

# Recommendations of the Environmental Technologies Trade Advisory Committee (ETTAC) 2014 - 2016

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**Recommendation 1:**  
*Trade Liberalization*

The ETTAC recommends that the U.S. Government facilitate a series of workshops under the U.S. – Brazil Commercial Dialogue to address environmental issues and ways to overcome trade barriers that limit access of U.S. environmental technologies to the Brazil market to the detriment of the Brazil environment as well as the health and well-being of Brazilian citizens. The workshops should focus on three key areas, specifically: (1) air quality technologies; (2) solid waste management technologies; and (3) drinking water, industrial water, and wastewater technologies.

**Recommendation 2:**  
*Trade Liberalization*

The ETTAC recommends that the survey questions and initial results developed by the 2014 -2016 ETTAC charter in the process of investigating the negative effect created by various trade barriers that may not be easily identified during a typical export evaluation process be reviewed by the ETWG and provided to members of the next ETTAC Charter to consider for further investigation. In particular the ETWG and proximate ETTAC charter should consider trade barriers posed by locally obtainable but not equivalent products in export markets.

**Recommendation 3:**  
*Trade Liberalization*

The ETTAC recommends that the survey questions and initial results developed by the 2014 -2016 ETTAC charter in the process of investigating the negative effect created by various trade barriers that may not be easily identified during a typical export evaluation process be reviewed by the ETWG and provided to members of the next ETTAC Charter to consider for further investigation. In particular the ETWG and proximate ETTAC charter should consider trade barriers posed by additional tariffs and taxes required as products are transshipped.

**Recommendation 4:**  
*Trade Liberalization*

The ETTAC recommends that the survey questions and initial results developed by the 2014 -2016 ETTAC charter in the process of investigating the negative effect created by various trade barriers that may not be easily identified during a typical export evaluation process be reviewed by the ETWG and provided to members of the next ETTAC Charter to consider for further investigation. In particular the ETWG and proximate ETTAC charter should consider the competitiveness challenge created by U.S. law limitations and restrictions versus non U.S. trade practices.

**Recommendation 5:**  
*Trade Promotion*

The ETTAC recommends that the Departments of Commerce and State collaborate to develop a series of Direct Line meetings focused on environmental technologies (e.g. water, air, and waste management) in the industry's priority markets, which include China, India, and Brazil.

**Recommendation 6:**  
*Trade Promotion*

The ETTAC recommends that the Salesforce effort receive adequate funding not only for additional short-term development but also for beta testing and full-scale implementation. We note that prior plans to provide the Commercial Service with enhanced digital tools have been disrupted by a lack of sustained funding.

- Recommendation 7:**  
*Trade Promotion*
- The ETTAC recommends that the Salesforce project team accelerate plans to create a specific portal for private sector exporters to extract actionable information from the Salesforce application. Such a tool can substantially improve the dissemination of trade opportunities and the eventual export of more environmental goods and services.
- Recommendation 8:**  
*Trade Promotion*
- ETTAC recommends that ITA consider qualitative metrics in their performance indicators to measure specific export promotion activities including: interaction based assessments – value of relationship building; return on objective – trade promotion program leads, traffic, data quality, etc.; meeting value – decision maker introductions (C-Suite, Procurement, etc.); navigating and valuing the “layers” in a sales process (introductions, status reporting, and closure); supply chain enhancement – introduction to qualified service providers, contractors and vendors; cultural support – business etiquette, protocols and customs.
- Recommendation 9:**  
*Trade Promotion*
- ETTAC recommends establishing a Salesforce focus group utilizing ETTAC members to review progress, conduct future beta-testing of the Salesforce platform and provide recommendations. Providing formal acknowledgment of the focus group gives ITA access to decades of Salesforce proficiency, sales funnel/cycle expertise, and the experience to develop metrics based upon industry specific needs.
- Recommendation 10:**  
*Standards, Regulations, and Certification*
- ETTAC supports the “Memorandum of Intent between the Department of Commerce of the United States of America and the Ministry of Development, Industry and Foreign Trade of the Federative Republic of Brazil concerning Standards and Conformity Assessment”. Specific areas of support include: work related to the WTO TBT Agreement; openness and transparency in standards setting; approaches that allow products to be tested and certified in the country of export and that 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; sectoral initiatives to advance cooperation in standards, certification, and trade; and, sharing of Technical Barriers to Trade notifications amongst parties.
- Recommendation 11:**  
*Standards, Regulations, and Certification*
- The ETTAC recommends that with regard to TTIP negotiations, regulators should choose from a broad portfolio of international standards developed according to the principles established by the WTO Technical Barriers to Trade (TBT) Agreement and Committee Decision.
- Recommendation 12:**  
*Standards, Regulations, and Certification*
- The ETTAC recommends that with regard to TTIP negotiations, standards used in regulations must be developed under a process that is open to participation from both sides of the Atlantic and transparent in determining outcomes.
- Recommendation 13:**  
*Standards, Regulations, and Certification*
- The ETTAC recommends that with regard to TTIP negotiations, equivalent standards from non-European standards bodies should qualify for the presumption of conformity with Essential Technical Requirements of European Directives.
- Recommendation 14:**  
*Standards, Regulations, and Certification*
- The ETTAC recommends that with regard to TTIP negotiations, standards and regulatory requirements should be grounded in the principles of science, risk assessment, and, to the extent practical, be performance-based and technology

neutral.

**Recommendation 15:**  
*Standards, Regulations,  
and Certification*

The ETTAC recommends that with regard to TTIP negotiations, both governments should share regulatory data for the purposes of meeting similar substance disclosure and testing requirements.

**Recommendation 16:**  
*Standards, Regulations,  
and Certification*

With respect to the Trans-Pacific Trade and Investment Partnership (TTIP) negotiations, costs associated with testing, certification, and accreditation need to be streamlined.

**Recommendation 17:**  
*Standards, Regulations,  
and Certification*

ETTAC commends the establishment of a Committee on Technical Barriers to Trade under Article 8.11 of TPP because it encourages cooperation amongst the partners in the development and review of technical regulations, establishment of future priorities for regulations and standards, sharing of technical performance data for product evaluations, and in identifying of technical capacity needs of the region. The ETTAC recommends that these important provisions be included in all future U.S. trade agreements.

**Recommendation 18:**  
*Professional Services*

The ETTAC recommends that a clear, internal Department of Commerce Definition of Environmental Services be established to allow more effective promotion and better tracking and economic analysis of this key market sector. The ETTAC proposes the following definition: concept development/proof of concept, resource surveys, and environmental and social impact assessments; preliminary/detailed engineering design, sustainable design, climate change adaption/resiliency, and permitting; construction/construction management and environmental compliance monitoring; facilities commissioning, startup, operation and management and environmental compliance monitoring, auditing, and closure/decommissioning; facilities and equipment maintenance and repair and testing and analysis for all environmental media (e.g., water, air, soil), emissions, and waste.

**Recommendation 19:**  
*Professional Services*

U.S. companies working internationally often must form a contractual relationship with a local individual or company that is not subject to the provisions of Foreign Corrupt Practices Act of 1977 (FCPA), thereby opening the U.S. companies to additional potential liability under the FCPA. The ETTAC recommends that the Department of Commerce continue to advocate through bilateral relationships and encourage our partners to embrace anti-corruption laws and practices.

**Recommendation 20:**  
*Professional Services*

U.S. companies working internationally often must form a contractual relationship with a local individual or company that is not subject to the provisions of Foreign Corrupt Practices Act of 1977 (FCPA), thereby opening the U.S. companies to additional potential liability under the FCPA. The ETTAC recommends that the Department of Commerce provide U.S. companies with resources to compete internationally and simultaneously comply with FCPA.

**Recommendation 21:**  
*Professional Services*

The ETTAC has prepared the *Best Practices Guide for Public Private Partnerships (PPPs) involving US Based Companies* and we recommend that the Guide be provided to all U.S. Trade Negotiators, Trade Specialists, and Commercial Officers. ETTAC further recommends that U.S. trade personnel

demonstrate a full understanding of the PPP process so that they can represent U.S. firms most effectively.

**Recommendation 22:**  
*Professional Services*

The ETTAC has prepared the *Best Practices Guide for Public Private Partnerships (PPPs) involving US Based Companies* and we recommend that U.S. trade personnel demonstrate a full understanding of the PPP process so that they can represent U.S. firms most effectively.

**Recommendation 23:**  
*Professional Services*

To assist the Department in understanding how development assistance entities restrain U.S. firms' participation, the Environmental Technologies and Trade Advisory Committee (ETTAC) has prepared a reference guide entitled *Procurement Policy Assessment for U.S. and Non-U.S. Donors, Lending Agencies and Multilateral Banks* which compares the procurement policies of various donors and provides insights and recommendations that may be useful for U.S. trade personnel. ETTAC recommends trade personnel utilize and maintain this document in their efforts to promote trade policy and U.S. participation in tenders abroad.

March 29, 2016

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

Dear Madam Secretary:

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

The ETTAC has been investigating the negative effect that trade barriers – both high tariffs/tax rates and non-tariff barriers (NTBs) – have had on U.S. environmental technology companies attempting to do business in Brazil. High tariffs/tax rates and NTBs not only severely inhibit the ability of U.S. companies to be competitive, but they also have a negative impact on the safety, public health and well-being of the people of Brazil.

We were pleased to learn that the U.S.-Brazil Commercial Dialogue, co-chaired by Deputy Under Secretary Ken Hyatt, is focused on growing bilateral trade and investment by jointly identifying barriers to trade and developing mutually beneficial solutions for both countries. We understand that a new Environmental Technologies-focused work stream was introduced recently as part of the Industry and Investment Working Group under the Commercial Dialogue.

In the spirit of bilateral cooperation under this new work stream, **the ETTAC recommends that the U.S. Government facilitate a series of workshops to address environmental issues and ways to overcome trade barriers that limit access of U.S. environmental technologies to the Brazil market to the detriment of the Brazil environment as well as the health and well-being of Brazilian citizens. The workshops should focus on three key areas, specifically: (1) air quality technologies; (2) solid waste management technologies; and (3) drinking water, industrial water, and wastewater technologies.**

The workshops should be designed to educate and inform Brazilian government, industry and environmental technology users and U.S. manufacturers, and facilitate collaboration on the identified environmental priorities. A primary goal of the workshops should be to open a dialogue with the Brazilian government on how lowering tariffs/tax rates and eliminating NTBs for U.S. environmental products and technologies could benefit the government, industry, and people of Brazil. Additional background for each topic area is included in the attached supplement to this letter for your reference.

We appreciate the opportunity that ETTAC has been given to further growing bilateral trade between the U.S. and Brazil and look forward to further opportunities to be of service.

Sincerely,



Ron Swinko  
Chair, Environmental Technologies Trade Advisory Committee

## Air Quality Technologies

There are several issues identified as to the exposure of the people of Brazil, and especially their children, with respect to unsafe levels of air toxics and criteria pollutants, in particular. Air pollution in Brazil is mainly due to rapid urbanization and population growth. There has been a 119% increase in the number of automobiles in Brazil from 2003 to 2013, with nearly 65 million cars on the road today. Additionally, biomass combustion and charcoal generation exposes lower socio-economic classes to significant levels of respirable particulate matter, and high concentrations of the criteria pollutants carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), and sulfur dioxide (SO<sub>2</sub>) which have been shown to reduce quality of life and expected mean lifespan.

In its Intended Nationally Determined Contribution (INDC), communicated to the Secretary of the United Nations Framework Convention on Climate Change (UNFCCC) for the COP21 Climate Agreement, Brazil committed to reduce greenhouse gas emissions by 37% below 2005 levels by 2025, and by 43% below 2005 levels by 2030. Brazil will be unlikely to meet these targets without improvements in infrastructure and public transportation, as well as the widespread implementation of air pollution control and monitoring technologies for industrial and mobile sources. Improvement of mobile source engine emissions control technology, together with a reduction in reliance on fossil fuels for transportation, and collaboration with U.S. resources such as catalyst companies, the U.S. Automotive Community, the U.S. analytical instruments automotive and stationary sources emissions monitoring and instruments community, the U.S. urban planning and modeling community, and U.S. manufacturers of mass transit systems that offer alternative technologies such as clean diesel, clean compressed natural gas, and electric busses etc., and commuter passenger train producers including possible high tech people moving technologies will help to reduce harmful emissions and protect the safety and health of the Brazilian people.

Additionally, processes that control or eliminate the use of free mercury used in the private sector for gold amalgamation and mining in towns and villages results in extremely high levels of ambient air mercury levels, resulting in irreversible pre-natal and children's central nervous system damage, and subsequent severe developmental and behavioral problems. Sorbents that can capture mercury for recovery and can be centrally located or made available in remote areas exist, but education and elimination of imported free mercury from un-regulated countries would be the best solution.

## **Solid Waste Management Technologies**

Unsanitary landfills and unsafe collection and handling of solid waste contribute to air and water pollution, flooding, the spread of disease, and the proliferation of greenhouse gases. The management of solid waste in particular is of concern.

The goal of Brazil's 2010 National Policy on Solid Waste (PNRS) was to bring Brazil into the position of one of the major developed countries as outlined in the 1992 Rio Declaration on Environment and Development. The PNRS provided for the extinction of unsanitary open-air waste disposal (landfills or dumps) by 2014, but less than half of municipalities have achieved that goal. At the same time, there has been a 29% increase in solid waste generation since 2010.

Tariffs/tax rates as high as 48%, along with NTBs such as the Ex-Tarifario, make it almost impossible for U.S. companies to compete in Brazil. In doing so, Brazil is denying their country the benefit of advanced environmental technologies that can and will help improve the health and well-being of their citizens. Technical and educational exchanges between the U.S. and Brazil on topics such as waste to energy, waste stream economics, municipal solid waste treatment and handling, and models for revenue generation, can provide Brazil with an understanding of the methods available to help meet their PNRS goals. The lowering of high tariffs/tax rates and elimination of NTBs, can provide Brazil access to the technologies available to help meet their PNRS goals.

## **Drinking Water, Industrial Water, and Wastewater Technologies**

While Brazil has some of the largest fresh water resources in the world, their citizens and industries are challenged by complications ranging from water quality appropriate for safe human consumption and adequate water supply for municipal (i.e. drinking water) and industrial demand.

The health of Brazilian citizens is challenged by a wide variety of water quality issues ranging from the discharge of raw sewage to water bodies to complications associated with disinfection of drinking water resulting in the unintended consequences of disinfection by-product formation. Industrial growth, as well as sustained operation of existing industry, is challenged by adequate water supply and water quality. The creation of the National Water Resources Agency in 2000 was in response to Brazil's Water Resources Policy.

Progress to meet policy objectives could be accelerated in Brazil by leveraging the successes of other nations with similar challenges. Other nations have successfully implemented technologies to effectively address the availability and accessibility of clean water in an economical way. These technologies include those for:

- Water Reuse of Industrial Process Water,
- Drinking water applications,
- Wastewater treatment, and
- Environmental water remediation.

One limitation to leveraging the success in other nations are the high tariffs/tax rates and NTBs imposed in Brazil that inhibit the import of proven environmental technologies that could elevate the quality of water, reduce the amount of effluents, and provide economical system solutions for Brazil's citizens and industries. For example, tariffs as high as 12% (Mercosur) plus other significant taxes on imports (IPI, ICMS, COFINS/PIS) can quickly sum to as much as 40% or more on the CIF value. This artificially inflates the cost of environmental technology imports necessary to address clean water needs, thus limiting access to human health and industrial benefits of clean water and environmental protection for Brazil and the Mercosur countries.

May 3, 2016

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

Dear Madam Secretary:

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

The ETTAC has been investigating the negative effect created by various trade barriers that may not be easily identified during a typical export evaluation process. One effort was to survey ETTAC members to identify compelling tariff, tax, and non-tariff barriers in high priority countries.

The results of this survey as shown in the attachment revealed several important trade barriers that should be more fully investigated:

- Locally obtainable but not equivalent products;
- Additional tariffs/taxes required as products are transhipped through other countries on the way to a final destination;
- U.S. law limitations/restrictions versus non U.S. trade practices.

These findings might inform the Environmental Technologies Working Group (ETWG) and could serve as a starting point for future consideration. The current findings are limited due to the late timing of the survey; the limited survey distribution and response; and the limitations posed by the survey instrument. **The ETTAC recommends that the survey questions and initial results be reviewed by the ETWG and provided to members of the next ETTAC Charter to consider for further investigation.**

We appreciate the opportunity that ETTAC has been given to further growing bilateral trade between the U.S. and other high priority countries and look forward to further opportunities to be of service.

