

## RECOMMENDATIONS SUMMARY

### Recommendations of the Environmental Technologies Trade Advisory Committee (ETTAC)

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- Recommendation 1:** *Trade Liberalization* In the context of current and forthcoming trade negotiations, the U.S. government should establish as a negotiating objective the elimination of higher import tariffs associated with mandatory local content requirements.
- Recommendation 2:** *Trade Liberalization* In the context of current and forthcoming trade negotiations, the U.S. government should establish as a negotiating objective the development of Federal and sub-national government procurement rules that are transparent, based on best value selection models, and afford national treatment privileges to trading partners.
- Recommendation 3:** *Trade Liberalization* In the context of current and forthcoming trade negotiations, the U.S. government should establish as a negotiating objective the elimination of local partnership requirements to trade or tender.
- Recommendation 4:** *Trade Liberalization* In the context of current and forthcoming trade negotiations, the U.S. government should establish as a negotiating objective a system of mutual recognition of applicable international standards and certification equivalents.
- Recommendation 5:** *Trade Promotion* To assure that limited government resources are being channeled towards the programs that best help achieve the goals of the National Export Initiative, the Department of Commerce should direct adequate resources towards the collection of realistic data in order to establish metrics on the efficacy of export programs.
- Recommendation 6:** *Trade Promotion* The primary focus of metrics that evaluate the efficacy of export promotion programs should be export success.
- Recommendation 7:** *Trade Promotion* With regard to the evaluation of export promotion program efficacy, the Department of Commerce should gather data on the export of services in addition to goods to better address the full scope of export opportunity for U.S. businesses.
- Recommendation 8:** *Trade Promotion* In evaluating the efficacy of export programs the following questions should be addressed: What is the value added by each USG program in terms of exports? Which USG export programs offer the best return on investment? Where are US exports most competitive, both in terms of geography as well as specific business sectors? How have domestic procurement practices, such as Buy American rules, affected US business and export competitiveness? To what extent do prohibitive foreign government business registration requirements stifle U.S. Exports?
- Recommendation 9:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP), the United States should request within negotiations that the EU establish a legal mechanism to allow

standards from non-European standards bodies to be extended the presumption of conformity to Essential Requirements of EU Directives.

- Recommendation 10:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP), the United States should seek a negotiated requirement for the development of standards and testing protocols that support regulations that assures that they are crafted in open with opportunities for technical input from both sides of the Atlantic.
- Recommendation 11:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP), the United States should seek a negotiated requirement that standards and testing protocols utilized in regulations be grounded in the principles of science, risk assessment and cost-benefit analysis and, to the extent practical, be performance-based and technology neutral.
- Recommendation 12:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP) and with respect to environmental technologies specifically, the United States should seek a negotiated shift towards a risk-based approach to both standards and regulations as opposed to the identification of hazards and the “precautionary principle.”
- Recommendation 13:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP), the United States and the EU should establish a system of intergovernmental regulatory data sharing for the purposes of meeting test requirements that enables rapid delivery of environmental innovations to market while protecting proprietary data.
- Recommendation 14:** *Standards, Regulations, and Certification* Seeking meaningful regulatory convergence with the European Union (EU) under the Trans-Atlantic Trade and Investment Partnership (TTIP), the United States and the EU should establish mechanisms that allow products to be tested and certified in the country of export and utilize accreditation procedures that take into account and encourage multilateral agreements that share evaluation criteria and the results of an accreditation so as to avoid duplication of the work. The system should be based on the principle of National Treatment.
- Recommendation 15:** *Innovation* U.S. EPA’s Sustainable Manufacturing Initiative (SMI) should be enhanced and expanded to more effectively address sustainability process challenges U.S. companies are likely to meet in export markets, in particular, the Sustainable Business Clearing House should be expanded to include sustainable development best practices that are commonly utilized or required in key export markets.
- Recommendation 16:** *Innovation* U.S. EPA’s Sustainable Manufacturing Initiative (SMI) should be enhanced and expanded to more effectively address sustainability process challenges U.S. companies are likely to meet in export markets, in particular, the SMI website should provide additional or enhanced existing case studies to illustrate to U.S. SMEs the role that sustainable development best practices can play in improving

export competitiveness.

**Recommendation 17:** The Sustainable Manufacturing Initiative (SMI) should be linked to other relevant federal online tools utilized by businesses, particularly the Department of Commerce's Environmental Solutions Exporters' Portal.

*Innovation*

## RECOMMENDATION LETTERS

February 15, 2014

The Honorable Penny Pritzker  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

Dear Secretary Pritzker:

The Environmental Technologies Trade Advisory Committee (ETTAC) has evaluated the tariff, non-tariff, and technical barriers that affect the international competitiveness of the U.S. environmental industry and provided anecdotal information on the additional costs imposed upon U.S. businesses in priority export markets as a result (see enclosure). These barriers include: tariff escalation tied to local content requirements and/or disqualification of imported components; asymmetrical procurement practices that favor domestic firms; local partnership requirements; and, failure to develop or recognize international standards or certification equivalents.

Correspondingly the ETTAC recommends that within the context of current and forthcoming trade negotiations the U.S. government include the following items in its negotiation objectives:

- 1) The absolute prohibition of tariff rate escalation on the basis of local content.
- 2) The development of Federal and sub-national government procurement rules that are transparent, based on best value selection models, and afford national treatment privileges to trading partners.
- 3) The elimination of local partnership requirements to trade or tender.
- 4) Establish a system of mutual recognition of applicable international standards and certification equivalents.

