



## USCBC Recommendations on Standards

September 2020

Since 1973, the US-China Business Council (USCBC) and its more than 220 member companies have contributed to China's economic and technological development. Our members include a range of international enterprises dedicated to the China market.

Many USCBC members have a long history in the China market, and their technical expertise has contributed to China's body of standards in many sectors. Member companies have noted significant improvement in the standards-setting environment in China in recent years. USCBC is pleased to see that Chinese standardization reform includes efforts to reduce the number of mandatory standards, clean up outdated standards and reduce conflicting standards, make standards setting more market driven, adopt more international standards, and increase participation in international standards setting.

USCBC recently conducted interviews with over 30 member companies and other experts focusing on the information and communication technology, life sciences, consumer products, chemical, and manufacturing industries to better understand their standards-setting challenges in China.

Member companies note that both standards-setting transparency and access have improved in recent years. The government has created new online standards databases and companies report more draft standards are publicly circulated for comments. Technical committees that had historically been closed to foreign companies have allowed them to join as members, and the recently passed Foreign Investment Law includes positive commitments on foreign participation.

However, companies note that they continue to face challenges resulting from unique Chinese standards that diverge from the international standards they use in other markets. Many companies also continue to face standards-setting transparency and access issues, especially in the earlier stages of the standards-setting process.

USCBC encourages China to continue improving due process in standards setting to better align with World Trade Organization (WTO) standards-setting principles. Having transparent, open, impartial, rules-based standards-setting processes are essential to reduce biases and ensure that all stakeholders are able to have their voices heard. Consensus-based standards setting is conducive to drafting balanced and comprehensive standards that benefit all industry players. The Council hopes that China will fully uphold its commitments under the WTO Technical Barriers to Trade Agreement (TBT) to use international standards as the base for national standards, notify the WTO of new draft standards, and provide adequate public comment periods. As China increases participation in international standards setting, the Council hopes that Chinese stakeholders will engage constructively and in line with international standards-setting norms and rules.

USCBC hopes that the detailed recommendations included in the attachment are able to provide some constructive ideas to help address their challenges while at the same time benefiting Chinese companies and consumers. The Council aims to be a partner in China's

efforts to continue standardization reform at home and participate constructively in international standards setting, and hopes that the Chinese government will view our organization as a resource.

### **Adoption of International Standards**

USCBC respectfully requests China to continue its policies of aligning Chinese and international standards, with particular focus on identical adoptions rather than modified adoptions of international standards.<sup>1</sup> Chinese standards that diverge from the international standards that companies use in other markets can lead to increased costs and delays, require the reengineering of products, and even restrict market access all together. Unique Chinese standards pose challenges both for foreign companies that would like to invest in China, as well as domestic companies expanding into foreign markets.

It is not just the content of standards that matters. Even if standards are similar to international standards, sometimes, what constitutes a voluntary requirement in other markets may be a mandatory requirement in China. USCBC is encouraged by China's ongoing efforts to reduce the number of mandatory standards and strongly recommends that the Chinese government narrowly limit the scope of mandatory standards to safety, health, and environmental issues. Overly prescriptive mandatory requirements in standards can hamper innovation by limiting the ability of companies to use the technologies most suited to their business.

USCBC recognizes the significant progress that China has made in adopting more international standards. According to official [estimates](#), China had adopted 85 percent of recognized international standards in 2018, [up from](#) just 70 percent in 2016. However, there is still much room for improvement--only about [a third](#) of current national standards issued by the Standardization Administration of China (SAC) are adopted from international standards.

While China only recognizes standards issued by ISO, IEC, and ITU as international standards, USCBC also encourages China to recognize standards with broad global acceptance formulated by other standards-setting organizations (SSOs) that adhere to WTO standards-setting principles. This would give China access to more high-quality standards and increase the level of standards harmonization across different markets.