Sincerely,



Ron Swinko  
Chair, ETTAC

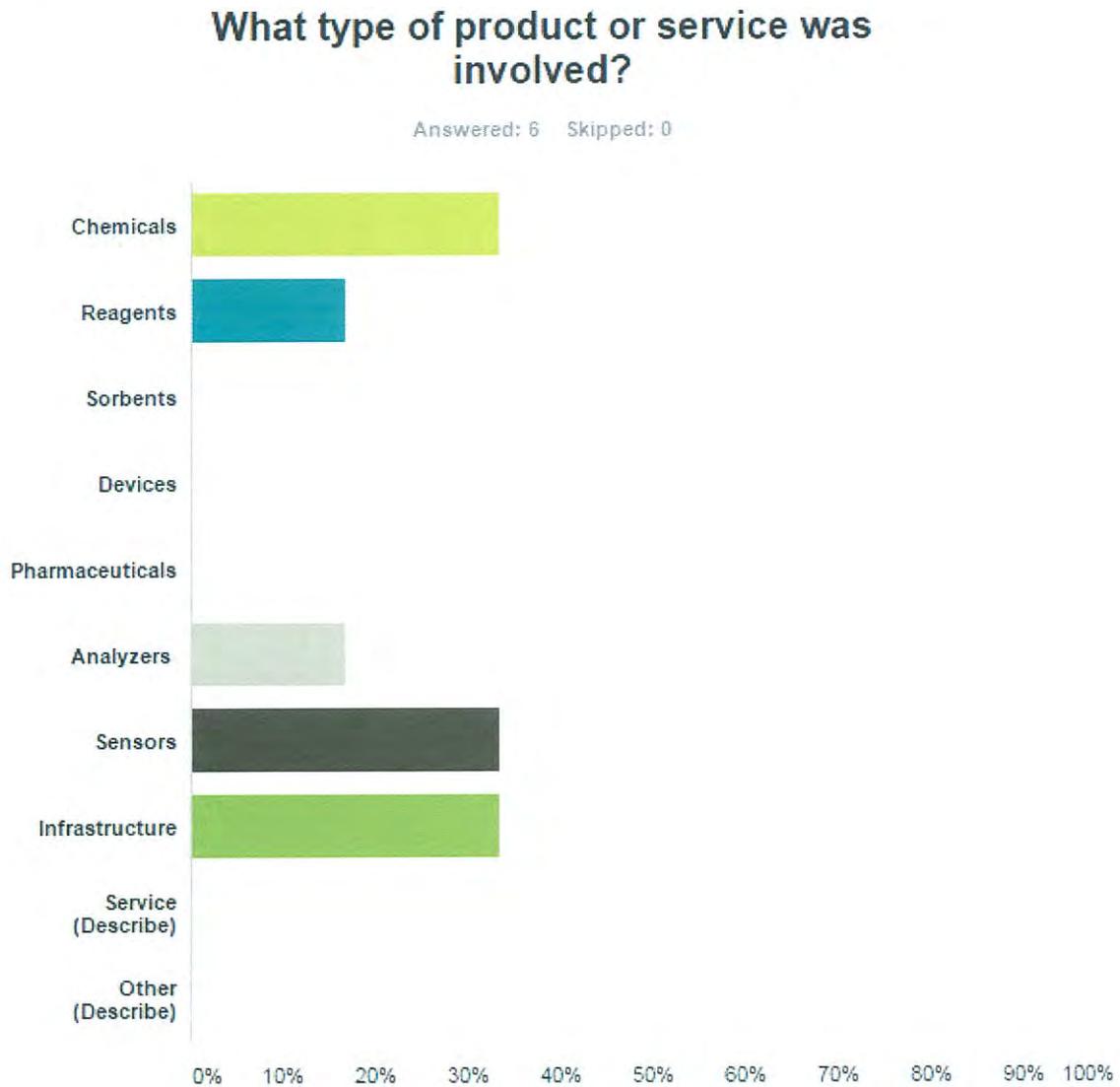
## Attachment

Additional Questionnaire Response Summary

# Dept. of Commerce, ETTAC Committee – Non-Tariff Trade Barrier Survey Results

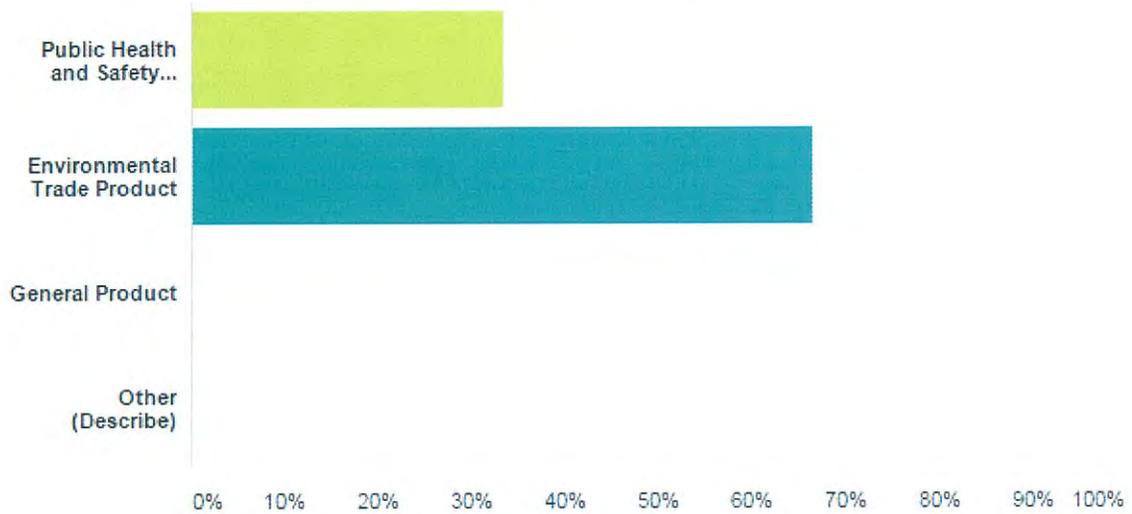
March 20, 2016

General survey results for requested examples of non-tariff trade barrier results



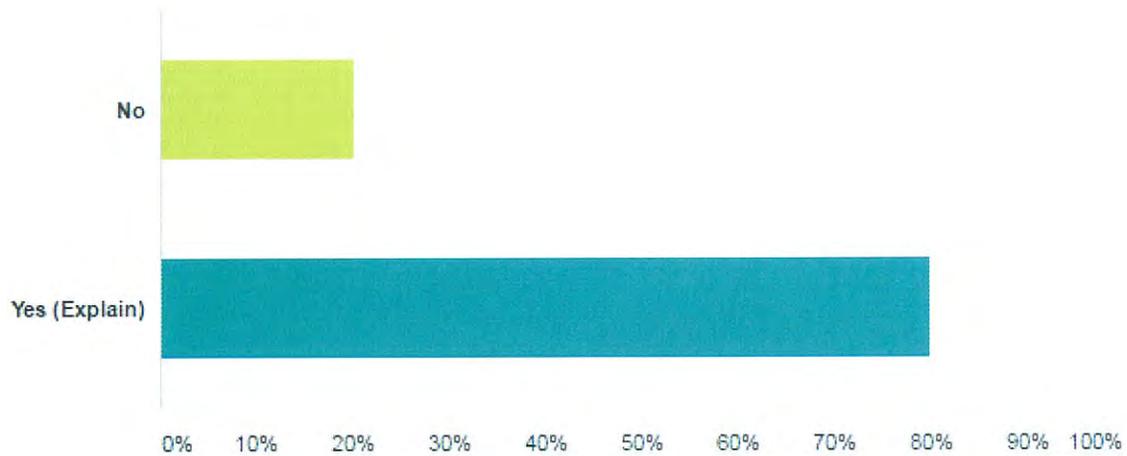
## Under what definition does this product or service fall?

Answered: 6 Skipped: 0



## Are there locally obtainable equivalent products or goods?

Answered: 5 Skipped: 1



There are local suppliers of equipment although not all features are equivalent.

3/11/2016 2:50 PM [View respondent's answers](#)

Other distributors provide them

3/7/2016 8:44 AM [View respondent's answers](#)

Some of them, such as Chemical Reagents and Flow Meters, Lab Instruments and Disinfection Products are mostly imported

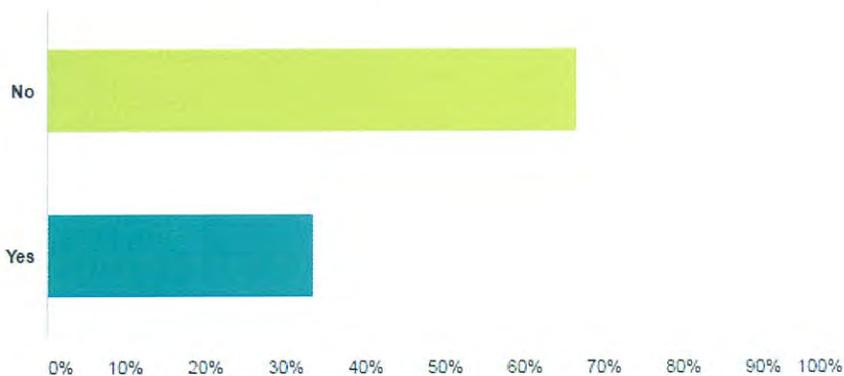
3/4/2016 7:11 PM [View respondent's answers](#)

Chinese knock-offs

3/4/2016 5:50 PM [View respondent's answers](#)

### Are you required to obtain any outside U.S. certification or licensing to sell these products?

Answered: 6 Skipped: 0

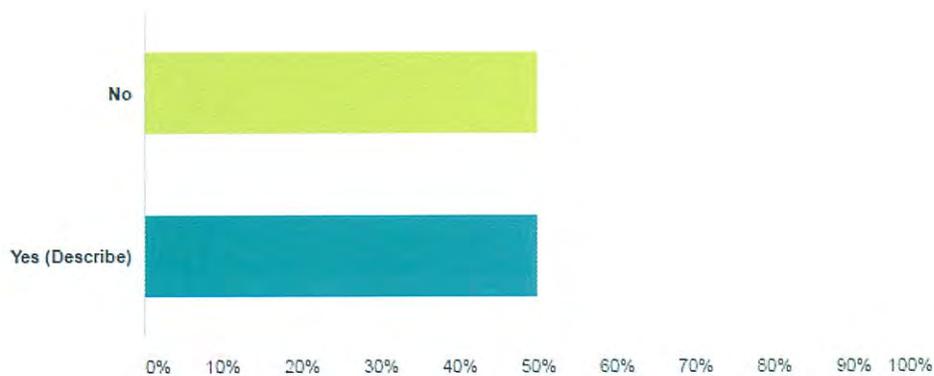


Some of them require local electrical and/or safety approvals such as CENELEC in Brasil

3/4/2016 7:11 PM [View respondent's answers](#)

### Have you encountered any other non-tariff barriers with these products?

Answered: 6 Skipped: 0



Minimum 50% local content requirements for national projects.

3/11/2016 2:50 PM [View respondent's answers](#)

Some government companies may favor local producers in bids by allowing an additional 5%-10% credit such as Water Companies in Brasil. In China local governments may favor local producers

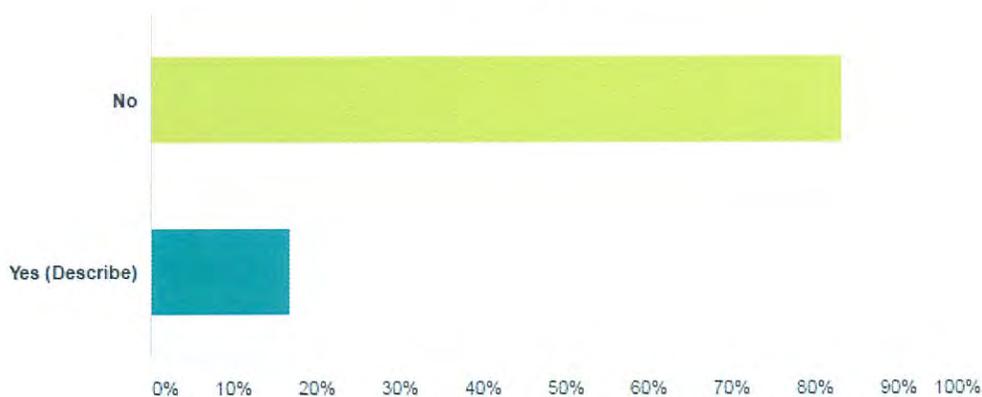
3/4/2016 7:11 PM [View respondent's answers](#)

Spain and Netherlands

3/4/2016 5:50 PM [View respondent's answers](#)

### Is the final destination or use of the goods sold into that country sometimes used, transferred, or redirected to any other unintended use by any entity in that country?

Answered: 6 Skipped: 0



#### Other Barriers:

civil defense registry with local in country agent/rep which must be owned by country native

3/8/2016 10:12 AM [View respondent's answers](#)

We shipped haz products to Vietnam on a trans-shipment through Hong Kong. The regulators in Hong Kong required us to register the products in Hong Kong before shipping on to Vietnam at a significant fee

3/7/2016 8:44 AM [View respondent's answers](#)

Delays in customs import procedures

3/4/2016 7:11 PM [View respondent's answers](#)

#### Suggestions to Fix Issues:

Assure that a trans-shipment means that regulations at the final port of entry are the regulating body not every intermediate stop plus the final destination. This was a first for us.

3/7/2016 8:44 AM [View respondent's answers](#)

Tougher negotiations on trade agreements

3/4/2016 7:11 PM [View respondent's answers](#)

November 12, 2015

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

Dear Madam Secretary:

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.

The Departments of Commerce and State have an extensive global network of economic and commercial officers around the world. In the course of their daily work, these officers collect commercially valuable information relating to investments in infrastructure and environmental management, but very little of this information reaches American companies that could use this information to increase exports. Facilitating the flow of this information has the potential to improve America’s export performance.

We applaud ongoing collaboration between the Departments of Commerce and State on the Direct Line for American Business program (<http://www.state.gov/e/eb/directline/>), an initiative that addresses this issue at virtually no cost. By leveraging existing in-country relationships and existing public diplomacy tools such as Adobe Connect, the Direct Line program provides free interactive webinars with customers in key markets on specific export opportunities ranging from aquaculture in Oman to infrastructure development opportunities in Paraguay and the Philippines. To date, the program has delivered information on over 100 valuable engagement opportunities to potential exporters in the United States, providing a scalable and efficient platform for sharing valuable information to American companies.

In service of our mandate, **we propose that the Departments of Commerce and State collaborate to develop a series of Direct Line meetings focused on environmental technologies (e.g. water, air, and waste management) in the industry’s priority markets, which include China, India, and Brazil** (full list attached in Tab 1). For example, our Embassy in New Delhi could engage the Modi government to conduct a broadcast on opportunities in the Ganges River clean-up or India’s Smarter Cities initiative.

A program of Direct Line webinars focused on environmental priority markets would help businesses around the U.S. access valuable business development opportunities at no cost to taxpayers. It would also amplify your efforts to support green economy initiatives around the world, as well as the President’s National Export Initiative. We recommend that you ask the Undersecretary of Commerce for International Trade to work with the Undersecretary of State for Economic Growth, Energy and the Environment to initiate joint efforts to complete a program of environmental Direct Line calls by the end of 2016.

We appreciate the opportunity that ETTAC has to play in advising the interagency. Please feel free to contact us if you have any questions.