We believe these recommendations are pertinent to both horizontal and industry-specific issues within the ongoing and proposed negotiations for the Trans-Pacific Partnership (TPP), the Trans-Atlantic Trade and Investment Partnership (TTIP), the Trade in Services Agreement (TiSA), and a plurilateral agreement on Environmental Goods and Services (EGS) within the World Trade Organization (WTO). We look forward to working with you and your staff to apply these recommendations to the negotiating framework of those specific agreements.

Ron Swinko  
Chair, Environmental Technologies Trade Advisory Committee

February 15, 2014

The Honorable Penny Pritzker  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

Dear Secretary Pritzker:

The Environmental Technologies Trade Advisory Committee (“ETTAC”) is a Federally-established committee whose purpose is to advise on the policies and procedures of the US Government that affect environmental technology exports. In this capacity, we especially appreciate your efforts to promote the export of US environmental goods and services.

From our own experience as members of the business community and in discussions with others, we have sensed a need for better metrics against which the success of various export programs can be measured. We recognize that accurate metrics are sometimes difficult to gather and even more difficult to interpret. However, with shrinking budgets and growing needs, these data become even more critical.

Therefore, as plans are made for budget expenditures, we recommend that export programs receive adequate funding not only for implementation but also for the collection of realistic data regarding the success of those programs. These metrics should focus on export success to ensure that limited resources are channeled to programs that best help achieve the goals of the National Export Initiative.

We further recommend that data be gathered not only on the export of goods but also on the export of services. This is particularly important in light of the fact that the US service sector has shown consistent growth for the past four years, as reported recently by the Institute for Supply Management (see <http://www.ism.ws/ismreport/nonmfgrub.cfm>).

As these data are collected, we recommend that the following critical questions be addressed:

- What is the value added by each US Government program in terms of exports?
- Which US Government export programs offer the best return on investment?
- Where are US exports most competitive, both in terms of geography as well as specific business sectors?
- How have domestic procurement practices such as Buy American rules affected US business and export competitiveness?
- To what extent do prohibitive foreign government business registration requirements stifle US exports?

We appreciate the opportunity that ETTAC has to play an active role in the export of environmental goods and services. Please feel free to contact us if you have any questions.

Sincerely,

Ron Swinko  
ETTAC Chair

February 15, 2014

The Honorable Penny Pritzker  
Secretary  
U. S. Department of Commerce  
1401 Constitution Avenue NW  
Washington, D.C. 20230

Dear Secretary Pritzker:

The members of the Environmental Technologies Trade Advisory Committee (ETTAC) are writing to share our concerns and recommendations on key standards, regulations, and testing issues that affect the competitiveness of U.S. companies and firms that produce environmental technologies and services and that are part of current negotiations on the Transatlantic Trade and Investment Partnership (TTIP) with the European Union. The ETTAC has affirmed seven principles (see attached) that the U.S. government should embrace vis-à-vis U.S. trading partners with respect to standards, regulation, and certification for environmental goods and services. Correspondingly, as part of the TTIP negotiations, we are pleased that both the governments of the United States and Europe have expressed their mutual commitment to eliminating unnecessary barriers to trade and to achieving greater regulatory convergence by agreeing to base their domestic regulations – where feasible – on international technical standards that meet principles defined by the World Trade Organization (WTO) Technical Barriers to Trade Agreement.

For the environmental technologies industry, the ETTAC has outlined several critical areas that must be addressed in order to achieve meaningful regulatory convergence under TTIP and recommend the following:

1. That the EU establish a legal mechanism to allow standards from non-European standards bodies to be extended the presumption of conformity to Essential Requirements of EU Directives.
2. A negotiated requirement for the development of standards and testing protocols that support regulations that assures that they are crafted in the open with opportunities for technical input from both sides of the Atlantic.
3. A negotiated requirement that standards and testing protocols utilized in regulations be grounded in the principles of science, risk assessment and cost-benefit analysis and, to the extent practical, be performance-based and technology neutral.
4. With respect to environmental technologies specifically, a negotiated shift towards a risk-based approach to both standards and regulations as opposed to the identification of hazards and the “precautionary principle.”
5. The development of a system of intergovernmental regulatory data sharing for the purposes of meeting test requirements that enables rapid delivery of environmental innovations to market while protecting proprietary data.
6. Establishment of mechanisms within TTIP that allow products to be tested and certified in the country of export and utilize accreditation procedures that take into account and encourage multilateral agreements that share evaluation criteria and the results of an accreditation so as to avoid duplication of the work. The system should be based on the principle of National Treatment.

We appreciate the opportunity to provide our input and recommendations and look forward to working with you to advance the competitiveness of our sector as you pursue policies and trade agreements such as TTIP.

Sincerely,

Ron Swinko  
Chairman, ETTAC

February 15, 2014

The Honorable Penny Pritzker  
Secretary  
U. S. Department of Commerce  
1401 Constitution Avenue NW  
Washington, D.C. 20230

Dear Secretary Pritzker:

The Environmental Technologies Trade Advisory Committee (ETTAC) is chartered to advise the Environment Trade Working Group (ETWG) of the Trade Promotion Coordinating Committee (TPCC) through you on trade policy, export promotion, and international competitiveness issues affecting U.S. environmental technologies businesses. In the spirit of this advisory role, the ETTAC has evaluated the impact of sustainable best practices on U.S. export competitiveness (see attached). The committee's research demonstrates that U.S. companies that do not employ sustainable development best practices experience significant competitive challenges in the export market.

