

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

WILLIAM L. KOVACS
VICE PRESIDENT
ENVIRONMENT, TECHNOLOGY &
REGULATORY AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062
(202) 463-5457

STAN ANDERSON
SENIOR COUNSEL TO THE PRESIDENT
CHAIR, GLOBAL REGULATORY
COOPERATION PROJECT

March 21, 2008

U.S. Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20503

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, is pleased to submit this letter as a supplement to our February 8, 2008 comments on the *Joint Draft Report for Comment – Review of the application of EU and U.S. regulatory impact assessment guidelines on the analysis of impacts on international trade and investment* (report) issued by the Office of Management and Budget (OMB) and the Secretariat General of the European Commission.

As stated in the Chamber's original comments, there is a definite need to reduce the divergence of U.S. and EU regulations in order to ensure the mutual protection of consumers and the environment and enhance economic prosperity on both sides of the Atlantic. Improved methodologies for assessing the adverse impact of regulations on international trade and investment will foster regulatory certainty and economic growth in the transatlantic market.

In this letter, the Chamber would like to highlight one further point for your consideration: the need to utilize private sector standards in regulations.

The Office of Information and Regulatory Affairs (OIRA), in finalizing its report, should underscore the use of private sector standards as the best way to achieve cross-border compatibility of rules. Aligning requirements for products and services across the transatlantic market – or the global market – would facilitate increased market access and ensure a level playing field for both companies and regulators.

In the United States, the majority of rules that apply to businesses and consumers are defined in private sector standards. This is primarily due to OMB Circular A-119 and the National Technology Transfer and Advancement Act (Public Law 104-113). These two policies not only work to improve regulatory efficiency and reduce government procurement costs, but also facilitate the alignment of regulatory criteria across borders. The most effective mechanism of harmonizing cross-border requirements (technical regulations and standards) is when regulators around the world reference private sector standards.

If the regulators across the world reference the same international standards, the global private sector (together with its government partners) is well positioned to quickly harmonize and maintain these standards. Such a practice not only reduces the cost of regulatory compliance and market access, it also produces a more effective regulation as requirements can be designed to keep up with the latest technology and can be clearly complied with by industry and other stakeholders.

The National Technology Transfer and Advancement Act essentially strengthens and converts into law the core provisions of OMB Circular A-119:

1. Each U.S. government agency, before regulating, is encouraged to seek existing private sector standards (from any source globally) that are appropriate for its needs;
2. If found, the agency is to use the private sector standard (i.e. either encourage its use, or reference it in, or use it as a basis for, regulation);
3. If not found, the agency is expected to work with the private sector (in any relevant forum) to develop the needed standards, and to use them (i.e. either encourage its use, or reference it in, or use it as a basis for, regulation); and
4. Agencies creating their own standards (or technical regulations which could be standards) must report to the administration and Congress on an annual basis the justifications for doing so (including why public funds are being used to do something the private sector is already doing or could do).

Due to both of these policies, over 6,000 private sector standards are now referenced in U.S. regulations. This exemplary and legally required practice should be highlighted not only as a reminder to U.S. regulators, but advocated by OIRA in its

conversations with the European Union and other governments that represent key U.S. trading partners and commercial interests.

OMB recognized early on the advantages of using voluntary consensus standards from the private sector over agency-developed specifications. Now, OMB needs to emphasize the advantages of referencing voluntary consensus standards in rules on the global market.



William L. Kovacs



Stan Anderson

Cc: Secretariat General
European Commission
B-1049 Brussels
Belgium