Sincerely,



Ron Swinko  
Chair, ETTAC

# Environmental Technologies Top Markets

Water		Air		Waste		Composite Environmental Technologies Score		
1	China	44.9	China	47.4	China	7.7	China	100.0
2	India	16.3	Mexico	26.2	Indonesia	4.2	Mexico	37.1
3	United Arab Emirates	15.8	Korea	18.3	Pakistan	3.7	India	31.7
4	Oman	15.3	Turkey	17.4	Brazil	3.6	Brazil	29.4
5	Saudi Arabia	12.0	Brazil	15.3	Thailand	3.3	Korea	27.3
6	Brazil	10.5	India	12.8	Saudi Arabia	3.0	Saudi Arabia	25.9
7	Mexico	9.5	Saudi Arabia	10.9	India	2.7	Indonesia	23.4
8	Indonesia	9.3	Indonesia	9.9	Vietnam	2.1	Turkey	22.1
9	Poland	8.4	Poland	8.6	Korea	2.1	Poland	17.7
10	Korea	6.9	Czech Republic	8.0	Egypt	1.9	United Arab Emirates	15.8
11	Thailand	6.6	Vietnam	7.3	Turkey	1.8	Oman	15.6
12	Peru	6.5	Kazakhstan	5.9	Malaysia	1.6	Thailand	13.6
13	Venezuela	6.1	Algeria	5.1	Mexico	1.4	Vietnam	12.9
14	Singapore	5.7	Romania	4.8	Argentina	1.0	Czech Republic	12.1
15	Argentina	5.4	Slovakia	4.6	Colombia	0.9	Argentina	10.5
16	Chile	4.6	Colombia	4.4	Poland	0.7	Kazakhstan	10.5
17	Kazakhstan	4.1	Egypt	4.4	Peru	0.7	Singapore	10.5
18	Malaysia	4.0	Argentina	4.1	Netherlands	0.7	Peru	10.2
19	Colombia	3.9	Singapore	4.1	Norway	0.6	Venezuela	9.8
20	Czech Republic	3.9	Nigeria	3.8	Singapore	0.6	Egypt	9.7
21	Republic of South Africa	3.8	Thailand	3.8	Sweden	0.6	Malaysia	9.2
22	Vietnam	3.4	Malaysia	3.6	Morocco	0.6	Colombia	9.2
23	Egypt	3.4	Venezuela	3.3	Kazakhstan	0.6	Chile	7.6
24	Turkey	2.8	Peru	3.1	Chile	0.5	Romania	7.2
25	Bangladesh	2.7	Republic of South Africa	2.6	Venezuela	0.5	Algeria	6.9
26	Belarus	2.7	Ukraine	2.6	Nigeria	0.4	Pakistan	6.8
27	Ghana	2.5	Chile	2.4	Bangladesh	0.4	Republic of South Africa	6.7
28	Pakistan	2.5	Dominican Republic	1.9	Hong Kong	0.4	Nigeria	6.4
29	Morocco	2.4	Belarus	1.3	Oman	0.3	Slovakia	5.7
30	Romania	2.3	Lithuania	1.3	Republic of South Africa	0.3	Bangladesh	4.3
31	Nigeria	2.2	Mozambique	1.2	Ecuador	0.3	Belarus	4.0
32	Hong Kong	2.0	Bangladesh	1.2	Lithuania	0.3	Ukraine	3.7
33	Algeria	1.8	Azerbaijan	1.2	Panama	0.3	Morocco	3.4
34	Macedonia	1.7	Hungary	1.2	Estonia	0.3	Azerbaijan	3.0
35	Panama	1.7	Ecuador	1.0	Zambia	0.3	Ghana	3.0
36	Azerbaijan	1.6	Slovenia	0.9	Tunisia	0.2	Hong Kong	2.9
37	Hungary	1.2	Bahrain	0.7	Czech Republic	0.2	Lithuania	2.6
38	Ecuador	1.1	Pakistan	0.7	Guatemala	0.2	Ecuador	2.4
39	Slovakia	1.1	Philippines	0.6	Bahrain	0.2	Hungary	2.4
40	Lithuania	1.0	Zambia	0.6	Jordan	0.2	Dominican Republic	2.3
41	Guatemala	1.0	Hong Kong	0.5	Philippines	0.2	Panama	2.2
42	Trinidad and Tobago	0.9	Trinidad and Tobago	0.4	Uruguay	0.2	Macedonia	1.9
43	Ukraine	0.9	Morocco	0.4	Azerbaijan	0.2	Zambia	1.6
44	Kuwait	0.8	Greece	0.4	Ethiopia	0.2	Mozambique	1.6
45	Tunisia	0.8	Latvia	0.4	Sri Lanka (Ceylon)	0.2	Philippines	1.5
46	Zambia	0.8	Ethiopia	0.4	Paraguay	0.2	Bahrain	1.5
47	Greece	0.8	Gabon	0.4	Ukraine	0.2	Slovenia	1.5
48	Papua New Guinea	0.7	Tunisia	0.3	Portugal	0.1	Tunisia	1.4
49	Philippines	0.7	Qatar	0.3	Ghana	0.1	Trinidad and Tobago	1.4
50	Portugal	0.7	Georgia	0.3	New Zealand	0.13	Guatemala	1.2

November 12, 2015

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

Dear Madam Secretary:

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

Currently, as trade opportunities are identified by the U.S. Commercial Service and other U.S. Government export agencies, this information is relayed through various, high-touch methods (e.g., sharing information with other trade representatives through occasional conference calls, forwarding information to those known by the receiver to be interested, etc.). While this approach is valuable, it is not effective at placing the information in front of a large audience. As a result, many potential exporters of goods and services never learn or learn too late of an opportunity to participate in a trade activity.

On September 1, 2015 Harold Kerr (Office of the Chief Information Officer) and Dan Crocker (U.S. Commercial Service) presented information to ETTAC concerning the status of their work on the application of Salesforce for processing and tracking export opportunities by the International Trade Administration. Salesforce is a customer relationship management (CRM) software tool that allows tracking of leads, opportunities, customers, etc. Their preliminary work, which has been noteworthy over a relatively short period of time, is promising. This software tool has the potential to provide an effective means for gathering, tracking, and disseminating trade leads to a larger group of potential exporters, thereby helping to achieve the goals of the National Export Initiative.

We note that prior plans to provide the Commercial Service with enhanced digital tools have been disrupted by a lack of sustained funding. As plans are made for future budget expenditures, **we recommend that the effort begun by Messrs. Kerr and Crocker receive adequate funding not only for additional short-term development but also for beta testing and full-scale implementation.** Moreover, **we suggest that the project team accelerate plans to create a specific portal for private sector exporters to extract actionable information from the Salesforce application.** Such a tool can substantially improve the dissemination of trade opportunities and the eventual export of more environmental goods and services.

We appreciate the opportunity that ETTAC has to play an active role in the National Export Initiative. Please feel free to contact us if you have any questions.

Sincerely,



Ron Swinko  
Chair, ETTAC

May 3, 2016

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

Dear Madam Secretary:

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.

ETTAC has reviewed the *International Trade Administration (ITA) Export Assistance, Performance Measure Guidance V 1.1 3/1/2016* document and understands that the Department of Commerce sets Agency Priority Goals (APGs) that represent the different pillars of the Department’s Strategic Plan. For the FY16-17 goal period ITA identified the following three performance indicators to measure specific export promotion activities:

1. Percentage of companies assisted by the Global Markets (GM) unit that achieve their export objectives (a FY14 goal renewed for FY16-17);
2. Number of export clients assisted by ITA; and
3. The percentage of export clients highly likely to recommend ITA.

Data will be captured using Salesforce following the guidance established for each ITA unit. These quantitative criteria will be used to measure performance, track progress and promote collaboration across ITA. Understanding that ITA’s performance measurement process is in development and that Salesforce (the tool for documenting results) is in the programming stage, ETTAC offers the following recommendations:

- Qualitative Metrics – Current ITA metrics will measure performance but may not address the true value of the services provided. **ETTAC recommends that ITA consider qualitative metrics in their evaluation**, including:
  - Interaction based assessments – value of relationship building.
  - Return on objective – trade promotion program leads, traffic, data quality, etc.
  - Meeting value – decision maker introductions (C-Suite, Procurement, etc.).
  - Navigating and valuing the “layers” in a sales process (introductions, status reporting, and closure).
  - Supply chain enhancement – introduction to qualified service providers, contractors and vendors.
  - Cultural support – business etiquette, protocols and customs.
- Salesforce Focus Group – **ETTAC recommends establishing a Salesforce focus group utilizing ETTAC members to review progress, conduct future beta-testing of the Salesforce platform and provide recommendations.** Providing formal acknowledgment of the focus group gives ITA access to decades of Salesforce proficiency, sales funnel/cycle expertise, and the experience to develop metrics based upon industry specific needs.

We appreciate the opportunity that ETTAC has to play an active role in the National Export Initiative. Please feel free to contact us if you have any questions.

Sincerely,



Ron Swinko  
Chair, ETTAC

# Salesforce Organization Record

Organization
Customize Page | Edit

## National Ground Water Association, Inc.

[Show Feed](#)
[Duplicate](#) [Block](#) [Potential Duplicates](#)
[Contacts](#) (5)
[Open Activities](#)
[Activity History](#) (5)
[Cases](#) (0)
[WfIs](#) (0)
[Industries](#) (0)
[Notes & Attachments](#) (0)
[Organization History](#) (4)

**Organization Detail** [Edit](#) [Delete](#) [Clean](#)

<p>Organization Name: National Ground Water Association, Inc. <a href="#">View Hierarchy</a></p> <p>Web Site: <a href="http://www.ngwa.org">http://www.ngwa.org</a></p>	<p>Clean Status: <span style="color: green;">In Sync</span></p> <p>Organization Owner: <a href="#">Roberta Ford</a> <a href="#">Change</a></p> <p>Owner's Office: GM-CS USA-Field-GreatLakes-Columbus</p> <p>SME (U.S. Only): <input checked="" type="checkbox"/></p> <p>Ignore: <a href="#">Down Arrow</a></p>
---	---

ITA Organization and Product Description

Year Established: 1946  
 Business Types: Association  
 Participation: Industries.Pollution Control Eq. - (PDL) Industries.Water Resources Eq./Services - (WRE) \*\*\*Move to Salesforce\*\*\*  
 Trade Assoc -Find Develop Protect GrdwaterMission of NGWA is to enhance the skills and credibility of all ground water professionals develop and exchange industry knowledge and promote the ground water water resources | Trade association and professional society representing ground water scientists and engineers water well drilling and pump installation contractors and the manufacturers and suppliers of the  
 Directions: 270E to OH13 exit 29Westerville Rd. Turn left onto Westerville Rd to Dempsey and turn left again.  
 9/8/03 Kevin McCray out week of 9/11 - couldn't make OOV  
 2/19/04 OOV with Kevin McCray Greg Phelps and Jaime Anderson.  
 9/10/04 Shelby Freck attended the ABC VideoConf @ OSU  
 3/30-4/1/05 Shelby Freck exhibited at Aquatech (not IBP year) in Las Vegas.  
 12/29/06 Listed in Harris Selectorry. Jill Ross publisher Pat Levak gen mgr. main ph 614-898-7791; fax 614-898-7786  
 2/1/07 Private company, not minority-owned Assoc primarily made up of water well drillers and related equipment mths. CSCanada working with assoc for 12/03 annual conf/show promotion Participated in Trade

**Address Information**

Address: 601 Dempsey Rd  
 Westerville, Ohio 43081-9978  
 United States

Congressional District: OH-12  
 County (U.S. Only): Franklin

**Data.com**

D-U-N-S Number: 068840778  
 D&B Company: [National Ground Water Association, Inc.](#)  
 Parent Organization:  
 Primary Trade Style:  
 Tradestyle:  
 NAICS: 813920. Professional Organizations  
 Number of Employees: 34  
 Year Started: 1946  
 Organization and Product Description

**Hierarchies**

Name	Owner	State/Province	City	Annual Revenue	Number of Employees
<a href="#">National Ground Water Association, Inc.</a>	Roberta Ford	Ohio	Westerville	5,008,914.00	34

**Contacts** [New Contact](#)

Action	Contact Name	Title	Email	Work Phone
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Kathy Bulcher</a>	Dir of Prof Dev	<a href="mailto:kbulcher@ngwa.org">kbulcher@ngwa.org</a>	614-898-7791 x526
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Kevin McCray</a>	Executive Director	<a href="mailto:kmccray@ngwa.org">kmccray@ngwa.org</a>	614-898-7791
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Trisha Freeman</a>	Director of Marketing	<a href="mailto:tfreeman@ngwa.org">tfreeman@ngwa.org</a>	800 551 7379; 614 898 7791
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Greg Phelps</a>	Director of Meeting Planning & Expositions	<a href="mailto:gphelps@ngwa.org">gphelps@ngwa.org</a>	800 551 7379/ 614 898 7791 ext
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Jason Bainum</a>	Marketing Assistant	<a href="mailto:jbainum@ngwa.org">jbainum@ngwa.org</a>	800 551 7379/ 614 898 7791

[Show 1 more >](#) | [Go to list \(6\)](#)

**Open Activities** [New Task](#) | [New Event](#)

No records to display

**Activity History** [Log a Call](#)

Action	Subject	Name	Related To	Task	Due Date	Assigned To	Last Modified Date/Time	Original Office
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Webinar Mexico Water &amp; Environmental Cops</a>	<a href="#">National Ground Water Association, Inc.</a>	<a href="#">National Ground Water Association, Inc.</a>	✓	9/5/2013	<a href="#">Roberta Ford</a>	6/28/2015 12:39 AM	GM-CS USA-Field-Gr
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Canada Trade Show</a>	<a href="#">National Ground Water Association, Inc.</a>	<a href="#">National Ground Water Association, Inc.</a>	✓	1/17/2013	<a href="#">Roberta Ford</a>	6/28/2015 12:41 AM	GM-CS USA-Field-Gr
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Uganda Assistance</a>	<a href="#">National Ground Water Association, Inc.</a>	<a href="#">National Ground Water Association, Inc.</a>	✓	7/19/2011	<a href="#">Roberta Ford</a>	6/5/2015 2:28 PM	GM CS-USA-Field Gr
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Tanzania Trade Mission</a>	<a href="#">National Ground Water Association, Inc.</a>	<a href="#">National Ground Water Association, Inc.</a>	✓	7/18/2011	<a href="#">Roberta Ford</a>	6/5/2015 2:41 PM	GM CS-USA-Field Gr
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Assistance in Africa</a>	<a href="#">National Ground Water Association, Inc.</a>	<a href="#">National Ground Water Association, Inc.</a>	✓	7/14/2011	<a href="#">Roberta Ford</a>	6/5/2015 2:37 PM	GM CS-USA-Field Gr

**Cases** [New Case](#)

No records to display

**WINS** [New WIN](#)

No records to display

**Industries** [New Industry](#)

No records to display

## Salesforce Contact Record



Contact

**Ms. Jody Howard**

[Cases](#) | [Open Activities](#) | [Activity History](#) | [Wins](#) | [iContact Message Statistics](#) | [iContact Clicked Links](#) | [Notes & Attachments](#) | [Contact History](#)

---

**Contact Detail**

[Edit](#) [Delete](#) [Clean](#)

Name	Ms. Jody Howard		Clean Status	Reviewed 1 month ago
Organization Name	Caterpillar Inc.		Work Phone	
Title	General Manager, Industrial and Waste Group		Mobile Phone	
Contact Owner	<a href="#">Maureen Hinman</a> (Change)		Fax	
Owner's Office	IA MFG-OEEI-ENVT		Email	howard_jody_l@cat.com
			Comments	ETTAC 2014-2016

---

▼ **Address Information**

Address	PO BOX 1875 Peoria, Illinois 61656-1875 United States
County	

---

▼ **Contact Preferences**

Marketing Email Opt Out

---

▼ **System Information**

Created By	<a href="#">Philip Gasser</a> 7/16/2015 3:13 PM		Last Modified By	<a href="#">Data.com Clean</a> 7/26/2015
Actual Create Date	7/16/2015 3:13 PM			
Request Contact Removal	<input type="checkbox"/>			
Active	<input checked="" type="checkbox"/>			

[Edit](#) [Delete](#) [Clean](#)

---

**Cases**

[New Case](#)

No records to display

---

**Open Activities**

[New Task](#)

No records to display

---

**Activity History**

[Log a Call](#) [Send an Email](#)

No records to display

---

**WINS**

No records to display

---

**iContact Message Statistic**

No records to display

---

**iContact Clicked Links**

No records to display

---

**Notes & Attachments**

[New Note](#) [Attach File](#)

No records to display

## Salesforce Case Record – Commercial Diplomacy Case

Case **00078911**
Custom

[Show Feed](#)

[Case Contributors \(1\)](#) | [Countries \(1\)](#) | [Industries \(1\)](#) | [Case Comments \(0\)](#) | [Open Activities \(0\)](#) | [Activity History \(0\)](#) | [Related Child Cases \(0\)](#) | [Related WINS \(1\)](#) | [Resources \(0\)](#) | [Attachments](#)

**Case Detail** [Edit](#) [Delete](#) [Close Case](#) [Clone](#)

Case Number: 00078911	Status: <b>New</b>
Case Owner: <a href="#">Harold Kerr [Change]</a>	Contact Name: <a href="#">Tom Gilbride</a>
Owner's Office: OCIO- PD-CRM	Organization Name: <a href="#">Acumen Solutions Inc.</a>
Subject: Content Standards Stricter Than Trade Agreement	Case Record Type: Commercial Diplomacy
Description: China is imposing domestic content standards much higher than the applicable trade agreement.	Case Close Summary:
ITA Action Plan:	
Related Parent Case:	

---

**TANC Fields**

TANC Case Origin: Trade association Referral	TANC Case Origin Notes:	TANC Success Definition:
TANC Initiation Summary:	TANC Describe Other Trade Barrier Areas:	TANC Agreement Notes:
TANC Relevant Agreement: Yes	TANC Compliance Case:	TANC Explanation of Case Value:
TANC Interested Parties:		
TANC Case Value: \$0.00		
TANC Trade Barrier Areas:		
TANC Tags:		

---

**Case Contributors** [New Case Contributor](#)

Action	Contributor Name	Original Office	Office	Inactive	Created By
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Harold Kerr</a>	OCIO- PD-CRM	OCIO- PD-CRM		<a href="#">Harold Kerr</a> , 8/31/2015 6:34 PM

---

**Countries** [New Country](#)

Action	Country	Created By
<a href="#">Edit</a>   <a href="#">Del</a>	China	<a href="#">Harold Kerr</a> , 8/31/2015 6:45 PM

---

**Industries** [New Industry](#)

Action	Industry	Sector	Sub-Sector
<a href="#">Edit</a>   <a href="#">Del</a>	Environmental Technology	Environmental Remediation	Groundwater Remediation

---

**Case Comments** [New](#)

No records to display

---

**Open Activities** [New Task](#)

No records to display

---

**Activity History** [Log a Call](#) [Send an Email](#)

No records to display

---

**Related Child Cases** [New Case](#)

No records to display

---

**Related WINS** [New Relate Case to WIN](#)

Action	Related Case	Related WIN
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">RC-1329</a>	Relaxation of Strict Standards

Page 3

## Salesforce Written Impact Narrative Record

**WIN**  
Relaxation of Strict Standards

[WIN Contributors \[1\]](#) | 
 [Countries \[1\]](#) | 
 [Industries \[1\]](#) | 
 [Activity History \[0\]](#) | 
 [Approval History \[0\]](#) | 
 [Related Cases \[1\]](#) | 
 [Notes & Attachments \[0\]](#) | 
 [WIN History \[1\]](#)

**WIN Detail**

WIN Name: Relaxation of Strict Standards

Owner: [Harold Kerr \[Change\]](#)