On a global basis 70% of conglomerate and multi-segment businesses now find sustainability necessary to be competitive and 50% have developed the business case for sustainability. Adoption of these practices, including system sales strategies of clean environmental technologies for the export markets, has been led by international companies in Europe, the Middle East, and Asia. Furthermore, sustainable development is becoming a primary policy objective for the international community. Future B2B and B2G export sales will require the increasing use of these best practices. For instance, the European Union has established a formal sustainable development strategy and put forward a position paper on sustainability practices for industry within the context of the U.S. Transatlantic Trade and Investment Partnership negotiations. While larger companies have realized the benefits of sustainable strategies, many U.S. businesses, especially Small to Medium Size Enterprises (SMEs), are behind their European counterparts in developing and applying strategies for sustainability.

To address this gap, we laud the creation of the Sustainable Manufacturing Initiative and in particular the Sustainable Business Clearing House (<http://yosemite.epa.gov/opei/opei/pub.nsf/advs?openform>), but observe that the tool's domestic focus should be enhanced and expanded to more effectively address sustainability process challenges U.S. companies are likely to meet in export markets. Therefore, we recommend the following additions and enhancements to the Sustainable Manufacturing Initiative's programs:

1. Expand the Sustainable Business Clearing House to include sustainable development best practices that are commonly utilized or required in key export markets.
2. Provide additional or enhance existing site case studies to illustrate to U.S. SMEs the role that sustainable development best practices can play in improving export competitiveness.
3. Link the Sustainable Manufacturing Initiative to other relevant federal online tools utilized by businesses, particularly the Department of Commerce's Environmental Solutions Exporters' Portal

The ETTAC looks forward to working with you, your staff, and the interagency on meaningful ways to shape and implement our collective recommendations.

Sincerely,

Ron Swinko  
Chairman, ETTAC

## **SUPPORTING DOCUMENTATION & BACKGROUND**

### **ETTAC Trade Liberalization Subcommittee:**

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#### Issue Background

The Trade Liberalization Subcommittee of the Environmental Technologies Trade Advisory Committee (ETTAC) identified three issues that affect the international competitiveness of the U.S. environmental technologies industry:

1. Non-tariff barriers;
2. Technical barriers to trade, and;
3. A general need for free trade agreements that are aligned with U.S. environmental technologies industry interests.

To develop a sense of how these barriers work in practice and affect U.S. environmental technologies companies, the Subcommittee evaluated the acute barriers that their respective companies and organizations encounter in three priority markets: Brazil, China, and Saudi Arabia (See evaluation results summary on page 2).

#### Key Findings

The analysis yielded several key areas that could be more effectively addressed in forthcoming trade negotiations:

1. Tariff escalation tied to local content requirements or disqualification of imported components prevents fair competition;
2. Asymmetrical procurement practices that favor domestic firms;
3. Local partnership requirements, and;
4. Failure to recognize international standards or recognize certification equivalents.

#### Recommendations and Next Steps

The Subcommittee recommends developing a recommendation to the Secretary requesting a Commerce Department position on these issues with respect to ongoing and forthcoming trade negotiations which may include an assessment of the dollar impact of these barriers on U.S. companies and the following proposed positions and remedies within negotiated agreements:

1. The absolute prohibition of tariff rate escalation on the basis of local content.
2. Federal and subnational government procurement rules that are transparent, based on best value selection methods, and afford national treatment privileges to trade partners.
3. The elimination of local partnership requirements to trade or tender.
4. Establish a system of mutual recognition of applicable international standards and certification equivalents.



## Evaluation Results

Issue	Brazil	China	Saudi Arabia
<b>Tariff escalation tied to local content requirements or disqualification of imported components favors local industry</b>	<p>1. Local content laws: Applicable mostly in the Oil &amp; Gas and Government sectors such as Municipal Water Treatment. Government demands a minimum local content, typically in the 40%-60% range, otherwise much higher tariffs need to be paid (i.e. 22% for Water Pumps) and/or imported products may be altogether disqualified from participating.</p> <p><b>Cost to U.S. Business:</b></p>		
<b>Tendering practices that favor local competition</b>	<p>1. Small (Local) Business Advantages: Public Bids advantage, either by getting additional points on commercial evaluation and/or tax advantages such as Brazil's "Simple Tax Scheme", which allows companies below a certain annual revenue not to pay taxes. Additionally in some public bids below a certain dollar amount (typically \$40,000), are set aside for small businesses as per decree 42.063/2009, Act 123/2006</p> <p><b>Cost to U.S. Business:</b></p>	<p>1. Government Research and Innovation Projects: Only local companies qualified to bid and/or a high degree of preference provided.</p> <p><b>Cost to U.S. Business:</b></p>	
<b>Predatory pricing or "local dumping" in procurement practices</b>		<p>1. Predatory or "local dumping" practices: Local companies practicing very low prices, sometimes with inferior products/technology, but claiming "same or similar" status, without much questioning from local authorities</p> <p><b>Cost to U.S. Business:</b></p>	
<b>Local partnership requirements</b>			<p>1. Saudi government only allows Saudi nationals to engage in trading activities.</p> <p>2. Saudi government appear to favor joint venture companies with a Saudi partner over foreign firms</p> <p><b>Cost to U.S. Business:</b></p>
<b>Local certifications and safety approvals fail to recognize equivalents from exporting market</b>	<p>Local Electrical and/or Safety Approvals: Applicable to most products which may have electrical components and/or mechanical products which the government feels have equal local manufacturing representation. Imported</p>	<p>1. Certification for Local Products Only. Government tenders sometimes demand especial certifications which are only granted to local products (i.e. CMC certificate)</p> <p>2. Pattern Approval Certificate (PAC) is</p>	<p>1. SFDA (Saudi Food and Drug Authority) - additional bureaucracy and barriers for chemicals and certain analytic instruments that may have "dual" use for Lab Water Analysis and Medical applications (i.e. Spectrophotometers) -</p>

