries, and generally includes representatives of non-European headquartered companies which have a registered presence in that country. The rules for participation in European country mirror committees to ISO and IEC are generally the same.

European Regional standardization is conducted by the three European Standards Organizations (ESOs) of CEN, CENELEC, and ETSI. CEN and CENELEC are composed of the European national standards body (NSB) members to ISO and IEC as full voting members. Each European NSB dictates its own policies for participation on mirror committees to CEN and CENELEC, but they generally allow full voting participation from non-European headquartered companies which have a registered presence in that country. CEN and CENELEC allow participation from interested national standards body ISO members of EU neighbor countries (affiliate members) or other interested ISO members (partners). Affiliate and partner members are entitled to “voice” but no vote. ETSI is composed primarily of European stakeholders but allows voting rights to international participants.