Owner's Office: OCIO- PD-CRM

WIN Number: WIN-13920

Client Objectives:

Assistance Provided:

Description of Results:

Impact (Especially Jobs/Revenue):

Trade Barrier Reduced/Removed/Avoided:

Other USG Entities Involved:

Organization Name: [Acumen Solutions Inc.](#)

Contact Name: [Tom Gilbride](#)

Calendar Year of Results:

Record Type: Commercial Diplomacy

Specific Product:

Quote/Testimonial:

Internal Comment:

[Edit](#) [Delete](#) [Validate](#)

---

**Verification and Clearance**

Client Verified:

Cleared For:

Reviewed By OPA:

FTA Prospects:

Approved Narrative:

Additional WIN Features:

Date Client Cleared:

Clearance Notes:

Cleared Until:

Approved Narrative FTA:

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**Approvers**

First Approver:

Final Approver:

---

**Approvals**

First Line Approver:

First Line Approval:

First Line Approval Date:

Final Line Approver:

Final Line Approval:

Final Line Approval Date:

---

**WIN Contributors**

Action	Contributor Name	Original Office	Office	Inactive	Created By
<a href="#">Edit</a>   <a href="#">Del</a>	<a href="#">Harold Kerr</a>	OCIO- PD-CRM	OCIO- PD-CRM		<a href="#">Harold Kerr</a> 8/31/2015 6:40 PM

[New WIN Contributor](#)

---

**Countries**

Action	Country	Created By
<a href="#">Edit</a>   <a href="#">Del</a>	China	<a href="#">Harold Kerr</a> 8/31/2015 6:40 PM

[New Country](#)

---

**Industries**

Action	Industry	Sector	Sub-Sector
<a href="#">Edit</a>   <a href="#">Del</a>	Environmental Technology	Environmental Remediation	Groundwater Remediation

[New Industry](#)

---

**Activity History**

No records to display

[Send an Email](#)

---

**Approval History**

No records to display

[Submit for Approval](#)

---

**Related Cases**

Action	Case Organization	Case ID	Case Subject	Case Author
<a href="#">Edit</a>   <a href="#">Del</a>	Acumen Solutions Inc.	00078911	Content Standards Stricter Than Trade Agreement	Harold Kerr

[New Relate Case to WIN](#)

---

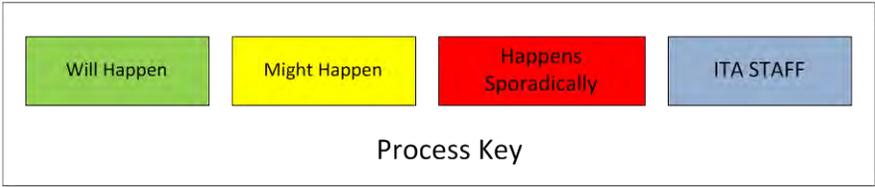
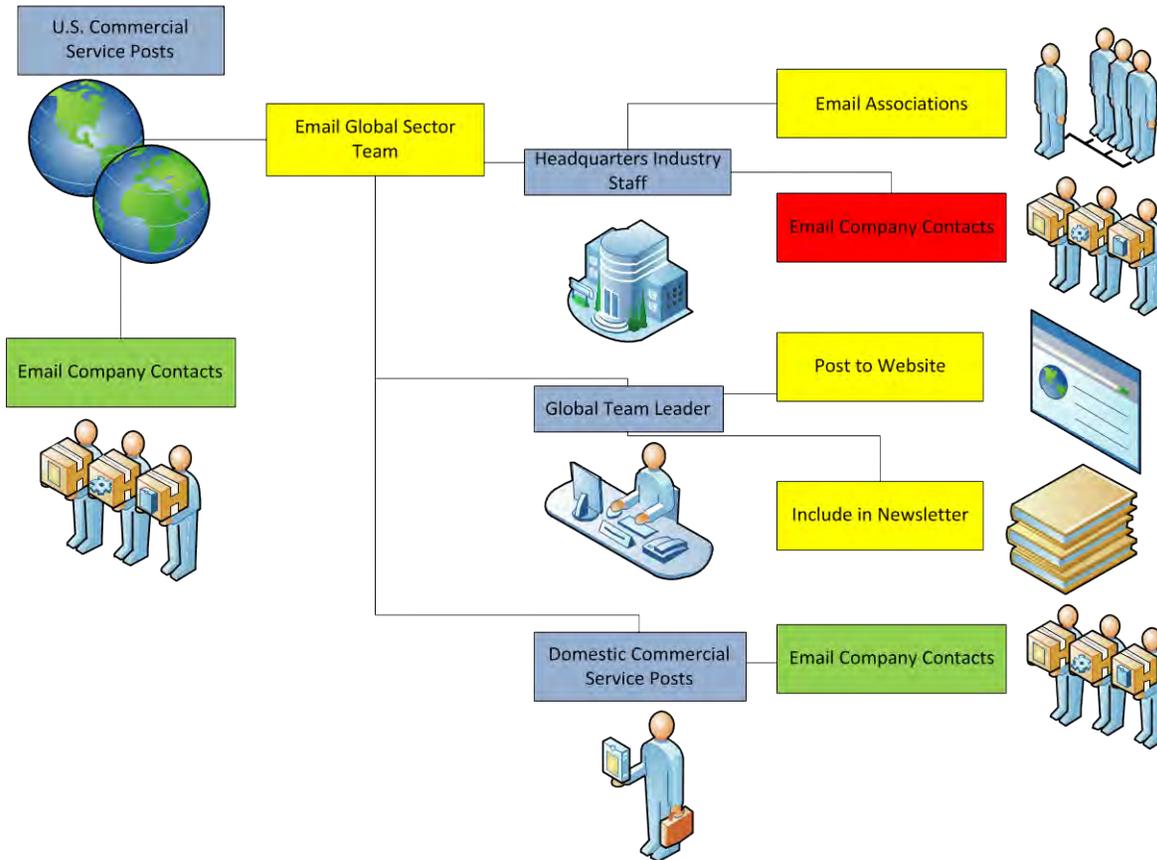
**Notes & Attachments**

No records to display

[New Note](#) [Attach File](#)

Page 4

# Export Opportunity Knowledge Transfer at ITA



November 12, 2015

The Honorable Penny Pritzker  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Secretary Pritzker,

The Environmental Technologies Trade Advisory Committee (ETTAC) tracks standards, regulations, and testing issues that affect the competitiveness of U.S. companies and firms that produce environmental technologies and services. We have had the opportunity to review the recently completed “Memorandum of Intent between the Department of Commerce of the United States of America and the Ministry of Development, Industry and Foreign Trade of the Federative Republic of Brazil concerning Standards and Conformity Assessment”. We are pleased to note that the sections contained in the memorandum are very consistent with many of our past ETTAC recommendations.

Section I promotes discussions with Brazil that support **“mutual understanding and implementation of the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5 and Annex 3 of the TBT Agreement, issued by the World Trade Organization (WTO) Committee on Technical Barriers to Trade.”** ETTAC continues to find this to be important to the competitiveness of our industry as most of the standards currently referenced in Brazil’s regulations are developed exclusively by the Brazilian national standards body ABNT, or are based on the national adoption of standards from the International Organization for Standardization (ISO). In the United States, the Environmental Protection Agency and other regulatory agencies recognize the flexibility provided by the WTO TBT Agreement and choose standards that best match regulatory objectives based on criteria such as technical attributes and relevance. This results in smarter regulations that enable the innovation of new products and services. Opportunities for standards and regulatory convergence would be achieved if Brazil adopted a similarly flexible approach.

Section II promotes cooperation in standards development. **ETTAC strongly supports encouraging openness and transparency in standards setting, and our companies, trade associations, and stakeholders welcome the opportunity to cooperate with counterparts in Brazil on new areas of international standards development that support trade and minimize duplication.**

Section III promotes international systems of conformity assessment. Similarly, **ETTAC supports approaches that allow products to be tested and certified in the country of export and that 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 (and the costs of redundant testing).**

Section IV and V support sectorial initiatives to advance cooperation in standards, certification and trade. **ETTAC supports such initiatives and recommends that the environmental technologies and services sector be included.**

Finally, Section VI supports the sharing of Technical Barriers to Trade notifications amongst parties. **ETTAC supports the mutual exchange of such information and its electronic dissemination to all interested private sector stakeholders.**

ETTAC looks forward to working with the Department of Commerce and the Ministry of Development, Industry and Foreign Trade of the Federative Republic of Brazil as the parties pursues sectoral cooperation initiatives through Sections IV and V of the memorandum.

Sincerely,



Ron Swinko  
Chair, ETTAC

May 3, 2016

The Honorable Penny Pritzker  
Secretary, U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Secretary Pritzker;

The Environmental Technologies Trade Advisory Committee (ETTAC) makes six recommendations on standards and regulations as part of the Transatlantic Trade and Investment Partnership negotiations. The recommendations enhance the competitiveness of the U.S. environmental technologies and services sector and bring innovative environmental solutions to the market. Examples are enclosed that help to illustrate the recommendations.

1. **Regulators should choose from a broad portfolio of international standards developed according to the principles established by the WTO Technical Barriers to Trade (TBT) Agreement and Committee Decision.** Please refer to the enclosed example on sewage drainage products where U.S. regulators require WTO compliant international standards developed by an U.S. domiciled standards body, while European regulators require ISO standards and European Norms.
2. **Standards used in regulations must be developed under a process that is open to participation from both sides of the Atlantic and transparent in determining outcomes.** Please refer to the enclosed example of the American National Standard Institute's vote explanation on the creation of ISO/TS/P 249 on Waste Management, Recycling and Road Operation Service.
3. **Equivalent standards from non-European standards bodies should qualify for the presumption of conformity with Essential Technical Requirements of European Directives.** Please refer to the enclosed example on sewage drainage products where U.S. manufacturers must undergo extensive product and material testing to demonstrate compliance with essential requirements of Directives.
4. **Standards and regulatory requirements should be grounded in the principles of science, risk assessment, and, to the extent practical, be performance-based and technology neutral.** Please refer to the enclosed example on sewage drainage products where the standard required in Europe stifles innovation by requiring products to be made from specific materials and resins.
5. **Both governments should share regulatory data for the purposes of meeting similar substance disclosure and testing requirements.** Please refer to the enclosed letter from the company NALCO.
6. **Costs associated with testing, certification, and accreditation need to be streamlined.** Please refer to the enclosed example on water/waste water used in medical device manufacturing.

Thank you for your consideration.

Sincerely,



Ron Swinko

Chairman, ETTAC

## **Example of EU Standards Laws Acting as a Trade Barrier to US Environmental Technology Products**

Sewerage Drainage Products—An Ohio-based SME manufacturer of drainage/sewerage pipes has found the EU standards and regulatory system to serve as a barrier to market access. It makes a corrugated high-density polyethylene (HDPE) pipe that conforms to the international standard developed by ASTM International designated as ASTM F2947. The innovative product is technologically advanced and structurally superior to similar pipes made from PVC, concrete and steel and is used in sewage and drainage projects in North America and South America. Because it was developed under an open and transparent process that meets World Trade Organization Technical Barriers to Trade Agreement requirements and principles, the US EPA and US State regulators recognize ASTM F2947 as an international standard.

In Europe, most member states have adopted an ISO standard designated as ISO 21138 to govern specifications and requirements for sewage and drainage pipes and fittings. The ISO standard is a defacto requirement as most member states require it in wide variety of regulations and certification schemes on the use and installation of piping systems for different applications. The difficulty for the US SME is that the ISO standard requires a specific resin content and a thick pipe wall that is only applicable for materials such as unplasticized polyvinyl chloride (PVC-U), polypropylene (PP), and polyethylene (PEP)—it does not take into consideration the advanced technical distinctions of HDPE pipe. However, the ASTM F2947 standard is more performance based and allows for the appropriate pipe thickness levels that occur in corrugated HDPE pipe in light of its strength and durability from its highly engineered components and design.

Despite producing a high quality product that offers certain technical and performance advantages, the product from the US SME does not meet the required ISO standard. Therefore, the company must work with testing and certification authorities on a case by case basis for limited approvals which adds costs, delays, and places it at a competitive disadvantage—often to European competitors. To date, the ISO committee responsible for ISO 21138 (ISO TC 138) has been slow to consider changes to the standard, and it has many common members with the corresponding CEN committee (CEN/TC 155). The US SME is involved in the ISO TC 138 committee where they are working to make ISO 21138 more technically aligned with ASTM F2947. While the US SME has a sales and marketing presences in Europe, it does not manufacture its product there. As such, it has found it very difficult to participate effectively in CEN/TC 155.

**ETTAC Recommendation**— Develop a New Legal Mechanism in EU Law to Level the Playing Ground for US Environmental Technology Products and Services by Accepting Products that Meet International Standards that Meet WTO Requirements and Principles.

## Report of voting

## Ballot Information

<b>Ballot reference</b>	TS/P 249
<b>Ballot type</b>	TMBTSP
<b>Ballot title</b>	Waste management, recycling and road operation service
<b>Opening date</b>	2015-02-24
<b>Closing date</b>	2015-05-24
<b>French title</b>	

## Member responses - Votes by members

Country (Member body)	Date of reply	Agreement with proposal			Justification provided	Comments on scope	Additional comments	Consultation with stakeholders	Participation				Relevant documents
		Yes	No	Abs					S	P	O	N	
Argentina (IRAM)	2015-05-22	X			X		X			X			
Australia (SA)	2015-05-13			X	X		X				X	X	
Austria (ASI)	2015-04-23	X			X		X		X				
Brazil (ABNT)	2015-05-22	X			X		X				X		
Bulgaria (BDS)	2015-05-18	X			X		X			X		X	
Canada (SCC)	2015-05-07	X			X	X	X				X		
China (SAC)	2015-05-22	X			X	X	X		X				
Cuba (NC)	2015-04-24	X			X		X			X			
Czech Republic (UNMZ)	2015-03-30	X			X		X			X			
Denmark (DS)	2015-05-22			X			X				X		
Egypt (EOS)	2015-05-21	X			X				X				
Finland (SFS)	2015-05-20	X			X	X	X			X			
France (AFNOR)	2015-04-29		X		X		X		X			X	
Germany (DIN)	2015-04-02	X			X		X	X				X	
Indonesia (BSN)	2015-05-11	X			X		X			X			
Iran, Islamic Republic of (ISIRI)	2015-05-25	X			X		X			X			
Israel (SII)	2015-05-19	X			X		X			X			
Italy (UNI)	2015-05-04		X		X		X			X			
Japan (JISC)	2015-05-22	X			X	X	X		X			X	
Malaysia (DSM)	2015-05-20	X			X		X			X		X	
Netherlands (NEN)	2015-05-19		X		X		X		X				
New Zealand (SNZ)	2015-05-19			X	X		X				X		
Poland (PKN)	2015-05-21			X			X			X			
<b>Totals (23)</b>		<b>16</b>	<b>3</b>	<b>4</b>	<b>21</b>	<b>4</b>	<b>3</b>	<b>22</b>	<b>1</b>	<b>6</b>	<b>11</b>	<b>5</b>	<b>6</b>

Member responses - Votes by members													
Country (Member body)	Date of reply	Agreement with proposal			Justification provided	Comments on scope	Additional comments	Consultation with stakeholders	Participation				Relevant documents
		Yes	No	Abs					S	P	O	N	
Portugal (IPQ)	2015-05-22			X							X		
Russian Federation (GOST R)	2015-05-22	X			X			X			X		
Saudi Arabia (SASO)	2015-04-12	X			X							X	
Singapore (SPRING SG)	2015-05-25	X			X	X		X			X		
Spain (AENOR)	2015-05-22	X			X			X		X			
Sweden (SIS)	2015-05-20	X			X			X		X			
Switzerland (SNV)	2015-05-13	X			X			X			X		
United Kingdom (BSI)	2015-05-08			X	X		X	X		X			
United States (ANSI)	2015-05-19		X		X			X			X		
<b>Totals (32)</b>		<b>22</b>	<b>4</b>	<b>6</b>	<b>29</b>	<b>5</b>	<b>4</b>	<b>29</b>	<b>1</b>	<b>9</b>	<b>16</b>	<b>6</b>	<b>6</b>

Comments from voters		
Member	Comment	Date
<b>Argentina (IRAM) Santella, Mabel Mrs</b>	<p><b>Comment to Q.1:</b> This is a very important issue for our municipalities and the waste management is being a very essential aspect within the sustainable development of cities.</p> <p><b>Comment to Q.3:</b> We have contacts with local government authorities because they participate in our Standardization activities and besides many of them certificate ISO 9001 and ISO 14001 with us.</p>	2015-05-22
<b>Australia (SA) Daniel, Sherene Ms</b>	<p><b>Comment to Q.1:</b> We consulted with a range of Australian Stakeholders and no interest was shown.</p> <p><b>Comment to Q.6:</b> AS 4123 Parts 1-5 Mobile waste containers</p>	2015-05-13
<b>Austria (ASI) Gruen, Karl Mr</b>	<p><b>Comment to Q.1:</b> Austria supports this new field of technical activity on international level taking into account the relevant stanardization activities, including finished standards, at european level (CEN/TC 183 and CEN/TC 337).</p>	2015-04-23
<b>Brazil (ABNT) Rangel, Rose Mrs</b>	<p><b>Comment to Q.1:</b> We believe that the development of this work will help with lots of process, mainly currently with crisis regarding water and infrastructure in developing countries.</p>	2015-05-22
<b>Bulgaria (BDS) Milanova, Kamelia Ms</b>	<p><b>Comment to Q.1:</b> The subject of the proposal is important for our national commercial interests.</p> <p><b>Comment to Q.6:</b> - Law on Waste Management; - Law on Environmental Protection; - Ordinance on the management of construction waste and use of recycled building materials; - Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on the waste and repealing certain Directives;</p>	2015-05-18