Issue	Brazil	China	Saudi Arabia
	<p>products are forced to apply, test and wait for approvals, adding substantial costs and making them non-competitive, even if they are of superior quality and have been certified through equivalent U.S. organizations.</p> <p><b>Cost to U.S. Business:</b></p>	<p>required for certain products including some water quality monitors, it takes long time to get PAC and some requirements not clear.</p> <p><b>Cost to U.S. Business:</b></p>	<p>lack of clarity on this regulation creates unnecessary burden on importing instruments and reagents used for environmental applications.</p> <p><b>Cost to U.S. Business:</b></p>
<p><b>Failure to recognize international standards.</b></p>	<p>1. European vs. American Standards. Brazil continues to provide preference</p> <p>2. International vs. Brazil Standards for Transmitting and Receiving Devices (Radio, Satellite, GSM, GPRS). Products that have transmitting and/or receiving devices must obtain approvals from ANATEL, even if they have valid certifications from globally accepted certification bodies. This is especially painful as the electronics/communications world is moving too fast and it is not possible to keep up with these local demands to European ISO standards, with some companies demanding ISO certificates, even if they have equivalent quality certifications from a US certified body.</p> <p><b>Cost to U.S. Business:</b></p>		<p>Imported products require additional documentation such as the International Conformity Certification Program (ICCP) and/or Certificate of Origin, both of which require legalization by the Saudi Arabia Royal Embassy.</p> <p><b>Cost to U.S. Business:</b></p>
<p><b>Failure to enforce intellectual property protection laws.</b></p>	<p>Distributor contracts must be completely be rewritten to comply with Brazil's consumer laws that limit liability to distributor and transfer it to the manufacturer. Trademark and derivative technology protection must be written in a separate agreement with the distributor.</p> <p><b>Cost to U.S. Business:</b></p>	<p>Respect/Accountability for Patent/Technology infringement. Lack of incentive to locally design/manufacture as there is significant risk of design being stolen and copied.</p> <p><b>Cost to U.S. Business:</b></p>	

### **BACKGROUND ON ETTAC RECOMMENDATIONS FOR TTIP WITH RESPECT TO STANDARDS, REGULATIONS, AND CERTIFICATIONS**

#### **1. That the EU establish a legal mechanism to allow standards from non-European standards bodies to be extended the presumption of conformity to Essential Requirements of EU Directives.**

In the U.S., regulators apply the WTO principles and choose to reference international standards from many different standards bodies. However, the existing European Regulation on Standardization (EU) No 1025/2012 takes a more proscriptive view by officially designating “the International Organisation for Standardisation (ISO), the International Electrotechnical Commission (IEC) and the International Telecommunication Union (ITU)” as their only recognized international standards bodies. This limited view of what constitutes an international standard complicates opportunities to achieve greater standards and regulatory convergence with Europe. In addition, the European regulatory system provides a privilege of presumption of conformity with the Essential Requirements of EU Directives exclusively to European Harmonized Standards (ENs) published in the Official Journal of the European Union. However, only standards developed by European Standards Organizations (ESOs) CEN, CENELEC, ETSI, and those standards harmonized through IEC and ISO can become ENs. Therefore no legal mechanism exists to allow standards from other bodies to be extended the presumption of conformity to Essential Requirements of EU Directives.

#### **2. A negotiated requirement for the development of standards and testing protocols that support regulations that assures that they are crafted in the open with opportunities for technical input from both sides of the Atlantic.**

In addition, our experience has shown that the ESOs are not transparent, and not open to participation from manufacturers in the United States that lack a manufacturing base in Europe. In the U.S., most standards that are referenced for regulatory purposes in the environmental sector are developed by standards organizations that are accredited by the American National Standards Institute (ANSI) and meet WTO requirements for transparency and openness that allow technical input from anywhere in the world. Moving forward in TTIP negotiations, requiring standards and testing protocols that support regulations to be crafted in the open with opportunities for technical input from both sides of the Atlantic will result in regulatory documents that better reflect global market conditions, state-of-the-art technology, and industry practices.

#### **3. A negotiated requirement that standards and testing protocols utilized in regulations be grounded in the principles of science, risk assessment and cost-benefit analysis and, to the extent practical, be performance-based and technology neutral.**

A key competitive advantage for U.S manufacturers and providers of environmental technologies and services is our ability to innovate and offer state-of-the art products and services. Accordingly, our sector requires that standards and testing protocols utilized in regulations to be grounded in principles of science, risk assessment and cost-benefit analysis. To the extent practical, they should also be performance-based and technology neutral.