Increased alignment of international and Chinese standards is also in line with China's commitments under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT). [Annex 3](#) of the agreement, the Code of Good Practice for the Preparation, Adoption, and Application of Standards, stipulates that countries should use international standards as the base for their standards. These include international standards drafted with input from Chinese stakeholders. WTO/TBT recognizes that there are certain cases where it is appropriate to formulate unique domestic standards due to local environmental, safety, or security conditions, but such exceptions should be made sparingly. Standards should not be employed as a tool of trade policy to discriminate against products from other countries or regions, but rather to help facilitate the growth of international trade as we live in a world of interconnected global supply and value chains.

### **Improving China's Domestic Standards-Setting Environment**

USCBC respectfully requests China to align domestic standards-setting processes with international ones under WTO standards-setting [principles](#) of transparency, openness,

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<sup>1</sup> As defined in [ISO/IEC Guide 21](#)

impartiality and consensus, effectiveness and relevance, coherence, and incorporation of developing country interests. Following these principles would not only help foreign companies participate in Chinese standards setting on more equal footing, but also lead to more balanced and comprehensive standards in China.

### Openness

While USCBC members agree that general openness has improved in China's standards-setting system, they noted that access challenges remain. Foreign companies can contribute important technical input in the standards-setting process that leads to the creation of high-quality standards that aid in China's development. Standards that provide unbalanced advantages for certain industry players or contain unreasonably high or contradictory requirements that no market players can practically comply with are often the result of standards drafting that is rushed or lacks comprehensive industry input. In line with China's Foreign Investment Law and its implementing regulations, USCBC recommends:

- **Fully open standards-setting bodies to foreign participation.** While many technical committees (TC) have more consistently allowed foreign companies to participate as full members in recent years and the new Foreign Investment Law promises the right to equal participation, companies note that some TCs or specific working groups within TCs remain inaccessible. Explicitly allowing foreign companies to participate on equal terms to their Chinese counterparts is the only way to realize the full benefits of foreign participation in standards setting. Publicly available, rules-based criteria for participation and transparent application processes would help ensure that foreign companies are considered on equal terms with domestic applicants.
- **Include foreign companies in external meetings relevant to standards setting.** Member companies reported that they are sometimes excluded from ad hoc meetings outside of standards-setting bodies that sometimes even go as far as to make decisions on standards proposals before bringing them to the relevant TC. Such actions defeat the purpose of allowing foreign companies access to TCs, and can result in standards that are less comprehensive or could even have economically harmful protectionist effects.
- **Narrowly define national security concerns.** One reported reason that foreign companies are barred from standards-setting activities is due to national security concerns. While all countries have the right to legitimate national security concerns, they should be defined as narrowly as possible to balance the benefits of an inclusive standards-setting process.

### Transparency

USCBC members noted improvements in transparency ranging from online standards databases to more frequent public comment solicitation on draft standards. To further improve transparency in standards setting, USCBC recommends:

- **Publicize drafting-related announcements more widely and with more lead time.** Companies noted that standards setting in China is often on an invitation basis, which makes it difficult to be inclusive of all relevant stakeholders, and especially difficult to participate in agenda setting and the early stages of the standards drafting process. While transparency for standards still being drafted has improved for national standards, it is still often difficult to track down relevant information for other types of standards. Furthermore, companies report that TCs often announce meetings on short notice and circulate meeting agendas and proposals with very little lead time, making it difficult for companies to participate meaningfully.
- **Increase public comment periods and provide feedback.** Companies report that increasing numbers of draft standards are released for public comments for longer periods and recently released [measures](#) on mandatory national standards require a 60-

day public comment period, which USCBC applauds. However, there is still room for improvement on this front.

- Some companies reported cases of comment periods far shorter than that, which makes it difficult for multinationals to translate the draft standards, coordinate internally across global operations to provide meaningful input, and retranslate feedback into Chinese. USCBC requests that the government ensure 60-day public comment periods for all government-developed standards except in special circumstances, according to China's commitments under WTO/TBT [Annex 3](#), and to strongly encourage non-government standards organizations to adopt Annex 3.
- Additionally, USCBC recommends that SAC creates an online feedback system to let companies know how their input on draft standards was considered, which will help them engage more constructively in the standards-setting process.
- Another issue companies report with comment solicitation is that sometimes it is conducted on an invite-only basis. USCBC respectfully requests the government to always make opportunities to comment on draft standards publicly available.
- **Centralize standards information in a single, comprehensive database.** USCBC applauds SAC's efforts to build a [database](#) of Chinese standards. However, information on national standards is currently fragmented between several platforms based on the agencies that issue them. A centralized, comprehensive platform with information on all standards would improve transparency and facilitate compliance efforts of both foreign and domestic companies.