Comments from voters		
Member	Comment	Date
Bulgaria (BDS) Milanova, Kamelia Ms	<ul style="list-style-type: none"> <li>- Regulation (EU) No 1357/2014 of the Commission of 18 December 2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives;</li> <li>- Ordinance for Special Road's Use;</li> <li>- Ordinance No RD - 02-20-19 of 12.11.2012 on the maintenance and repair of roads;</li> <li>- Ordinance No 3 of 16 August 2010 on the temporary organization and traffic safety in carrying out construction work on roads and streets.</li> </ul>	2015-05-18
Canada (SCC) Ersoy, Suzanna Mrs	<p><b>Comment to Q.1:</b> It is a good initiative and a standard could entrench the proper use of the terms around waste, recycling and disposal or it could exacerbate the spin used by the waste industry. This would assist consumers in that they would have a clear idea of what is meant of waste and waste management.</p> <p><b>Comment to Q.2:</b> It will be important to weaken the language around zero waste, recycling, reuse, etc. There has already been a lot of moves by the incineration industry to call the burners "recycling of energy". If these standards are to be credible, they should be based in the Zero Waste International Alliance's hierarchy (<a href="http://zwia.org/standards/zero-waste-hierarchy/">http://zwia.org/standards/zero-waste-hierarchy/</a>). Zero waste is also not "zero waste to landfill" and this focus on avoiding landfilling as opposed to avoiding disposal (of which incineration is a part) should be avoided. However, should the standard be based on the hierarchy, there is the opportunity to move the needle forward towards a more sustainable waste system.</p>	2015-05-07
China (SAC) XING, Ran Ms	<p><b>Comment to Q.1:</b> Waste management is of world-wide interest, which is also an important task in China. The proposed TC covers certain fields where the international standards are currently missed. We believe the TC can close the gap and benefit the relevant stakeholders. Hence, we approve the proposal. Otherwise, we also think there should be more work to refine the scope and plan of this proposal.</p> <p><b>Comment to Q.2:</b> 1. According to the scope statement, the main focus of the proposed TC will be placed on equipments, whereas the title of the new TC is "Waste management, recycling and road operation service". We believe the current title may arouse misunderstanding and confusion, so the proposer should replace it with a more specific title. 2. In Europe, the activities of Waste management and Road operation are assigned to two independent TCs (CEN/TC183 and CEN/TC). The scope of the new TC covers both fields. The proposer should explain the relationship between the two fields, or revise the description on title, scope, definitions of "waste management" and "road operation".</p>	2015-05-22
Cuba (NC) Estrada Porras, Mileidy	<p><b>Comment to Q.1:</b> Because it is important for Cuba's proposal topic</p>	2015-04-24
Czech Republic (UNMZ) Kuklova, Lydie Mrs.	<p><b>Comment to Q.1:</b> The reason why we approve of this document is that standards of this kind establish the terms between consumers and manufacturers and also contain complete technical information on waste management.</p>	2015-03-30
Egypt (EOS) Rashed, Momen Eng.	<p><b>Comment to Q.1:</b> we are interested in the scope of the proposed new committee</p>	2015-05-21

Comments from voters		
Member	Comment	Date
Finland (SFS) Vahtila, Susanna Mrs	<p><b>Comment to Q.1:</b> Removal of technical barriers to trade.</p> <p><b>Comment to Q.2:</b> Our stakeholders had the comment that mobile waste and recycling containers does not have synergy with e.g. winter maintenance equipment - however they supported international standardization on both areas. It could be considered if the scope is too broad, and should it be divided into e.g. two separate committees.</p>	2015-05-20
France (AFNOR) COSTES, Alain M.	<p><b>Comment to Q.1:</b> The subject is not sufficiently explicit and mix different products, materials and equipment as well as very different businesses. Indeed, the existence of a link between waste management and road operation is far from obvious. Regarding waste management, it is not clear whether the proposal relates to waste collection equipment or also to recycling equipment. Regarding road operation, this field is covered by ISO/TC 195 "Building construction machinery and equipment", the scope of which encompasses, among others, "Road operation machinery: Winter service machines, Machines for road surface cleaning and Highway maintenance machines" (see ISO/TC 195 business plan, subcl. 2.1, para. 12.1).</p> <p><b>Comment to Q.3:</b> European standards already cover substantially all of the proposed topics related to machinery. Experience at European level showed, for example with vehicles (EN 1501 serie) that consensus is very difficult to reach. Regarding containers, it is very unlikely that standards could be agreed for containers and collection methods among the various countries that have wide differences on this subject. The preparation of a "safety of machinery" ISO standard for refuse collection vehicles will most probably meet the same difficulties with a low probability of success. The use of words: "To meet essential safety and health requirements" suggests that one of the objectives of this new international work would be to enable the manufacturers to meet the essential health and safety requirements of legislative texts, such as the European directive on machinery. Experience shows that the treatment of such topics at ISO level is very difficult in terms of global relevance.</p> <p><b>Comment to Q.6:</b> European directive 2006/42/EC on machinery. Serie of European Standards EN 13071 on stationary waste containers.</p>	2015-04-29
Germany (DIN) Committee Service Centre, DIN -	<p><b>Comment to Q.1:</b> Germany proposed this new ISO/TC and is willing to undertaken the secretariat. Mr Frank Diedrich (Head of EUnited/VDMA) frank.diedrich@vdma.org</p> <p><b>Comment to Q.6:</b> already listed in TS P 249 Form 1</p>	2015-04-02
Indonesia (BSN) Haryadi, Erningsih Mrs	<p><b>Comment to Q.1:</b> Waste management has become world-wide interest and Indonesia also face this problem in our national level</p>	2015-05-11
Iran, Islamic Republic of (ISIRI) Ghasemi, Elham Mrs.	<p><b>Comment to Q.1:</b> Proposal for a new field of technical activity which is related to storage and collection of waste are two major functional elements in the hierarchy of solid waste management. Share of waste collection and road cleaning services expenses is SWM systems is many developing countries such as I.R. of IRAN is significantly higher than of in developed</p>	2015-05-25

Comments from voters		
Member	Comment	Date
Iran, Islamic Republic of (ISIRI) Ghasemi, Elham Mrs.	countries. Mainly due to the lack of appropriate infrastructures, equipment and standards. In addition, safety issues are of great concern. Compatibility between storage and collection of waste play an important role to reduce collection expenses and enhance solid waste management effectiveness. Establishment and application of appropriate standards is a key factor in this area. It is highly recommended to join the proposed TC.	2015-05-25
Israel (SII) Maor, Revital Mrs.	<b>Comment to Q.1:</b> Israel is in favour of establishing the proposed new International committee. The importance of establishing a committee to prepare International standards in the field of Waste Management is obvious – The waste sorting process in waste disposal centres would definitely get improved. There is no doubt that standardization in the field of waste disposal can contribute a significant added value to the field, especially since several issues that are not included in relevant existing standards, are going to be discussed. We also would like to suggest that a liaison with ISO/TC 207 "Environmental management" should be considered, since (at least) some of the International standards that would be prepared in the new TC, would probably have to be conjugated to the ISO 14001 standard.	2015-05-19
Italy (UNI) Brusco, Flavia Ms	<b>Comment to Q.1:</b> Italy is not in favour of this proposal because national and european complex standards and legislation exist which are not easily compatible at ISO level.	2015-05-04
Japan (JISC) Yasunaga, Yuko Dr	<b>Comment to Q.1:</b> As a result of consultation with our national stakeholders such as relevant Ministries and industrial associations, JISC approves the proposal and wishes to contribute future activities of new technical committee to share our experiences in Japan.  <b>Comment to Q.2:</b> The "equipment for waste management, recycling, public cleaning and road operation" in the scope is very broad, however, other parts of the proposal are focusing on collection, transportation and storage issues. So it is necessary to clarify the Title and the Scope based on the real targets. In addition, it should be confirmed that the scope of the new committee does not cover the service activities relating to drinking water supply systems and wastewater systems which is handled by ISO/TC 224 Service activities relating to drinking water supply systems and wastewater systems - Quality criteria of the service and performance indicators. Also, the standardization of the waste discharged from ship is treated by ISO/TC 8/SC 2 Marine environment protection and ISO 21070:2013 and ISO 16304:2013 have been developed by them. Products which have already covered by the scope of other existing ISO committees i.e. ISO/TC 127 Earth-moving machinery should explicitly be excluded from the scope.  <b>Comment to Q.3:</b> Generally speaking, each country shall take the measures required to manage waste and recycling issues in response to each circumstance. We should not set specific standards and we should allow rich diversity in this area.  <b>Comment to Q.6:</b> You can find following URL, those show the relevant information and the basic law for waste management in Japan. <a href="http://www.env.go.jp/recycle/circul/venous_industry/en/brochure.pdf">http://www.env.go.jp/recycle/circul/venous_industry/en/brochure.pdf</a> <a href="http://www.env.go.jp/en/laws/recycle/01.pdf">http://www.env.go.jp/en/laws/recycle/01.pdf</a> With regards to ISO/TC 8/SC 2, they developed following standards related to the waste management for ship and port: ISO 21070:2011 Ships and marine technology -- Marine environment protection -- Management and handling of shipboard garbage ISO 16304:2013 Ships and marine technology -- Marine environment protection -- Arrangement and management of port waste reception facilities	2015-05-22

Comments from voters		
Member	Comment	Date
Malaysia (DSM) Mohd Tahir, Shahrul Mr	<p><b>Comment to Q.1:</b> Good to have standard related to this subject to gauge best management practices and harmonise.</p> <p><b>Comment to Q.6:</b> 1. MS 1564 series, Mobile waste containers 2. MS 2303, Waste and waste management - Terminology 3. MS ISO 15270, Plastics - Guidelines for the recovery and recycling of plastic waste 4. Regulations under National Solid Waste Management Department</p>	2015-05-20
Netherlands (NEN) Bijl, Pim Mr.	<p><b>Comment to Q.1:</b> The Netherlands see not enough benefit in ISO standards in this field and prefer European standardization. The proposed new ISO activities would require resources from experts which in our opinion is not justified.</p>	2015-05-19
New Zealand (SNZ) Harniss, Bev	<p><b>Comment to Q.1:</b> Standards New Zealand has advertised the proposal. Having received no feedback on the proposal we have abstained.</p>	2015-05-19
Russian Federation (GOST R) Poluektova, Olga Ms	<p><b>Comment to Q.1:</b> GOST R approves the establishment of the new ISO/TC Waste management, recycling and road operation service because it is one of the most important problem of modern times especially the important urban problem that need to be solved. The new TC could effectively contribute to its solving.</p>	2015-05-22
Saudi Arabia (SASO) almotairi, naif Mr	<p><b>Comment to Q.1:</b> it is very important in the field of municipality.</p>	2015-04-12
Singapore (SPRING SG) Lee, Mong Ni Ms	<p><b>Comment to Q.1:</b> There are currently no ISO standards on equipment for waste management, such as refuse collection vehicles, material recovery facility (MRF) and pneumatic refuse collection system (PRCS). A concerted effort to develop ISO standards would align users &amp; manufacturers expectations, in achieving common product performances and specifications, including health and safety requirements.</p> <p><b>Comment to Q.2:</b> The scope statement is unclear. The intent of the proposed ISO TC is not clear in the write-up as the 3 topics in the title of the TC actually refers to 3 separate processes and hence the equipment requirements –technical and logistical aspects as proposed would seem should be separated. Is the proposal to develop a Project Committee or Technical Committee? The proposal only mentioned about drafting an ISO standard on refuse collection vehicles and containers. Will the committee develop requirements of equipment used in the 3 stated processes i.e. Waste Management, Recycling and Road Operation Service?</p>	2015-05-25
Spain (AENOR) Encabo, Elena Ms	<p><b>Comment to Q.1:</b> We have circulated the proposal to our stakeholders and we have received a positive input for approving the proposal.</p>	2015-05-22
Sweden (SIS) Danoglou, Despina Mrs	<p><b>Comment to Q.1:</b> Justification statement: Market and stakeholder needs in Sweden will benefit from this new proposed ISO work based on European product standards from CEN/TC 183 and CEN/TC 333. The corresponding national mirror committees of SIS are of the opinion that the coordination of this standardisation work, on a global level, benefits from handling this area in one single ISO committee.</p>	2015-05-20
Switzerland (SNV) Guder, Barbara Mrs	<p><b>Comment to Q.1:</b> We support this project because Switzerland has service providers on the subject</p>	2015-05-13

Comments from voters		
Member	Comment	Date
<p><b>United Kingdom (BSI)</b> Berry, James Mr</p>	<p><b>Comment to Q.1:</b> There appears to be no particular interest in this subject based on feedback from consulted stakeholders.</p> <p><b>Comment to Q.3:</b> Some feedback has been recieved that this subject could be better dealt with at a national level. Local authorities (LAs) may see the development of a standard in this area as a way of 'regulating' what is currently a discretionary activity. Therefore should the work be approved it will be necessary involve LAs in the development of standards.</p>	<p>2015-05-08</p>
<p><b>United States (ANSI)</b> Team, ANSI ISO</p>	<p><b>Comment to Q.1:</b> ANSI does not support the approval of the proposal for a new field of ISO technical activity on Waste Management, Recycling and Road Operation Service, and submits the following comments:</p> <ul style="list-style-type: none"> <li>• The global relevance of the proposal is highly questionable as the proposal indicates a clear agenda to advance European norms and practices in this field to become ISO standards, on the assumption that European technology in this field is superior. The proposal states “Being considered state-of-the-art worldwide, European waste disposal technology is being used by private and municipal waste disposal companies.” This is certainly not true of the considerable US market as the USA has its own robust and credible standards in this field. Regarding “state-of-the-art”, in fact, automatic collection of waste is far more advanced and prevalent in the USA than in Europe.</li> <li>• As the intent of this proposal is to advance European standards to become ISO standards, this will not result in a leveling of the playing field globally and competitively for manufacturers. Instead, it will create significant competitive advantage for European manufacturers while non-European manufacturers make changes their products and processes, entering the global markets much later than European manufacturers and at great cost.</li> <li>• There are significant differences in vehicle regulations between countries and regions, specifically between the European community and North America. Truck axle weight limitations, truck and trailer size restrictions, and lighting requirements are three areas that impact the design of mobile compaction equipment. Other variations include electrical system voltage and right versus left side drive. A global standard will by necessity favor one set of vehicle regulations over another and will thereby violate WTO TBT principles of global relevance by forcing manufactures from countries not compliant with the favored regulations to redesign their products, and by increasing the price of equipment from manufacturers in those countries forced to redesign.</li> <li>• There are multiple methods and approaches used in North America for refuse collection. These include rear, front, or side-loading equipment as well as automated or manual collection. Each of these methods has been tailored to the transportation infrastructure that the mobile equipment will operate on. Road widths, housing set-backs, population density, alleyways, etc. all influence the optimum equipment design appropriate for a region. These factors vary greatly across the globe. A global standard will not likely be able to account for the specific variability in local infrastructure without creating a specification with many compromises. Regional rather than international standard can better accommodate such local factors.</li> <li>• The North American market requires refuse equipment to routinely drive into and onto waste dumps where the trucks are exposed to harsh physical and chemical conditions. The North American vehicle design approach has therefore been to avoid as much as possible those features that must rely on sensors and electronics that are susceptible to failure when exposed to landfill hazards. This approach is even more important in the less developed countries where vehicle maintenance may not be strictly enforced. A global standard that is patterned around the current European standards will not be globally relevant if it mandates features incompatible with harsher environments found outside of Europe.</li> </ul>	<p>2015-05-19</p>

Comments from voters		
Member	Comment	Date
United States (ANSI) Team, ANSI ISO	<ul style="list-style-type: none"> <li>The extent to which a manufacturer is held liable in the case of an accident has great variation globally. The European model holds a manufacturer blameless so long as their design has been certified as compliant to the standard. Other countries including the U.S. do not provide this type of protection. A US manufacturer must meet a standard to the best of their ability, and then be prepared to defend their design later. The more complexity involved in the standard, the more opportunities a manufacturer has of being unsuccessful in the defense of their design. European standards, including the current mobile waste collection vehicle standards, have many more complex features specified than the current North American standard. A global standard that favors the European approach will increase product liability risk to manufacturers outside the EU.</li> <li>There is a wide disparity globally with how much waste is generated per capita and the relative economic burden to collect that waste. While Germany and the US generate similar amounts of waste per capita, German equipment will be able to travel many fewer miles to make their collections. While Germany and the U.S. have similar abilities to afford waste collection services, less developed countries will not. A global standard that sets high expectations for safety features and technologies will place greater undue burden on less developed countries. A global standard that sets low expectations will likely decrease the safety in more developed countries where the current safety bar is higher.</li> <li>The “green” revolution is changing the way the world works on an ever-increasing rate. Recycling, organic waste, and automated collection are just a few examples of trends that are affecting the waste collection equipment of the future. Equipment configuration must continually adapt to changes in market demands, local regulations, waste commodity pricing, and commercial truck design changes. Regional standards committees can account for regional differences and new innovations in a much quicker fashion than can a much more cumbersome global standards process. We believe global standards in this field will reduce the pace of innovation.</li> <li>The proposal states that “It is very important to have a compatible interface between containers and refuse collection vehicles (RCVs). Dimension of the vehicles as well as material requirements have to be standardized.” Given the extremely large installed technology base of legacy waste recycling containers, trucks and equipment in the USA, this will require considerable industry investment with little real benefit to the purchasers/end users of this equipment. This will further add to the burden in terms of both effort and cost to make changes to products and collateral materials for this industry.</li> <li>The proposal includes issues such as road operation service, public cleaning, equipment for maintain sports and recreational areas, and liquid waste storage and transport into the subject of “Waste management”. This is not how such subjects are organized within the USA, and will lead to both confusion and difficulties to organize participation in this ISO committee, if formed.</li> <li>If this proposal is approved by ISO, please register ANSI ( isot@ansi.org) as an observing (O) member of the new committee until such time that ANSI can establish a national mirror committee and become a participating (P) member.</li> </ul>	2015-05-19