#### **4. With respect to environmental technologies specifically, a negotiated shift towards a risk-based approach to both standards and regulations as opposed to the identification of hazards and the “precautionary principle.”**

The United States primarily uses a risk-based approach to both standards and regulations. This is not true in Europe where regulations are instead based on identification of hazards and the “precautionary principle.” An example of this is the adoption of the REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals) regulation in Europe which costs manufacturers and service providers in Europe and in the United States many billions of dollars in testing, compliance, and redesign, but the benefits have not been documented or explained.

From a practical perspective, applying the precautionary principal to new environmental technologies, particularly chemical based technologies, slows the delivery of these technologies to market even when the pollutant stream they address poses greater harm to human health than the chemicals under evaluation.

**5. The development of a system of intergovernmental regulatory data sharing for the purposes of meeting test requirements that enables rapid delivery of environmental innovations to market while protecting proprietary data.**

In the case of Europe's REACH, and through the Substance Information Exchange Forums, parties from the United States and other non-European parties are not permitted to participate in the activities of the European Chemical Agency but are required to strictly meet all requirements and to make business sensitive product and formulation disclosures that can be viewed by our competitors and the public with limited safeguards. Within the U.S. the U.S. Environmental Protection Agency (EPA) requires substance testing for chemicals listed within the "High Production Volume" Challenge program. Many of these substances have existing substance test data through the European Chemicals Agency (ECHA) and REACH. However, companies have no means to reference test data between the respective U.S. and EU systems forcing corporations to duplicate substance test data at great expense to the corporation, bilateral trade in these goods, and ability to innovate within markets where test data must be reproduced. For more information on the negative impact of REACH on U.S. companies in our sector, please see the enclosed letter from NALCO.

**6. Establishment of mechanisms within TTIP that allow products to be tested and certified in the country of export and utilize accreditation procedures that take into account and encourage multilateral agreements that share evaluation criteria and the results of an accreditation so as to avoid duplication of the work. The system should be based on the principle of National Treatment.**

In the area of Conformity Assessment (typically inclusive of testing and product certification to standards), the global competitiveness of U.S. environmental technologies and services is best served by globally consistent, transparent and predictable conformity assessment requirements. In the United States, we allow multiple forms of conformity assessment based on risks and needs from Supplier Declaration of Conformity (SDOC) to testing and certification by accredited third-party bodies. In Europe, the basic structure for accreditation and testing is rigidly held by individual Member states and their National Accreditation Bodies (NAB). To bridge the differences and cut unnecessary and duplicative testing costs, TTIP should include mechanisms that allow products to be tested and certified in the country of export and utilize accreditation procedures that take into account and encourage multilateral agreements that share evaluation criteria and the results of an accreditation so as to avoid duplication of the work. The system should be based on the principle of National Treatment where testing and certification bodies as well as companies seeking to do business in the country are treated no different than local providers. Emphasis should be placed on establishing transparent procedures and criteria that accreditation bodies participating in the system agree to apply when re-accrediting testing, certification, or other conformity assessment bodies (i.e. such as the procedures established by the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF)).

**ETTAC Principles on Standards, Certification, and Regulations**

1. U.S. trade agreements and commercial dialogues should bolster specific obligations of the World Trade Organization (WTO) Technical Barriers to Trade (TBT) Agreement under which governments are committed to use international standards as the basis for domestic technical regulations and national standards whenever possible, with a view towards eliminating the use of standards as barriers to trade. This criteria-based approach to standards and regulation can advance the competitiveness of the U.S. environmental technologies sector as it allows regulators to recognize international standards from many standards bodies that best match regulatory objectives technical needs, and industry practices.

2. Regulations, standards, and testing protocols utilized worldwide in regulations must be grounded in principles of science, risk assessment and cost-benefit analysis. To the extent practical, they should also be performance-based and technology neutral. All too often, it has been the experience of the U.S. environmental technologies sector that foreign regulations, standards and testing protocols are shaped by political objectives and domestic concerns, are overly broad in scope, and are generally less grounded in scientific and technical merits than similar measures enacted in the U.S.
3. Regulations, standards and testing protocols utilized worldwide in regulations need to take into consideration the promotion and introduction of both existing and innovative technologies -especially in countries where the population would most benefit from them.
4. Regulations, standards and testing protocols utilized worldwide in regulations should be developed under an open and transparent process that allows technical input from anywhere in the world. Regulations, standards and testing protocols crafted in the open with opportunities for technical input from the U.S. environmental technologies sector will better reflect global market conditions, state-of-the-art technology and industry practices.
5. The U.S. government should strive to achieve globally consistent, transparent and predictable certification and conformity assessment requirements. The additional costs and market delays attributable to unnecessary, duplicative, and unclear conformity assessment requirements are a growing concern for producers of U.S. environmental technologies. Accordingly, U.S. trade partners should be compelled to adopt international conformity assessment approaches that allow products to be tested and certified in the country of export. The system should be based on the principle of National Treatment where testing and certification bodies as well as companies seeking to do business in the country are treated no different than local providers. Additionally, in the case of testing and certification bodies, our trading partners should be compelled to utilize accreditation procedures that take into account and encourage multilateral agreements that share evaluation criteria and the results of an accreditation so as to avoid duplication of the work. Emphasis should be placed on establishing transparent procedures and criteria that accreditation bodies participating in the system agree to apply when re-accrediting testing, certification, or other conformity assessment bodies (i.e. such as the procedures established by the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF)).
6. The U.S. government should seek protections for trade secrets and other sensitive corporate information that are submitted to government authorities as a condition of market access for environmental technologies. Some foreign governments are developing an increasing number of overly-broad certification systems and other regulatory schemes that require the unnecessary disclosure of trade secrets as a condition of market access. A recent example includes a proposed broad product content disclosure requirement as part of the developing RoHS certification program in China. The risk that the sensitive information required from this type of regulations will leak to domestic competitors is compounded by the reality that many governments have inadequate safeguards to protect such information, and some of those same governments desire increased technology transfer from developed to developing markets.

