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Jean-Luc Demarty  
Director General  
Directorate General for Trade

Ambassador Miriam Sapiro  
Deputy U.S. Trade Representative  
Office of the U.S. Trade Representative

Dear Sirs and Madam,

Thank you for the opportunity to comment on the differences between U.S. and EU jurisdictions that may be impeding deeper regulatory compatibility. The American National Standards Institute (ANSI) and its members recognize the important role of the transatlantic trading relationship, and the significant impact that standards and technical barriers to trade can have on companies' ability to do business in the U.S. and EU markets. For this reason, we applaud the objective of promoting greater transatlantic regulatory compatibility.

ANSI is a private non-profit organization that serves as coordinator of the U.S. standardization system. We are the official U.S. representative to the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and numerous other international and regional bodies. Our membership includes companies, government agencies, and organizations and we represent the interests of more than 125,000 companies and 3.5 million professionals around the world.

Recognizing that the U.S. and EU are contemplating the formation of a high-level working group on jobs and growth, we respectfully submit the following as critical components of such an agreement. ANSI believes that without these components, the shared goals of facilitating trade and supporting greater transatlantic regulatory compatibility cannot be reached.

## 1. Stronger Technical Barriers to Trade (TBT) commitments

Any future trade agreement between the U.S. and EU should have a Technical Barriers to Trade (TBT) chapter with overarching commitments that are ***at least*** as robust as the Korea-U.S. Free Trade Agreement (KORUS).<sup>1</sup>

One example of how such commitments would support deeper regulatory compatibility is the consideration of substantive comments in response to WTO TBT notifications. ANSI supports the consideration of comments from all affected stakeholders in the development of technical regulations. This serves to ensure that legitimate objectives are met as efficiently and with as little trade disruption as possible.

The United States takes into account TBT notification comments from all interested parties, including WTO Members and interested parties of WTO Members. The EU, on the other hand, does not generally consider comments it receives from the non-EU interested parties and the private sector, and as a result significantly limits the trade-enhancing benefit of the recommended 60 day comment period for WTO notifications.

KORUS Article 9.6 would resolve this challenge by reinforcing the WTO provisions that Members and interested parties of Members may make reasonable enquiries regarding standards, technical regulations, conformity assessment and other related information.<sup>2</sup>

## 2. Flexibility on standards used in regulations

Europe's New Approach Directives define "essential requirements" that products in the EU market must meet, and extends the presumption of compliance to these essential requirements if selected standards developed by the three European Standards Organizations (ESO's) are used. ANSI recommends that the EU empower and encourage its regulators to additionally grant the presumption of compliance to other international standards as defined in G/TBT/ 1/REV. 8. Section IX, "Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with Relation to Articles 2, 5 and Annex 3 of the Agreement."

U.S. law<sup>3</sup> and policy<sup>4</sup> calls for federal government agencies to base technical regulations on voluntary consensus standards developed by the private sector (particularly relevant international standards)<sup>5</sup> wherever possible rather than creating government-unique standards. U.S. regulators are given flexibility to select the standards that best meet their regulatory objectives.

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<sup>1</sup> [http://www.ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset\\_upload\\_file604\\_12708.pdf](http://www.ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file604_12708.pdf)

<sup>2</sup> WTO TBT Agreement, Article 10.1: [http://www.wto.org/english/docs\\_e/legal\\_e/17-tbt\\_e.htm](http://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm)

<sup>3</sup> U.S. Public Law 104-113 (1995), [http://standards.gov/standards\\_gov/nttaa.cfm](http://standards.gov/standards_gov/nttaa.cfm)

<sup>4</sup> White House Office of Management and Budget (1998), <http://www.whitehouse.gov/omb/circulars/a119/a119.html>

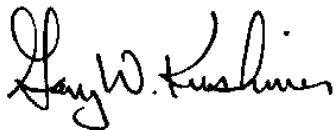
<sup>5</sup> Trade Agreements Act of 1979 (19 U.S.C. 2531-2573), P.L. 96-39

Allowing EU regulators the same flexibility would allow them to select the standard(s) that best meet their regulatory objectives and would provide an important mechanism for greater regulatory alignment between the U.S. and EU.

We look forward to the opportunity to discuss these recommendations further as both the U.S. and EU move towards the goal of increased alignment and compatibility.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Gary W. Kushnier". The signature is written in a cursive style with a large initial "G" and a distinct "W".

Gary Kushnier  
Vice President, International Policy