



## Summary Report – Listening Session on European Standards Strategy and Proposed Regulation

### Executive Summary

**Following the publication of the European Standards Strategy (ESS) on February 2, 2022, ANSI members were offered the opportunity to share their feedback on the ESS with United States Government (USG) officials.** The meeting took place over the Zoom platform on March 3, 2022, and representatives from the National Security Council (NSC), Department of Commerce (DoC), United States Trade Representative (USTR), and the Department of State were present.

**The objective was to allow ANSI members to provide their insights on the three key following questions:**

- 1) What are the implications of the EU Standards Strategy and related regulation for the EU's ability to foster innovation and timely standards delivery vis a vis the U.S. approach?
- 2) What does the Strategy/regulation mean for US industry access to the EU market?
- 3) What are the implications the Strategy/regulation for international standards/standardization?

### Summary of Question #1 Discussion

- **The US strategy and its flexible structure fosters more innovation than the ESS per the ANSI members.** It is also fully aligned with the principles of the WTO Agreement. The EU is seeking to increase its competitiveness due to market failure and not having the right standards in place and is deciding to take government actions to address these issues. The main concern with this is that the EU is giving itself multiple ways to create standards outside of market driven standards and international standards, which may result in timely standards, but not effective standards.
- **The ESS does not follow a global approach.** This is in clear contrast with the US approach which fosters the use of available science and data to develop the most market competitive standard; whereas per the ESS the coordination will only be done with national delegations. It will likely mean that the EU standardization process will result in less diversity of views in standards development and therefore negatively impact innovation and openness.
- **The EU is seeking to promote first and foremost their own rules/values around standards.** The EU is using the ESS to advance its industrial policy which once again will limit innovation, flexibility, and choice. The fact that a standardization need is deemed urgent does not necessitate government intervention, as is implied in the ESS. Approach is also not aligned with the WTO TBT

agreement principles. The main idea of the ESS appears to be to ensure that EU interests are represented while limiting foreign participation. This is the opposite of the direction that China is going, as it is moving away from a top down approach having seen that when the government is the one developing all the standards this can create significant bottlenecks. However, a positive aspect is that the ESS clearly demonstrates that standards are a priority for the EU, which has stated that it wants to partner with like-minded economies on this topic. This creates an opportunity for the USG to leverage this statement and attempt to better align the EU strategy with the more global, US approach.

- **USG raised questions around how the ESS will impact the ESOs, how soon will the impact be felt, and how does this affect the work towards consensus.** According to the members, little change is expected to the process for approving harmonized EU norms in near term, but if there is no change within a 6 month period the ESOs will be requested to review. In terms of governance, we must distinguish between ETSI and CEN-CENELEC. ETSI must revisit its governance practices overall, as ETSI rules don't distinguish between foreign and EU companies, but in general companies must have presence in Europe in order to become ETSI members. However, governance changes typically are made to expand the process, not limit it and so this will likely change the dynamics of technical working groups. It is also important to remember that the national members of the ESOs each have their own internal processes, so U.S. companies' experiences may vary depending on the country.

## Summary of Question #2 Discussion

**The ESS represents a deviation from international standards.** Per ANSI members the deviation in the EU market is a constraint to the value chain integration and a bottleneck that increases compliance cost. The EU, via this strategy, is seeking deviation since they want to enforce their standards even when they are not aligned with best practice or do not want to apply the international ones when their standards are not existent.

- **Market access for US companies will be negatively affected.** By limiting access by the private sector in the rulemaking process the EU is creating a less open system which affects market access. Moreover, if US companies are forced to produce different versions of their products for the European market this will increase the export costs and thus limit market access. This is especially worrisome for companies that have standards as a large percentage of their product definition and need to operate on a global scale.
- **Members seek the support of USG to facilitate their market access to Europe.** Because the US standards strategy allows for the private sector to develop the best technical standards and adopt the ones that facilitate innovation, members of the second panel also echoed the need for USG to work with the EU to encourage recognition of a wider range of standards, beyond those adopted by ESOs. In essence for the members, any initiative that deviates from transparency can hinder innovation and limit market access.

**USG raised questions around the impact the ESS will have on transparency and why the EU would be willing to bypass the global standardization process.** The EU appears to be willing to bypass global standardization because they are attempting to create their own standards first and make the rest of the world follow their model. Because the strategy limits the number of stakeholders involved this is a step back towards total openness in the EU market. Once again members echoed that the European Commission seems to want to use the ESS as an industrial policy development tool first, which is an issue. Building bridges between US and EU is very attractive; the ESS makes it harder to build those bridges. However, the area of privacy might be a good area for establishing that common connection. Members also expressed concerns with the impact of the ESS on existing agreements such as the Vienna Agreement and Frankfurt Agreement.

### Summary of Question #3 Discussion

- **The Strategy/regulation moves standards further away from private sector and towards government direction.** This approach does not advance innovation and is counterproductive. There is concern regarding the potential exclusion of companies in global standards development, particularly in areas where standards work moves from CEN/CENELEC to ISO and IEC, or where joint work takes place. This could hold up work in ISO and IEC and lead to technical barriers to trade.
- **It is not clear how technical specifications mandated by the European Commission will be developed.** There may be less opportunity for public comment, for example. The Commission has relied on contracted experts to ensure that harmonized European standards (ENs) meet legislative needs. This may not be consistent with developing a consensus technical opinion within a standards committee. Participants pointed to the areas of AI and quantum technologies where mandated specification could raise both economic and security implications outside of the EU. It was noted that the designation of a Chief Standardization Officer is a positive step – a single point of contact in the EU to engage with.
- **Engaging with the European Commission and the ESOs will be important as the Strategy plays out.** Support was expressed for continued dialogue and building bridges with the EU. It is important that in these conversations that the US can highlight disagreements and concerns. Participants urged the US government to challenge the narrative the EC has advanced as to why this change is needed.

### Q and A – All

- The development of standards should be open and transparent; as this will facilitate innovation and allow for the best standards to ultimately be adopted globally.

- EU appears willing to wants to bypass standardization sometimes because they are attempting to create their own standards first and make the rest of the world follow their model.
- With the divergence in the EU there will be an impact on the presumption of conformance to EU regulations, and added cost and time to access third party conformity assessment options.
- This strategy raises questions regarding whether the EU is more committed to EU standards or international ones. It is a step back from total openness; therefore, it may hinder EU-US relations in that sphere.