7. The compulsory marking and labeling of environmental technologies and products should be limited as far as possible to what is essential to protect people and the environment. Such measures should support and advance commerce with emphasis on being the least trade restrictive. Furthermore, consideration should be given to measures that inhibit the use of markings that may mislead consumers or result in an unfair trade advantage.

## ETTAC Innovation Subcommittee:

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### **Why should the Department of Commerce fully support the use of sustainability best practices for environmental technologies, as well as the overall export marketplace?**

#### **Premise**

President Obama set the ambitious 5 year goal of doubling US exports from ~\$1T in 2010 to \$2T by 2015 under the National Export Initiative (NEI) [1]. In 2012 the United States had record exports of \$2.2T which supported 9.8 mm jobs. The Department of Commerce has followed a number of key strategies including:

- Improved advocacy and trade promotion programs
- Greater access to export financing
- Successful removal of trade barriers
- Stronger enforcement of trade rules

In December 2012 the USA Trade Promotion Coordinating Committee issued a 2012 National Export Strategy report highlighting the overall NEI program performance. In the report several recommended program areas were discussed moving forward. [2] These areas included:

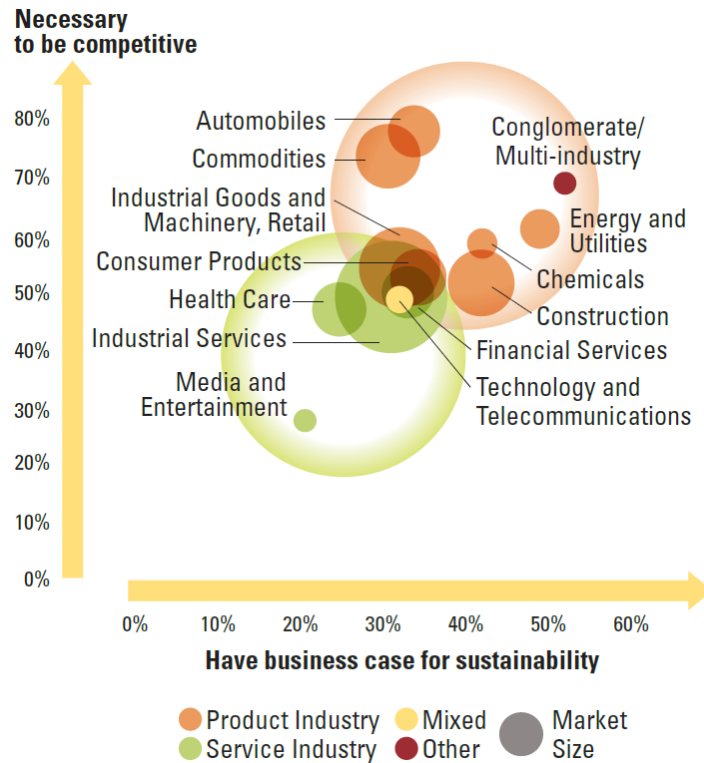
- Improving the competitiveness of the US in the world export markets
- Providing more resources to support and grow the overall US supply chain
- Focusing on the small to medium size enterprises (SMEs) by increasing the number of SMEs that export into new and existing markets

The export marketplace is very dynamic and includes strong competitive positions within countries in both Europe and Asia. These competitors are highly innovative and offer disruptive technology and system approaches. What business development best practices can the US utilize to remain competitive in the world export markets and establish a leadership position? There is the opportunity for the US to imbed sustainable development best practices within the export market among its supplier base to remain a competitive world leader, increase the size and value of US exports, and to increase the number of US businesses that export into world markets.

**What are sustainable development best practices?**

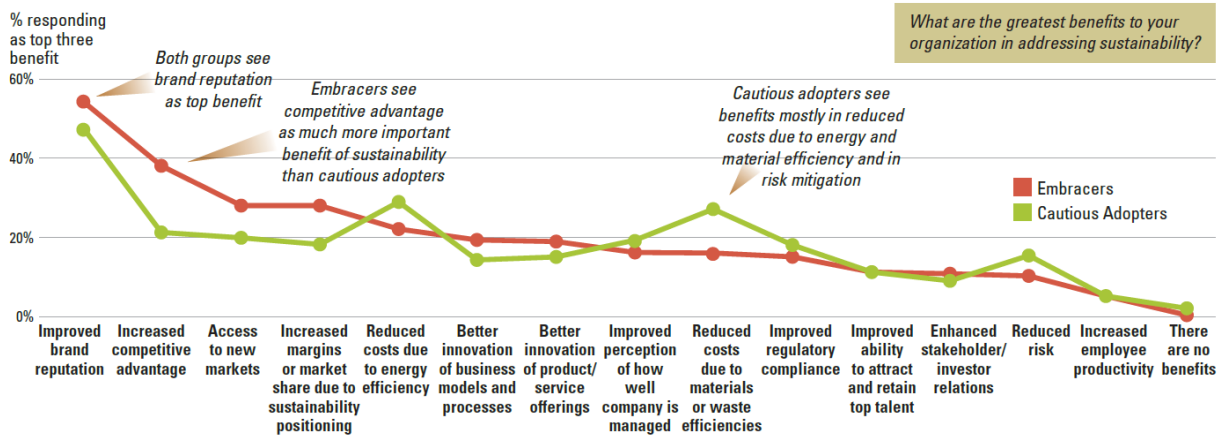
Sustainable development is defined as “meeting the needs of today without compromising the needs of future generations to meet their own needs.” [3] There are two major concepts associated with sustainable development. One area includes the idea of limitations, especially with those that live in poverty and are marginalized. The other area includes the idea of limitations, such as the state of technology and overall social needs. The International Institute for Sustainable Development (IISD) tracks these best practices. [4] “Triple Bottom Line” (TBL) sustainability deals with the reporting by companies and organizations of their sustainability performance regarding economic, social, and environmental impact. All definitions of sustainability deal with the viability of natural systems and look at world as an interconnected system.