#### Due Process

To achieve balanced standards that appropriately represent industry interests, it is critical that they are drafted through rules-based, impartial, consensus-based processes.

- **Provide guidance on process:** Providing firm and consistent guidance to TCs on expectations for standards-setting processes that align with international practices would help ensure that Chinese standards are able to fully benefit from the expertise of participants from foreign companies. Well designed standards-setting processes allow all participants to fairly express their views and prevent powerful stakeholders from blocking or forcing through proposals.
- **Expand capacity building:** Effective standards setting both domestically and internationally is dependent on participants having a strong understanding of processes, rules, and expectations. USCBC suggests that the Chinese government work with local and international partners to organize training for Chinese TC leaders and members about relevant Chinese laws and regulations as well as expectations regarding due process, openness, and transparency according to WTO principles.

#### Unclear Distinction Between Mandatory and Voluntary Standards

Member companies report challenges stemming from the lack of clarity between voluntary and mandatory standards. Although China has far fewer mandatory standards than voluntary ones, if adherence to a voluntary standard is referenced as a requirement in a regulation, compliance can become mandatory. This has led to sharp concerns in industries like ICT, where most standards are technically voluntary.

- **Clearly note when regulations reference voluntary standards.** Current online standards databases will note whether a standard is mandatory or voluntary, but if a user is not familiar with regulations citing a voluntary standard, they would have no way of knowing that it actually constitutes a mandatory requirement. Likewise, regulations referencing voluntary standards should use the full name and code of the relevant standard for it to constitute a mandatory requirement.

- **Implement standards only after the regulations referencing them are finalized.** Members note that in some cases, voluntary standards will go into effect before the regulations that reference them are finalized, which creates uncertainty about what requirements they must comply with.

#### Standards Implementation and Management-Related Challenges

Members also noted difficulties that can arise in the implementation process and lifecycle management for standards. USCBC suggests:

- **Increase lead time for implementation.** Many industries require significant time to adjust designs, manufacturing processes, and supply chains to comply with new mandatory standards. Allowing ample industry input throughout the drafting process and appropriate transition periods before implementation will reduce the economic costs of adjustments for both foreign and domestic companies.
- **Provide clear operating instructions and opportunities to clarify requirements in new standards.** When companies are unclear how requirements in standards will be implemented or how they apply to their products, it is critical for them to have a channel to seek clarification in order to properly comply. It is important for companies to have a feedback channel to convey their business realities to regulators so that they can come to workable solutions.
- **Regularly review and update standards.** USCBC is encouraged by revisions to the Standardization Law requiring the review of standards every five years. However, companies in sectors with rapidly evolving technologies continue to face challenges with existing standards hindering new innovations. Providing more channels for industry feedback and more opportunities for review and revision could help prevent outdated standards from keeping the most cutting-edge products from Chinese consumers.

#### Association Standards

USCBC is encouraged by China's efforts to make standards setting more market-driven by creating association standards. However, member companies noted a number of challenges and concerns that have come up as China works to improve the effectiveness of this new type of standard. USCBC recommends:

- **Create an accreditation process for associations to set standards.** USCBC is encouraged that there are [voluntary standards](#) with guidelines for setting association standards that generally align with American National Standards Institute (ANSI) [essential requirements](#), but our organization would recommend that China go a step further to create an accreditation process with a centralized accreditation body to ensure that SSOs adhere to these requirements. Without strong due process and openness, there is a higher risk of important stakeholders being cut out of the standards-setting process. This increases the risk of empowering influential stakeholders to control associations' standards-setting processes to pioneer their own, self-serving standards, rather than standards that are best for the industry as a whole. Quick drafting turnarounds without the same strict deliberation and due process that more mature SSOs use may also result in low quality standards that are not science-based.
- **Create a centralized platform with information on all association standards being drafted.** USCBC is pleased to see that CNIS maintains a centralized [database](#) of association standards, but it does not include information on standards currently being drafted and how to participate. Including information on current work items would increase transparency and allow more stakeholders to participate, resulting in more comprehensive standards. The large number of new SSOs is difficult for companies to track and the multitude of new and sometimes even contradictory association standards risks creating market confusion.