Member responses - Votes not cast (140)
Afghanistan (ANSA)
Albania (DPS)
Algeria (IANOR)
Angola (IANORQ)
Antigua and Barbuda (ABBS)
Armenia (SARM)
Azerbaijan (AZSTAND)

**Member responses - Votes not cast (140)**

Bahamas (BBSQ)

Bahrain (BSMD)

Bangladesh (BSTI)

Barbados (BNSI)

Belarus (BELST)

Belgium (NBN)

Belize (BZBS)

Benin (ABENOR)

Bhutan (BSB)

Bolivia, Plurinational State of (IBNORCA)

Bosnia and Herzegovina (BAS)

Botswana (BOBS)

Brunei Darussalam (ABCI)

Burkina Faso (ABNORM)

Burundi (BBN)

Cambodia (ISC)

Cameroon (ANOR)

Central African Republic (SNQCA)

Chile (INN)

Colombia (ICONTEC)

Comoros (CSNQ)

Congo (ACONOR)

Congo, The Democratic Republic of the (OCC)

Costa Rica (INTECO)

Côte d'Ivoire (CODINORM)

Croatia (HZN)

Cyprus (CYS)

Dominica (DBOS)

Dominican Republic (INDOCAL)

Ecuador (INEN)

El Salvador (OSN)

Eritrea (ESI)

Estonia (EVS)

Ethiopia (ESA)

Fiji (DNTMS)

Gabon (AGANOR)

Gambia (TGSB)

Georgia (GEOSTM)

Ghana (GSA)

Member responses - Votes not cast (140)
Greece (NQIS ELOT)
Grenada (GDBS)
Guatemala (COGUANOR)
Guinea (IGNM)
Guinea-Bissau (DSNPQ)
Guyana (GNBS)
Haiti (BHN)
Honduras (OHN)
Hong Kong (ITCHKSAR)
Hungary (MSZT)
Iceland (IST)
India (BIS)
Iraq (COSQC)
Ireland (NSAI)
Jamaica (BSJ)
Jordan (JSMO)
Kazakhstan (KAZMEMST)
Kenya (KEBS)
Korea, Democratic People's Republic of (CSK)
Korea, Republic of (KATS)
Kuwait (KOWSMD)
Kyrgyzstan (KYRGYZST)
Lao People's Democratic Republic (DISM)
Latvia (LVS)
Lebanon (LIBNOR)
Lesotho (LSQAS)
Liberia (LDS)
Libya (LNCSM)
Lithuania (LST)
Luxembourg (ILNAS)
Macao (CPTTM)
Madagascar (BNM)
Malawi (MBS)
Mali (AMANORM)
Malta (MCCAA)
Mauritania (DNPQ)
Mauritius (MSB)
Mexico (DGN)
Moldova, Republic of (INS)

**Member responses - Votes not cast (140)**

Mongolia (MASM)

Montenegro (ISME)

Morocco (IMANOR)

Mozambique (INNOQ)

Myanmar (MSTRD)

Namibia (NSI)

Nepal (NBSM)

Nicaragua (DNM)

Niger (DNQM)

Nigeria (SON)

Norway (SN)

Oman (DGSM)

Pakistan (PSQCA)

Palestine, State of (PSI)

Panama (COPANIT)

Papua New Guinea (NISIT)

Paraguay (INTN)

Peru (INDECOPI)

Philippines (BPS)

Qatar (QS)

Romania (ASRO)

Rwanda (RSB)

Saint Lucia (SLBS)

Saint Vincent and the Grenadines (SVGBS)

Senegal (ASN)

Serbia (ISS)

Seychelles (SBS)

Sierra Leone (SLSB)

Slovakia (SOSMT)

Slovenia (SIST)

South Africa (SABS)

Sri Lanka (SLSI)

Sudan (SSMO)

Suriname (SSB)

Swaziland (SWASA)

Syrian Arab Republic (SASMO)

Tajikistan (TJKSTN)

Tanzania, United Republic of (TBS)

Thailand (TISI)

**Member responses - Votes not cast (140)**

The Former Yugoslav Republic of Macedonia (ISRM)

Togo (CSN)

Trinidad and Tobago (TTBS)

Tunisia (INNORPI)

Turkey (TSE)

Turkmenistan (MSST)

Uganda (UNBS)

Ukraine (DTR)

United Arab Emirates (ESMA)

Uruguay (UNIT)

Uzbekistan (UZSTANDARD)

Venezuela, Bolivarian Republic of (FONDONORMA)

Viet Nam (STAMEQ)

Yemen (YSMO)

Zambia (ZABS)

Zimbabwe (SAZ)



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November 14, 2013

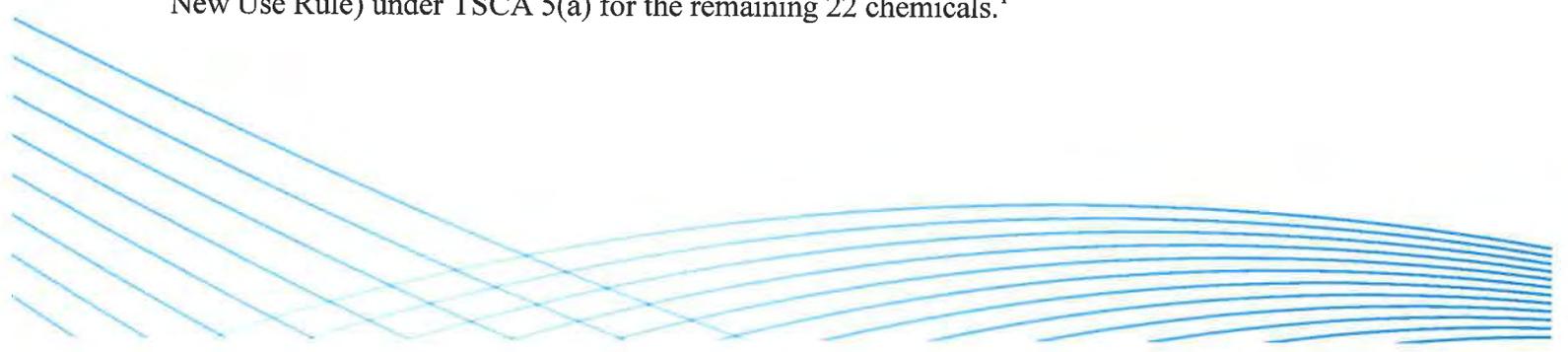
Jeff Grove  
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TO: ETTAC Subcommittee Chair, Standards, Regulations, and Certification Subcommittee

SUBJECT: Transatlantic Trade and Investment Partnership (TTIP) Input- Proposed Rulemaking: 40 CFR 721 and 799, TSCA Section 4(a)(1)(B) Certain High Production Volume Chemicals; Test Rule [TSCA Section 4(a)(1)(B)] and Significant New Use Rule; Fourth Group of Chemicals- *76 FR 65580*

On October 21, 2011 US EPA issued a Notice of Proposed Rulemaking (NPRM) for the final group (IV) of “orphaned” original HPV (High Production Volume) Challenge program chemicals. The final rule for this notice comes into effect in November 2013. This proposed rule requires substance testing for the chemicals listed within the regulation. Many of these substances have existing substance test data that corporations are not able to access due to sharing constraints between the European Chemicals Agency (ECHA), REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) consortia and member companies. This lack of data accessibility forces corporations to duplicate substance test data; thereby requiring significant cost expenditures and repetitive efforts in order to sell product in both the European and US markets.

The NPRM, listed within 76 Federal Register 65580- 65608, duly consists of a TSCA (Toxic Substance Control Act) 4(a)(1)(B) test rule for 23 chemicals and a SNUR (Significant New Use Rule) under TSCA 5(a) for the remaining 22 chemicals.<sup>1</sup>



**US EPA Criteria and Decision to issue Test Rule- TSCA 4(a)(1)(B)**

Per the TSCA Section 4, in order for EPA to issue a test rule, they must confirm per the US EPA TSCA Chemical Testing Policy guidance<sup>2</sup> that:

- 1) existing data show that the subject chemical ‘may present an unreasonable risk of injury to health or the environment’ and that the probability of exposure to the subject chemical substance is more than just theoretical;”

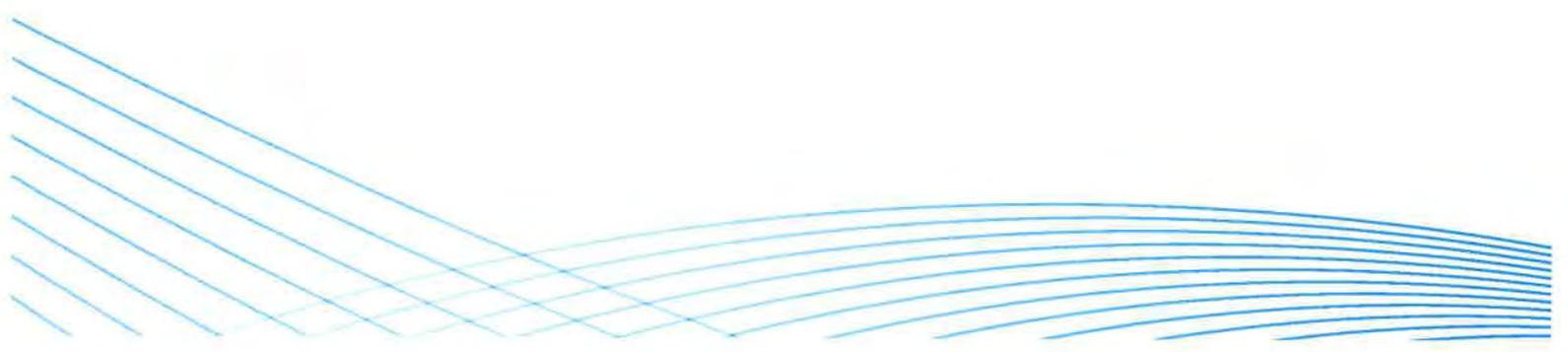
-OR-

- 2) that the chemical is produced or imported in substantial quantities, and either enters the environment in substantial quantities or there is substantial or significant human exposure. EPA must show that existing data are inadequate for risk assessment and that testing is needed to develop the data necessary to conduct the needed risk assessment.

**Data Inadequacy**

Within the Federal Register Notice Part IV(A)(2), EPA cites the “OECD (Organisation for Economic Co-operation and Development ) Manual for the Investigation of HPV Chemicals” for the data sources utilized for chemical & physical properties, environmental fate, ecotoxicity, and human health effects information on the listed substances, however this document (based on the December 2011 version) includes use of the REACH registration data which is disseminated on the ECHA website, which it appears that EPA did not reference. In review of the substances included in both the test rule and the SNUR, many have data included on the ECHA site. In addition, more than 95% of the chemicals listed are pre-registered with a proposed date of 11/2010 and (although delayed) are likely in the process of registration. To request data per the test rule would be duplication of the work under REACH and an unnecessary additional use of test animals and industry resources.

Further, although REACH data is available, accessibility of REACH data even for those companies who have participated in a REACH consortium is limited. As part of the formation of consortiums for the European REACH program, each individual company enters into a legal agreement dependent on the needed level of participation for that company. In the event that a company does “own” the data, agreements may include language which limits the use outside of REACH registration. In cases where the data is not “owned” by the chemical manufacturer, the primary registrant for that REACH consortium may be contacted for access to the data; however the consortium may opt not to share the data or may do so at excessive costs to the requestor. Posting of full study reports per the EPA test rule also complicates matters as this puts REACH registrants at a competitive disadvantage as subsequent registrants could access this public information without the need for data compensation.



### Impact of Additional and Duplicative Testing

As stated previously, greater than 95% of the chemicals listed under the test rule and SNUR either have data available per ECHA or have been pre-registered and as such are likely in process of data generation. For companies implicated within Tier 1 for the test rule, the chemical information must either be generated or where REACH data is available accessed via the REACH consortium. This activity will incur significant financial and resource burden to chemical companies already stressed with economic implications of regional inventory submissions and REACH activities. Estimated costs to conduct all of the testing indicated are estimated at ~\$280,000 per substance. Company resources to prepare submissions, participate in consortia, monitor studies, and costs for consortium management and outside consultants is estimated at ~\$120,000 per substance. For chemical companies vested in multiple chemistries, the economic impact of a test rule may quickly add into the millions of dollars. Likewise, access to study reports from within REACH consortiums may also result in costs in the hundreds of thousands for limited access and usability.

Furthermore, US companies are placed at a competitive disadvantage for manufacture of products as increased cost of substance testing increases cost of product to compensate for the additional expenditures. The significant cost expenditures would also discourage corporations from innovating and manufacturing new products, while also deterring them from importing and exporting product between the US and Europe. Imports from Europe are deemed as “manufactured” items within the US, triggering the substance testing protocols previously mentioned. Corporations not able to withstand the requirements set forth under the US legislation, would be prohibited from importing product from the European region, thereby invoking trade barriers and a disadvantage to the overall marketplace.

### **SNUR - TSCA 5(a)**

Included in the NPRM is the use of a SNUR for substances which meet the HPV threshold levels, but which do not meet current exposure criteria of greater than 1,000 workers per “single corporate entity”. The intention here is to notify EPA for new uses or increase of exposure to these chemistries and “include data that would permit a reasoned evaluation of risks posed by the chemical substance during its manufacture, import, processing, use, distribution in commerce, or disposal”.

To incur the burden of a SNUR on a chemical manufacturer where the true risk of exposure has not been identified is excessive and potentially unnecessarily creating additional reporting and recordkeeping requirements of potentially non-hazardous chemicals. Further, many of the listed substances under the SNUR category have data available per the ECHA website based on registration under REACH. In cases where EPA deems that the chemical hazard and current use and exposure information is suggestive of a risk to human or the environment, any information EPA posts publicly with reference to the uses of concern should provide the chemical toxicity information in robust study summary format so as not to

compromise competitive advantage and the potential for data compensation for responsible companies who have either supported chemistry under the REACH registration program or other regulatory efforts.

Thus, we request that the US and European legislature work cooperatively when evaluating whether or not substances are necessary to regulate prior to invoking mandated duplicate chemical testing, via a shared and harmonized program. To restate, prior to initiating proposed substance test rules or SNURs, that US EPA be allowed to reference REACH data. As an alternative option, where substance full study data may not be shared or referenced, that the REACH OECD submission documents (in robust summary format) are applicable in lieu of duplicative substance testing mandated by the EPA.

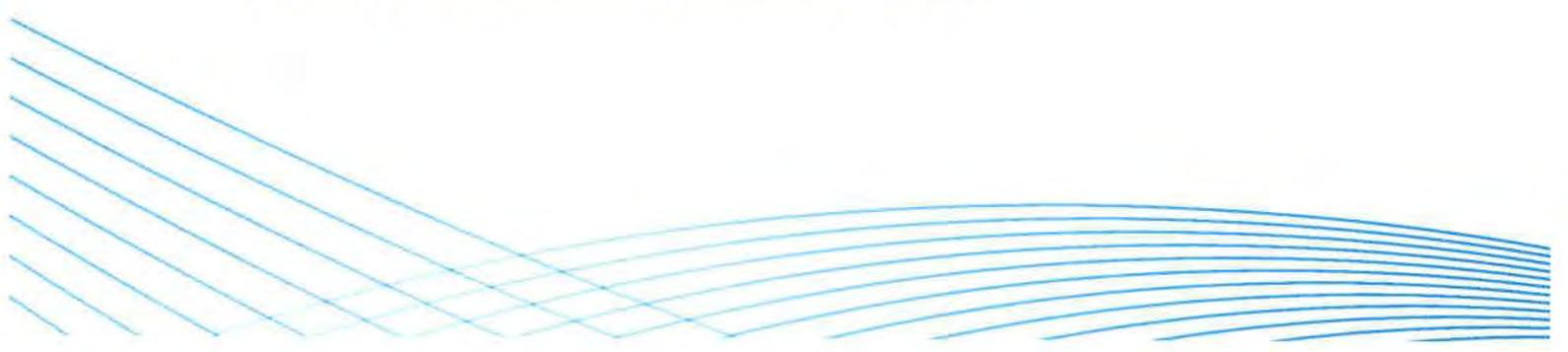
As a member of ETTAC, I hope you will consider advancing this case study and example for consideration through the ongoing negotiations. If you have any questions, please do not hesitate to contact me or my staff, Ramola Musante (202.534.4952; [rmusante@nalco.com](mailto:rmusante@nalco.com)), DVP, Government Relations.