**Can businesses make the case for sustainability? Is sustainability needed to be competitive?**



Within all product industries, 25%-55% of all businesses have the business case for sustainability and 45%-85% find sustainability necessary to be competitive. Within all service industries, 15%-40% of all businesses have the business case for sustainability and 20%-60% find sustainability necessary to be competitive. Product industry leaders include conglomerates and multi-industry companies. [5]

**Why do businesses imbed sustainability and what are the greatest benefits?**



The top five benefits that businesses obtain from sustainable development best practices include [5]:

- Improved brand reputation
- Increased competitive advantage
- Access to new markets
- Increased margins or market share due to sustainability positioning
- Reduced costs due to energy efficiency

Other reasons include:

- Better innovation
- Reduced costs due to waste efficiencies
- Improved regulatory compliance
- Improved capability to attract/retain talent
- Reduced risks
- Increased employee productivity

**What are examples of sustainable development best practices?**

Some of the key sustainable development best practices and processes include [6]:

- Sustainability assessment
- Sustainability planning and reporting
- Lifecycle Analysis (LCA)
- Design for the Environment (DfE)
- Green and LEED construction
- Sustainable manufacturing
- Sustainability standards and certifications
- Environmental Management Systems

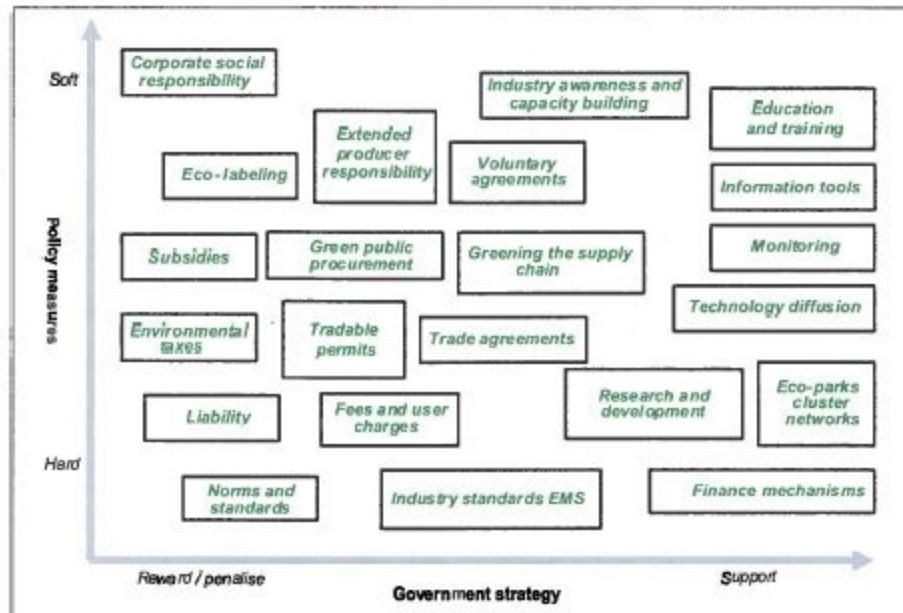


- Eco-efficiencies
- Waste minimization
- Social responsibility and corporate citizenship
- Sustainable supply chain management
- Sustainable procurement
- Sustainability risk management
- Value creation and collective impact
- Climate mitigation and adaptation

**What are the driving forces for sustainability in export marketplace?**

- International laws, protocols, regulations, and standards, such as the ISO standard, are being used to shape the global trade markets for sustainability products and services. [7] One new international ISO standard being developed includes ISO 14034 that includes the incorporation of the EPA Environmental Technology Verification (ETV) program.
- Global supply chains face increasing demands for sustainability products, services, and solutions. Examples of successful marketplace strategies include [7]:
  - Reducing customer’s use of water and energy
  - Reducing customer’s consumption of materials and ancillary products
  - Generating less greenhouse gases (GHGs) throughout the supply chain across suppliers, producers, and customers
  - Innovative use of clean technologies
  - Developing a systems business model and strategies for environmental technologies
- There is a shift in the marketplace to a “green economy”. Many of the products and services in the “green economy” include air, waste, and water clean technologies. An important aspect of a green economy approach to sustainable trade involves advocating policy reforms and investments that focus on building sustainable supply-side and demand-side capacities and production methods that conserve biodiversity based resources for the long term prosperity of rural neighborhoods. Contracts for Business to Government (B2G) will also necessitate social impact and social enterprise, as well as corporate social responsibility and corporate citizenship best practices.
- The United Nations Environment Programme (UNEP) has developed a matrix for greening of industries that includes a range of both hard and soft policy measures, as well as a range of government strategies that includes rewards and penalties and support. [8]