- **Clarify the process to convert association standards into national standards.** Another concern is that association standards drafted through non-inclusive processes could be converted into mandatory national standards without the chance for foreign companies to provide input.
- **Support market-led standards development.** To truly realize the benefits of association standards, they should be driven by industry needs rather than industrial policy priorities. USCBC recommends deleting language in Article 20 of the [Standardization Law](#) that orders the government to “support the use of indigenously innovated technologies to draft association and enterprise standards in important industries, strategic emerging industries, and critical general technologies.” Excessive government involvement, especially in emerging industries that may not be mature enough for standardization, runs the risk of hampering innovation by limiting the ability of companies to experiment with the technologies that make the most sense for their business.

### Enterprise Standards

While a few member companies noted that enterprise standards could be useful for showing the advanced technical level of their products or developing industry recognition for new products without relevant standards, most companies did not report utilizing this type of standard.

Regarding enterprise standards, USCBC recommends:

- **Clarify that companies are not required to self-declare enterprise standards.** Members expressed concerns that declaring standards used internally as enterprise standards with the government could create intellectual property (IP) leakage risks.
- **Refrain from enforcing technical requirements higher than those in mandatory standards.** One reason companies are wary of creating enterprise standards is that it exposes them to liability for being fined for noncompliance with their own standards.
- **Refrain from linking incentives to enterprise standards.** Policies like the enterprise standards “pioneer” system encourage providing certain government incentives for leaders in enterprise standards setting, but if foreign companies are unable to participate due to IP concerns, this could provide unfair advantages to their Chinese competitors.

### **China’s Participation in International Standards**

USCBC is encouraged to see China’s increased participation in international standards organizations, which has many benefits for multinational companies. As both the largest producer of goods exported across the world and a huge market for imported goods and international investment, input from Chinese experts in international standards is crucial for ensuring product compatibility.

However, as both international SSOs adjust to this influx of Chinese participation and Chinese stakeholders become more accustomed to working in these organizations, there have been cases where this has led to points of friction. USCBC would like to propose some suggestions to promote constructive Chinese participation in line with international norms so that both China and the world can reap the benefits of China’s involvement in international standards setting:

- **Allow participation in international standards setting to be industry-led.** This will ultimately produce the most effective standards for Chinese companies. If the Chinese government promotes certain technologies over others, especially in emerging technologies that are not yet mature enough for standardization, it may hamper innovation by limiting the choices of companies.
- **Eliminate distorting subsidies for standards.** Government support based on number of standards projects rather than their content incentivizes quantity over quality while consuming valuable government resources. Proposals without sufficient technical

justification are not often successful in international standards setting where there is strong due process. Flooding committees with low-quality proposals also consumes limited international SSO resources that could be spent reviewing other proposals.

- **Expand capacity building:** Providing training for Chinese participants in international standards-setting bodies would facilitate their understanding of standards-setting procedures and technical expectations for standards proposals would help them participate more effectively and minimize misunderstandings.
- **Strengthen China's mirror committee mechanism.** Having a better-coordinated national position would help lend credibility to Chinese positions at one-country-one-vote SSOs. This would also allow more industry input, including from foreign-invested companies in China, which would help China craft more nuanced national positions and also help Chinese stakeholders better understand standards-setting due process requirements in international SSOs.
- **Respect the intellectual property of copyrighted standards.** We encourage the government to require users of copyrighted internationally accepted standards to obtain permission from the IP rights holder and comply with their stated requirements. Stronger copyright protection would demonstrate China's intention to support the international standards ecosystem since copyright royalties from standards are essential for some international SSOs to operate effectively. Using legitimate standards would also give Chinese engineers timely access to revisions.