Regards,

  
Mary Kay Kaufmann

#### References

- 1) 76 Fed. Reg 65580 – 65608, October 21, 2011; “Certain High Production Volume Chemicals; Test Rule and Significant New Use Rule; Fourth Group of Chemicals
- 2) US EPA. TSCA Chemical Testing Policy, “Chemical Testing & Data Collection”. April 27, 2011. <http://www.epa.gov/oppt/chemtest/pubs/sct4main.html#Exposure>



### **Certification Example for Water and Waste Water Products Used for Medical Device Manufacturing**

ISO 13485 is a standard that provides a framework to enable a manufacturer to meet requirements for an EC Declaration of Conformity (CE Mark). The ISO standard is recognized by the European Medical Device Directive (MDD), so certification automatically presumes compliance with essential technical requirements and triggers the CE Mark. Essentially, U.S. manufacturers and suppliers of water and waste water products that service the medical device sectors in Europe need ISO 13485 certification. In the U.S., the Food and Drug Administration (FDA) has requirements that are similar to ISO 13485. However, obtaining ISO 13485 certification does not mean that a company also meets the FDA requirements for medical device manufacturing.

**Recommendation: US FDA should recognize and accept products that are certified to ISO 13485.**

March 29, 2016

The Honorable Penny Pritzker  
Secretary, U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Secretary Pritzker:

The Environmental Technologies Trade Advisory Committee (ETTAC) finds that the recently concluded Trans-Pacific Partnership (TPP) is an opportunity to advance the competitiveness of the U.S. environmental technology and services sector. By including commitments from 11 important countries and trade partners in the Asia-Pacific and Latin American region to work towards eliminating unnecessary technical barriers to trade, enhancing transparency in regulations and standards, will promote greater regulatory cooperation and good regulatory practices.

The Technical Barriers to Trade Chapter of TPP is an important step forward and references the commitments established by the World Trade Organization's (WTO) Technical Barriers to Trade (TBT) Committee "Decision on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the TBT Agreement." As such, TPP helps to level the playing field for U.S. industry by promoting greater use of relevant international standards as the basis for technical regulations and conformity assessment procedures. It encourages partners to eliminate individual government policies while making greater use of science-based measures in support of regulations.

Including these important TBT requirements in TPP encourages industries and regulators to pursue greater regulatory convergence in the region and promotes the flexibility to choose high quality and market relevant international standards. For our environmental sector, this could result in the region making greater use of the same science-based and technology-neutral standards and test procedures referenced by the U.S. EPA and other regulatory bodies from a broad portfolio of providers. This would include those developed by U.S. domiciled standards bodies that meet the WTO TBT principles. This is important because it helps to reduce market access costs, product reformulation or redesign, redundant testing, and other unnecessary costs that arise from unfamiliar technical regulations and standards that deviate from those used in the North American market place.

**ETTAC commends the establishment of a Committee on Technical Barriers to Trade under Article 8.11 of TPP. It encourages cooperation amongst the partners in the development and review of technical regulations, establishment of future priorities for regulations and standards, sharing of technical performance data for product evaluations, and in identifying of technical capacity needs of the region.** Finally, ETTAC is pleased that TPP includes important commitments towards enabling conformity assessment bodies in one country to provide testing and certification to another country's requirements. The environmental sector needs greater efficiencies throughout the TPP region to reduce the redundant costs of product certifications, testing procedures and achieving market approval for our products and services.

In closing, **these important provisions in TPP are significant and should be included in all future free trade agreements.** Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron Swinko". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

Ron Swinko  
Chair, ETTAC

March 29, 2016

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

Dear Secretary Pritzker:

With the passage of the Clean Air Act (1970) and the Clean Water Act (1972) and the formation of the US Environmental Protection Agency (1970), the US emerged as a leader in protecting the environment. These actions prioritized our environment and drove the development of new technologies and services. They also created new industries that not only helped improve our environment, but also seeded a global industry which today generates annual revenues estimated in excess of US\$1 trillion. The US remains the largest market for environmental goods and services, but two-thirds of this market is outside the US.

Currently, the totality of the global environmental services market cannot be accurately represented and quantified due to a lack of a clear definition of these services that reflects the market place. See Attachment 1-1 entitled "Environmental Services Definition Matrix" which demonstrates the variable and overly narrow definitions. The Bureau of Economic Analysis (BEA) defines Environmental Services as "other business services" under "Architectural and Engineering Services". As environmental services represent a large, diverse and growing part of our nation's and the global economy, the members of the **Environmental Technologies Trade Advisory Committee (ETTAC)** recommend that a **clear, internal Department of Commerce working definition of environmental services be established to allow more effective promotion and better economic tracking and analysis of this key market sector.**

**Proposed Definition:** Environmental Services encompass a broad spectrum of engineering, environmental science, and advisory services ranging from small studies to management of large and complex environmental programs across multiple industries and infrastructure projects. This spectrum of environmental services includes: concept development/proof of concept, resource surveys, and environmental and social impact assessments; preliminary/detailed engineering design, sustainable design, climate change adaption/resiliency, and permitting; construction/construction management and environmental compliance monitoring; facilities commissioning, startup, operation and management and environmental compliance monitoring, auditing, and closure/decommissioning; facilities and equipment maintenance and repair and testing and analysis for all environmental media (e.g., water, air, soil), emissions, and waste.

The definition takes into account the life cycle of infrastructure projects that include significant environmental components throughout (see Attachment 1-2 graphic entitled, "Environmental Life Cycle of Infrastructure Projects".) This proposed definition is intended to apply to accounting by U.S. Department of Commerce agencies of environmental services companies' trade and investment data, sector-specific trade policy issues and unique export promotion needs.

As a global leader in environmental services, the US stands as an important role model to countries currently struggling to address their national environment issues. Addressing global level problems requires partnerships between government, business, finance and society at large as is evidenced by the dialogue at the recent COP21 forums. ETTAC represents many companies engaged in these forums.

Due to the importance of this key business, the ETTAC convened an environmental services subcommittee during this Charter to elevate the understanding, address key needs and to recognize, represent, report and analyze the environmental services provided by U.S. firms.

On behalf of the members of ETTAC, we thank you for your consideration of this recommendation. We also wish to highlight the excellent support and guidance we receive from Senior Environmental Technology Trade Specialist and ETTAC Designated Federal Officer (DFO), Maureen Hinman.

Sincerely,



Ron Swinko

Chair, ETTAC

Encl: Attachment 1-1: Environmental Services Definition Matrix  
Attachment 1-2: Environmental Life Cycle of Infrastructure Projects

## Services Definition Matrix

Organization	Explanation	Definition	Omissions and Limitations in Describing Environmental Services
<p>Bureau of Economic Analysis</p> <p><a href="http://www.bea.gov/international/pdf/concepts-methods/10%20Chapter%20ITA-Methods.pdf">http://www.bea.gov/international/pdf/concepts-methods/10%20Chapter%20ITA-Methods.pdf</a></p>	<p>Trade in services includes nine categories: maintenance and repair services n. i.e.; transport; travel (for all purposes including education); insurance services; financial services; charges for the use of intellectual property n.i.e.; telecommunications, computer, and information services; other business services; and government goods and services n.i.e.</p> <p>Services on the balance of payments are classified into nine broad categories that correspond to standard components in the BPM6 classification scheme.</p> <p>Monthly, quarterly, and annual statistics are provided for these nine categories. Exports and imports of services are further classified into subcategories in ITA table 3.1.</p>	<p>Other business services: This category, which is a combination of several BPM6 standard components, consists of research and development services, professional and management consulting services, and technical, trade-related, and other business services. Research and development services consist of services associated with basic and applied research and experimental development of new products and processes. Professional and management consulting services include legal services, accounting, management consulting, managerial services, public relations services, advertising, and market research. Included are amounts received by a parent company from its affiliates for general overhead expenses related to these services. <u>Technical, trade-related, and other business services include architectural and engineering services, waste treatment, operational leasing services, trade-related, and other business services.</u></p>	<p>The definition is too broad to be relevant. Many environmental services cannot be measured with this definition. Lacks inclusion of any services related to air and soil, operations and maintenance services and omits any clear reference to scientific assessment.</p>

Organization	Explanation	Definition	Omissions and Limitations in Describing Environmental Services
<p><b>TRADE IN ENVIRONMENTAL GOODS AND SERVICES: OPPORTUNITIES AND CHALLENGES</b>  <b>ID=43117 2014 F-11.03 TRA</b>  <b>International Trade Centre (ITC) Trade in Environmental Goods and Services: Opportunities and Challenges Geneva: ITC, 2014. v, 35p. (Technical Paper) Doc. No. DMD-14-255.E</b>  <a href="http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/AssetPDF/EGS%20Ecosystems%20Brief%20040914%20-%20low%20res.pdf">http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/AssetPDF/EGS%20Ecosystems%20Brief%20040914%20-%20low%20res.pdf</a></p>	<p>Despite the growth of environmental goods and services markets and increasing acceptance of the need to switch to a green economy, comprehension of potential opportunities and challenges of trade in environmental goods and services remains inadequate. This is in part due to the size and complexity of the sector, encompassing goods and services related to clean-technology, energy and energy-efficiency, pollution control, water and wastewater amongst others. It is also hampered by the lack of an internationally-agreed definition and classification of the sector, which makes data capture and comparability a challenge.</p>	<p>The environmental goods and services industry consists of activities which produce goods and services to measure, prevent, limit, minimize or correct environmental damage to water, air and soil, as well as problems related to waste, noise and eco-systems. This includes cleaner technologies, products and services that reduce environmental risk and minimize pollution and resource use.</p>	<p>The definition is quite broad and fails to include related services that are involved such as engineering, design, and scientific consulting. Good definition but needs to be categorized for monitoring and measuring.</p>
<p><b>WTO Definition</b>  <a href="https://www.wto.org/english/tratop e/serv e/environment e/environment e.htm">https://www.wto.org/english/tratop e/serv e/environment e/environment e.htm</a></p>		<p>Environmental services includes sewage services, refuse disposal, sanitation and similar services, reducing vehicle emissions, noise abatement services, nature and landscape protection services and “other” environmental services.</p>	<p>The use of “other” environmental services lacks specificity and will make consistent measurement of environmental services difficult.</p>

Organization	Explanation	Definition	Omissions and Limitations in Describing Environmental Services
<p><b>Environmental Business International</b>  <b>Wikipedia: The Environmental Industry</b></p> <p><a href="https://en.wikipedia.org/wiki/Wikipedia:The_Environmental_Industry">https://en.wikipedia.org/wiki/Wikipedia:The_Environmental_Industry</a></p>		<p>The term environmental industry was defined in 1988 by EBI as all revenue generation associated with environmental protection, assessment, compliance with environmental regulations, pollution control, and waste management, remediation of contaminated property and the provision and delivery of environmental resources. The environmental industry is comprised of 14 segments of business activity divided into three broad categories: services, equipment and resources..</p> <p><b>Environmental Services</b></p> <ol style="list-style-type: none"> <li>1. Environmental Testing and Analytical Services</li> <li>2. Wastewater Treatment Works</li> <li>3. Solid Waste Management</li> <li>4. Hazardous Waste Management</li> <li>5. Remediation and Industrial Services</li> <li>6. Environmental Consulting &amp; Engineering</li> </ol> <p><b>Environmental Equipment</b></p> <ol style="list-style-type: none"> <li>7. Water &amp; Wastewater Treatment Equipment and Chemicals</li> <li>8. Environmental Instrumentation &amp; Information Systems</li> <li>9. Air Pollution Control Equipment</li> <li>10. Waste Management Equipment</li> <li>11. Process &amp; Prevention Technology</li> <li>12. Water Utilities (water supply)</li> <li>13. Resource Recovery</li> <li>14. Clean Energy Systems &amp; Power</li> </ol>	<p>According to Environmental Business International (EBI), consulting and engineering services accounted for 12.5 percent the value of services in the environmental sector (not including water utilities) in 2010. The value of other related services, such as design, architectural, and testing services with an environmental end use, is not included within the EBI definition and is not known.</p>

<b>Organization</b>	<b>Explanation</b>	<b>Definition</b>	<b>Omissions and Limitations in Describing Environmental Services</b>
<p>Investigation No. 332-533  USITC Publication 4389 March 2013  United States International Trade Commission  Investigation No. 332-533  USITC Publication 4389 March 2013 Environmental and Related Services</p> <p><a href="https://www.usitc.gov/publications/332/pub4389.pdf">https://www.usitc.gov/publications/332/pub4389.pdf</a></p>	<p>The report states that there is no widely accepted definition of environmental services.</p>	<p>The request letter from USTR to USITC to provide a fact finding investigation regarding trade and market trends in the environmental sector specifically mentions three segments of the environmental services industry that the report should examine and thus has for the purpose of this report defined those segments as 1) water and wastewater services, 2) solid and hazardous waste, and 3) remediation services. All three segments encompass a varied and complex set of services and service providers to carry out their tasks.</p>	<p>These three segments do not address the related services that are required to provide an environmental services such as architecture and engineering services for example. It is difficult to monitor impacts on something you don't define</p>

# ATTACHMENT 1.2:

## Environmental Life Cycle of Infrastructure Projects

Project Phase	PRE-PLANNING & PERMITTING	DESIGN	CONSTRUCTION	OPERATIONS	CLOSURE
Environmental Tasks	Air Quality Monitoring	Concept Development/ Proof of Concept	Construction Management	Startup/Commissioning/ Training/Operations	Decommissioning/ Demolition
	Climate Change Analysis/Resiliency Design	Preliminary/Schematic Design	Compliance Monitoring	Air Quality Permitting/Monitoring	Resource Recovery/ Re-use
	Cultural Resources	Detailed Design	Laboratory Testing	Energy Conservation Audits/Retrofits	Laboratory Testing
	Environmental Permits	Construction Document Preparation	Mitigation Implementation	Environmental Compliance Audits	Monitoring
	Environmental Surveys		Site Cleanup/ Remediation	Environmental Compliance	Restoration Plans
	Environmental & Social Impact Analysis		Stormwater Management	Facility Response Plans	Site Cleanup/ Remediation
	Public Outreach			Laboratory Testing	
	Laboratory Testing			Mitigation Monitoring	
	Mitigation Planning			Spill Plans	
	Noise Elevations			Stormwater Permitting/Monitoring	
	Siting/Routing Studies			Water Quality Management	

May 3, 2016

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

Dear Secretary Pritzker:

United States (U.S.)-based companies providing environmental services are required and seek to comply with the **Foreign Corrupt Practices Act of 1977** ([15 U.S.C. § 78dd-1](#), *et seq.*, FCPA). U.S. companies working internationally through either contractual and sometimes statutory requirement, form a contractual relationship with a local individual or company (i.e., "Local Representative") that is not subject to the provisions of FCPA, thereby opening the U.S. companies to additional potential liability under the FCPA. The contractual or statutory requirement is common in foreign government procurements and development assistance-funded procurements.

With the importance of U.S. companies' compliance with the FCPA, the **Environmental Technologies Trade Advisory Committee (ETTAC) members recommend that the Department:**

- **Continue to advocate through bilateral relationships and encourage our partners to embrace anti-corruption laws and practices.**
- **Provide U.S. companies with resources to compete and comply.**

For companies providing environmental services, one such resource is the International Federation of Consulting Engineers (FIDIC) Model Representative Agreement document, referred to as the FIDIC "Purple Book", <http://fidic.org/books/model-representative-agreement-1st-edition-2013>. This document includes valuable guidance to help US companies mitigate their risk associated with forming a contractual relationship with a local individual or company that is not subject to the provisions of the FCPA. This is one of many resources to consider.

On behalf of the members of ETTAC, we thank you for your consideration of these recommendations.

Sincerely,



Ron Swinko

Chair, ETTAC

May 3, 2016

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

Dear Secretary Pritzker:

With the growing need for infrastructure development and renewal worldwide, there is increased consideration and use of Public Private Partnerships (PPP or P3) for delivery of new or expanded infrastructure. The concept is fairly easy to understand, however the details of the project delivery are among some of the most complex. Further, all PPPs have an environmental component and United States (U.S.)-based environmental companies may not be motivated to invest and/or participate in PPPs without:

- Procurement clarity,
- Integrity and transparency from the government procuring the project, and
- Security of the financial investment and its repayment.

**The Environmental Technologies Trade Advisory Committee (ETTAC) has prepared Attachment 3-1 *Best Practices Guide for Public Private Partnerships (PPPs) involving US Based Companies* (March 2016) and we recommend that the Guide be provided to all U.S. Trade Negotiators, Trade Specialists, and Commercial Officers. ETTAC further recommends that U.S. trade personnel demonstrate a full understanding of the PPP process so that they can represent U.S. firms most effectively.**

On behalf of the members of ETTAC, we thank you for your consideration of these recommendations.