### Policy matrix for the greening of industries



Source: UNIDO 2011

- The growth of environmental goods in the export market doubled between 2001 and 2007 among OPEC and APEC countries. APEC leaders have agreed to a list of 54 environmental goods and services (EGS) for which tariff rates would be reduced to 5% or less by 2015 for products such as heat-power production from renewable biomass fuels; components of industrial air pollution control equipment for plants; and gas turbines for electric power from recovered landfill gas etc. [9]

### **In what areas has the Federal Government and the Department of Commerce supported sustainability best practices to date?**

- Executive Order 13514 has been implemented which targets Federal leadership in Environmental, Energy, and Economic Performance. Sustainability performance plans and scorecards are available for a number of government departments. [10]
- The Office of Energy and the Environment and the Department of Commerce are currently hosting trade mission trips to Asia for sustainable energy projects that are inclusive of environmental technologies. Asian countries are committed to energy efficiency, air emissions reduction, use of smart grid systems, water treatment and soil remediation systems, access to clean drinking water, expanding energy access etc. [11]
- The EPA has supported the LCA process so that companies can make improved decisions based upon their TBL sustainability impacts [12]

- The US and the DOC through the International Trade Association (ITA) developed the OECD Sustainable Manufacturing Metrics Toolkit and Sustainable Manufacturing 101 Module. The sustainable manufacturing metrics includes 54 data points and 18 recommended indicators. [13]
- The Department of Commerce is currently negotiating with the European Union (EU) on a new Transatlantic Trade and Investment Partnership (TTIP) agreement. The Commission of European Communities developed a draft declaration on the guiding principles for sustainable development in 2005. [14]. Key objectives included:
  - Environmental protection
  - Social equity and cohesion
  - Economic prosperity
  - Meeting international responsibilities

Policy guiding principles included:

- Promotion and protection of fundamental rights
- Intra and intergenerational equity
- Open and democratic society
- Involvement of citizens
- Involvement of business and social partners
- Policy coherence and governance
- Policy integration
- Use best available knowledge
- Use of precautionary principles
- Make polluters pay

In 2009 the whole EU established a sustainable development strategy that addresses 7 key areas [15]:

- Climate change and clean energy
- Sustainable transport
- Sustainable consumption and production
- Conservation and management of natural resources
- Public health
- Social inclusion, demography, and mitigation
- Global poverty and sustainable development challenges

Recently, the European Commission issued an EU position paper on the trade and sustainable development for the EU and TTIP that affirms a common overarching mutual objective of sustainable development and the recognition of sustainable development as guiding principle for trade. [16] Some of the important areas of discussion include:

- Internationally agreed sustainable development objectives and commitments
  - Levels of labor and environmental protection
  - Trade and investment as a means to support and pursue sustainable development objectives
  - Transparency
  - Working together
  - Implementation, monitoring, and enforcement
- The U.S. EPA developed a 5 year strategic plan for Pollution Prevention (P2) and sustainability that focused on 5 primary goals including: [17]
    - Reducing the generation of GHG emissions to mitigate climate change
    - Reducing the manufacture and use of hazardous materials to improve human and ecological health
    - Reducing the use of water and conserving other natural resources to protect ecosystems
    - Creating business efficiencies that derive economic benefits and improve environmental performance
    - Institutionalizing and integrating pollution prevention practices through government services, policies, and initiatives.
  - The U.S. EPA through their Environmentally Preferable Purchasing (EPP) initiative established the Design for the Environment (DfE) program that allows the use of its logo on products that are made of safer chemicals. A DfE safer product label indicates that the product has been manufactured with and contains only those ingredients and raw materials that pose the least concern among chemicals in their class. Many U.S. companies have taken advantage of certifying their products to this label for product such as: hard surface cleaners; paints; detergents; wastewater inoculants; septic system treatments; degreasers; soaps; and descaling chemicals etc. [18]

### **Conclusion and Recommendation**

The use of sustainable development best practices in the global marketplace has gained significant momentum over the recent years. International companies in Europe, the Middle East, and Asia have provided the leadership by raising the bar for the use of sustainable development strategies, including a system sales strategy of clean environmental technologies for the export market. Sustainable development is becoming a primary policy objective for the international community. Future B2B and B2G export sales will require the increasing use of these best practices. Many larger companies have already developed a business case for sustainability, are beginning to realize the benefits of sustainable strategies, and also find sustainability necessary to be competitive in world markets. U.S. businesses are generally

behind their European counterparts, especially SMEs, in developing strategies for sustainability. Sustainability has also become a key driving force in the current negotiations between the European Union and the U.S. Transatlantic Trade and Investment Partnership. Additionally, the EPA and Federal Government have also begun to advocate the use of sustainable development practices, such as the use of the Life Cycle Analysis (LCA) and Design for the Environment (DfE) processes, as well as with sustainable manufacturing data metrics.

Therefore, it is recommended that the Department of Commerce begin to develop an education and training program for SMEs and other companies, including webinars, a best practice guide, and case studies regarding the use of sustainable development best practices for environmental technologies and the export market. The outcomes to be tracked include the development of an inventory of applied sustainable development best practices that companies can use within their operations, the increased use of these best practices in the export market, as well as the increased number of SMEs and other companies participating in the various existing and new export market sectors.

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