Sincerely,



Ron Swinko

Chair, ETTAC

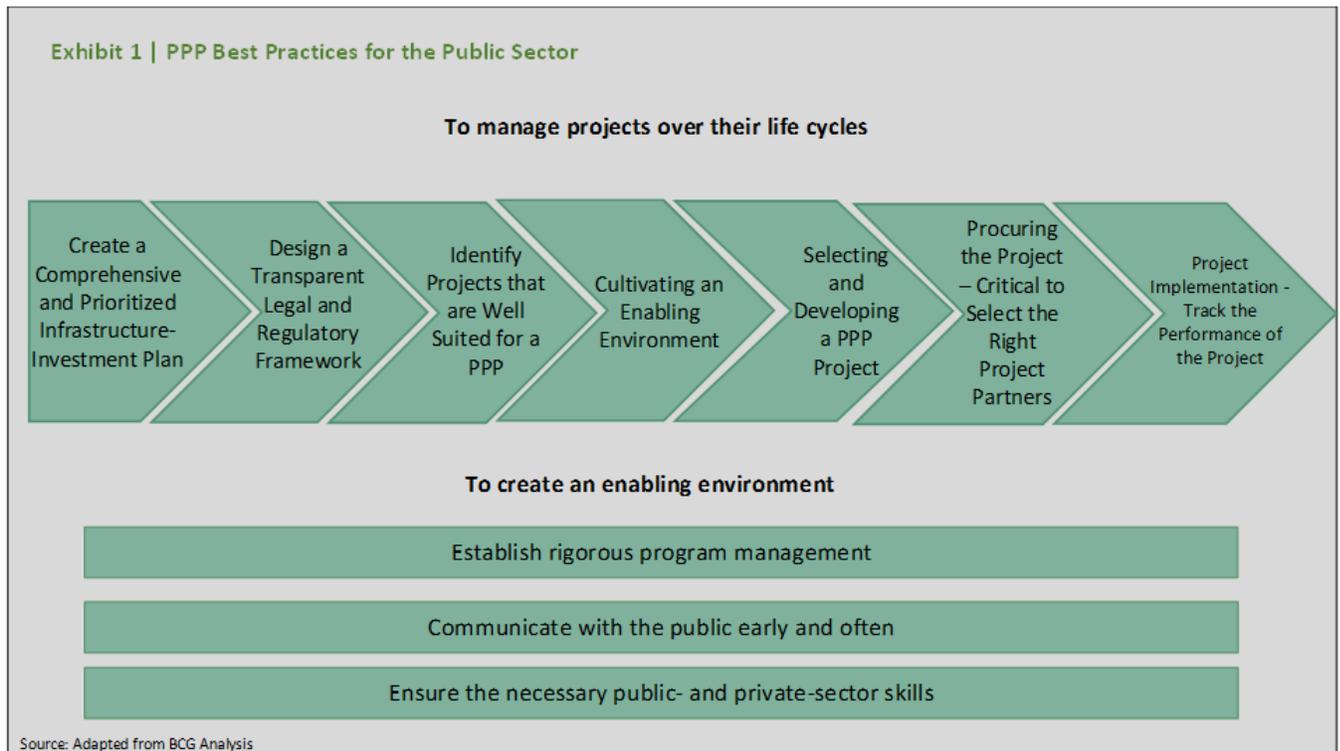
Encl: Attachment 3-1 *Best Practices Guide for US Trade Negotiators for Public Private Partnerships (PPPs) involving US Based Companies* (March 2016)

# Best Practice Guide for Public Private Partnerships (PPPs) involving U.S. Based Companies

March 2016

This draft document has been prepared for the Environmental Technologies Trade Advisory Committee and United States Department of Commerce to stimulate discussion and ultimately a position paper that can be used as a guide for U.S. Trade experts in negotiating PPP's involving American –based organizations. The ultimate goal is to have a policy position used in trade negotiations that creates a level field of competition and investment for all participants.

This Best Practice Guide is intended to provide proven best practices along the entire life cycle of an infrastructure investment project, from project prioritization to rigorous contract monitoring. Exhibit 1 (Boston Consulting Group, 2/13) illustrates the key life cycle steps of a successful PPP and is followed by a more detailed discussion of each. U.S. trade negotiators should seek to insure these key practices are present in PPP developments involving US participation.



## 1.0 Create a Comprehensive and Prioritized Infrastructure-Investment Plan

The last decade has seen an increasing interest in investing in infrastructure by the world's financial markets. This has led to a proliferation of large well-funded entities looking to invest in all types of infrastructure facilities. This interest comes at a time when the demand for new and/or expanded infrastructure facilities has far exceeded the resources available to governments. The timing of these two occurrences results in a two part competition: a competition among governmental owners to develop infrastructure projects that will attract investment from private infrastructure funds, and a competition among private infrastructure funds to 'win' these projects. The first order of business in infrastructure investment is to make sure that the right projects are being green-lighted; this is especially important in today's budget-constrained environment. In addition, many less developed countries see PPP's as the financial remedy for infrastructure development when ultimately the end-user lacks the economic or financial resolve to pay for the planning, development and funding of a project. The recent expansion of private equity funds looking to invest in infrastructure has resulted in a number of entities willing to compete for the right to develop PPP projects. Demand for these investment transactions has far outweighed the public sectors ability to structure infrastructure projects which are attractive investment opportunities. Properly structured, infrastructure deals generated significant competition. Poorly structured transactions result in little interest from the private sector.

Therefore, instead of starting with a series of one-off projects, governments need to develop a well-thought-out infrastructure master plan that will produce a transparent pipeline of projects. The plan should be based on, and be part of, a long-term agenda for economic development. In this sense the plan will reflect the strategic infrastructure investments that need to be funded to make the economic vision achievable. The most effective master plans will have clear targets for improvement of everything from roads to renewable-energy generation and will have been crafted with input from all crucial constituencies and stakeholders, including citizens and business leaders. A major component of an Infrastructure Investment Plan is the interconnectedness of the projects composing the plan. Long term and effective plans will be greater than the sum of the parts (projects) composing the plan.

Several countries have employed this systematic approach to varying levels of success. The Indonesian government, for example, has developed a pipeline of infrastructure projects based on its Masterplan for Acceleration and Expansion of Indonesia Economic Development 2011-2025. The blueprint outlines how Indonesia will transform into an advanced economy over a period of 15 years, and it calls for developing six "economic corridors" – regions that focus on specific industries. Investment projects, then, are developed based on the type of infrastructure, such as roads or ports that would be needed to support those industries. In

concept, this ambitious master plan (if executed) will significantly improve economic development in Indonesia through the engagement of PPP's.

Locking down new infrastructure projects to address a country's needs and goals is obviously important. But just as important is determining whether upgrades to existing infrastructure could deliver the similar benefit.

This is a common theme in the world today where the cost of new construction, especially in less developed countries, is prohibitive and thus upgrade to existing assets to extend the asset life cycle is the only option. Sometimes relatively simple improvements to an existing infrastructure asset can significantly increase capacity in less time and for less money than would be required for complex new projects. This is very evident in the water industry where the ability to raise water rates to the ratepayer has been problematic yet the need for clean and accessible water is evident. In the United States, the government has been able to avoid making improvements to aging electricity transmission and distribution grid by establishing the largest global market for demand response. Under this approach, energy-intensive businesses, such as commercial refrigeration facilities, accept a payment in return for temporarily shifting some of their electricity use during peak demand times. The resulting elasticity of demand in the power sector limits the needs for investments to handle absolute peak levels.

## 2.0 Design a Transparent Legal and Regulatory Framework

Governments interested in advancing PPP projects need to develop the legal and regulatory structure that will govern the PPP projects. This includes both the adoption of a statutory framework and the adoption a clear set of guidelines that govern the selection, procurement, and implementation of PPP projects. A solid legal and regulatory structure will establish the parameters for a government's PPP process and provide private partners with confidence that the process will be fair and transparent.

The details concerning a physical asset – a water utility asset, for example – constitute only half the equation of PPP. The other critical elements are the ground rules created by the government's legal and regulatory structure. ***Flawed regulatory models, which often fail to create an effective balance of risk between private and public partners, can deter investors, cause major problems once a project has become operational, and damage a government's prospects for creating future PPPs.*** This is a very important aspect of a successful PPP that US Trade Negotiators should understand and identify.

To ensure that a regulatory scheme is sound, designers should seek input from key groups that have a stake in the project. Developers of the regulations for an Asian airport, for example, made sure to involve a group of diverse stakeholders in workshops and interviews. The stakeholders included users of the new asset, government ministries with oversight of the sector, and organizations – both public and private – engaged in similar projects. Since initial sessions focused on the key objectives and basic principles of the regulatory arrangement,

planners avoided getting bogged down in a minutiae, such as how pricing or service levels would be set. The agreed-upon principles of the broad regulatory structure then served as guidelines for later development of the regulatory details.

External regulation benchmarking can help get a PPP off to a good start. Creating effective regulations involves choosing among many different options, such as how and when companies will be reimbursed for future expansion and upgrade investments. Understanding the available options and studying how effective they have proven to be in other situations, therefore, is critical.

Investments in electricity and gas networks, for example, are strongly influenced by the tariff regulation, which determines the return on the investments. Governments, therefore, need to carefully assess the impact of tariff regulation on network quality, on the nation's GDP (which rises when investments increase), and on affordable end-user prices. Moreover, when setting up and regularly reviewing the key parameters of the regulation framework, governments should conduct broad benchmarking of international options and assess the impacts that have resulted from implementing those options.

***Allocating risk between the public sector and the private sector is a fundamental element of any regulatory and contract design.*** Generally, the idea is to assign a specific risk to the partner that is better equipped to handle it. Often, this is easy to determine. Construction risks, for example, are typically better managed by companies in the private sector that have extensive experience managing large construction projects, while the risk of available network access (such as a road that provides access to a port) can be better controlled by the public sector, which usually governs those systems. Assigning other risks, however, may depend on the specific context or the results of negotiation. Volume risks or macros risks (such as inflation, exchange rates, or a force majeure), for example, can be allocated to either the private sector or the public sector – or even be share by the two.

Because PPPs are long-term contracts, certain risks will materialize only after a number of years. It is usually best to apportion those risks, at least to some degree, with provisions for sharing upsides and downsides in areas such as core and ancillary business revenues, financing costs, and commodity costs. This apportionment can take different forms, such as sharing every dollar gained and lost or assigning all risks and benefits to the private sector but capping the total to avoid excessive gains or losses. Such provisions often reduce the need for painful renegotiations.

***Another critical element is balancing the need to safeguard the public's interests with the need to attract private sector financing.*** Since many infrastructure projects constitute significant monopolistic public assets, the government often wants to be able to intervene to protect the public's interests – for example by mandating investments that will be critical for satisfying the future demands of users. Provisions in the contract should allow for safeguarding only when absolutely necessary and then balance that constraint with appropriate rewards for

the private sector. This is often lost in the negotiations for well developed countries where the Federal Government is often considered the final arbiter for the general public's interest.

***Finally, the government must be very clear about whether or not it intends to initiate new projects that may compete with the current project at some point in the future.*** While the government may view the construction of competing facilities as a way to exact better performance from operators, such a move would also reduce the return that those operators earn. Not surprisingly, private-sector partners would want to pay less for the right to operate an asset under those conditions, than they would for projects where freedom from future competition is guaranteed. Thus the government needs to decide, from the start, whether the primary goal is to preserve some flexibility down the road or to garner the highest possible price from the private-sector partner.

### **3.0 Identify Projects that are Well Suited for a PPP**

***Once an infrastructure project has been selected, the key question is whether it should be a public-sector-only venture or if the private sector should play a role.*** That decision must be based on an objective analysis of the cost and benefits to the taxpayer of both approaches. Many countries do not conduct these assessments in any systematic way. And even when they try, they often encounter significant stumbling blocks, including lack of expertise, a dearth of solid data, and inconsistency in the way that key assumptions in the analysis are made. Such assessments have frequently been criticized later on for unduly favoring PPPs, when in fact the application of a PPP is not supportable.

Governments (and our US Trade Negotiators) need to invest in four areas to ensure that they can evaluate and generate projects with the necessary rigor.

First, they must train the right people and develop the appropriate systems for conducting these evaluations. One approach is to create new units within government that have the experience and tools to conduct these analyses. Best Practice is to engage outside experts (legal, financial and technical) to lead the effort, while training in-house staff along the way. This includes comprehending and executing complex master planning, legal skills in developing Special Purpose contractual Vehicles (SPV) to appropriately assign risks to the PPP participants, and financial expertise skilled in structuring private investment at competitive rates.

Second, governments must develop benchmark databases that collect cost information on both public and PPP infrastructure projects. This information, should include not only the capital expenditures for developing a project, but also the cost of operating the project over its life cycle. An Asia-Pacific government developed a database of road construction projects for just this purpose.

Third, governments need to develop standardized methodologies for making these assessments and identify a source of common key assumptions, such as what the financing costs would look like under a public-sector approach versus a private-sector approach. These methodologies are

commonly referred to as “value for money” analysis. Best practice is for government sponsors undertaking their initial PPP projects to retain outside legal, financial, and technical advisors with PPP experience. Over time, the government agency needs to develop specific in-house expertise and supplement this staff with outside experts as required. Knowing that the government sponsor has the necessary expertise, in-house and consultants, provides comfort to the private sector.

And fourth, governments need to insure that a high standard is set and enforced for action against corruption, including commitments to adopt, maintain, and enforce criminal laws to deter corruption by public officials, to maintain codes of conduct to promote integrity among public officials, to adopt laws criminalizing corruption in accounting practice, and to effectively enforce anticorruption laws.

#### 4.0 Cultivating an Enabling Environment

***Governments cannot execute best practices effectively without the right resources and expertise.*** These include proven program-management skills for driving the entire PPP process, effective communications strategies for managing potentially controversial projects, and legal institutional frameworks that pave the way for the partnerships. Typically, there are three crucial steps that governments must take to create the right environment for supporting and driving PPPs.

- **Establish Rigorous Program Management.** Setting up a PPP is a massively complex undertaking that involves large numbers of people – from government officials to engineering experts to financial and legal advisors. At the same time, multiple work streams must be managed, and systems must be created for tracking performance. It is crucial to use tools and methodologies, such as rigorous program management (RPM) and BCG’s methodology for delivering change and creating real value, to direct the entire effort effectively.

RPM drives three crucial elements of the PPP effort. First, it ensures sound governance, including the establishment of a fast and effective decision-making process, involving important stakeholders, the creation of a program management office to drive and control the overall process, and the definition of a single point of accountability for each work stream. Second, it ensures transparency regarding the project’s status by requiring monitoring of its most critical elements. A standardized, exceptions-based reporting system, for instance, can identify anomalies that may be indicative of a significant problem. And third, it identifies potential stumbling blocks early in the process.

- **Communicate with the Public Early and Often.** Almost every infrastructure project will encounter criticism, often from people living near the proposed site. A public uproar is most likely to occur when consumers are being required to pay for services that were

previously free or subsidized, as was the case with the M6, the first toll highway in the United Kingdom. In fact, that project faced so much public opposition that it was delayed by many years.

A detailed plan for communication outreach that includes all stakeholders needs to be part of the initial program development; one that becomes a “living document” that is updated throughout the lifecycle of the P3 implementation. The communication outreach plan is critical to achieving political consensus for the project by fostering and sustaining a collaborative environment among all of the stakeholders throughout implementation of the PPP. A primary objective of the communication outreach plan is to ensure that both the “official” expectations and the “unofficial” expectations of the contractual parties and stakeholders are understood and met. The criticality of this is reinforced by considering that, in many cases, the development and the implementation of a P3 project may span major changes in the government and the managing political body.

- **Ensure the Necessary Public and Private Sector Skills.** For a PPP to succeed, the government needs to have a series of key levers in place. These include the in-house skills to manage the process, the funds to pay for the upfront costs of preparing and developing the partnerships, and the appropriate legal frameworks and regulatory institutions to make the project feasible. Securing these levers can be particularly challenging in emerging markets, where government institutions may not be well established and, in some cases, may also be starved for resources. Creating a PPP unit, which serves as a center for PPP expertise, in a country, can be most helpful for building expertise.

At the same time, it is important to recognize that PPPs are expensive to procure properly, as well as schedule intensive. To create a viable commercial and technical plan that is likely to attract experienced private-sector bidders and result in a fair shake for taxpayers, governments must often tap outside experts and advisors. The cost for such feasibility and project-structuring work regularly amounts to 2 to 5 percent of the total capital expenditure for a project. Budget-constrained governments often either do not have the funds to pay for that upfront investment or their budget allocation is biased toward construction rather than preparation.

PPPs need legal and regulatory support as well. For example, there must be laws on the books that grant the government the ability to form partnerships with companies in the private sector. And independent regulatory institutions, which are scarce in many emerging markets, must be established and staffed to oversee projects throughout their life cycles.

## Ensure Good Governance

***Good governance is not only necessary to ensure success of PPP's in all aspects, including financial and delivery of the expected services, but translates into stronger economies, sustainable growth, and a more conducive environment for U.S. investment and trade.*** The following elements articulated in the Trans Pacific Partnership agreement strengthen good governance:

- Joining the United Nations Convention Against Corruption (UNCAC).
- Criminalizing bribery of public officials—and soliciting or receiving such bribes.
- Having in place a code of conduct for public officials and take measures to decrease conflicts of interest.
- Taking steps to discourage illegitimate gifts, that include training public officials, facilitate reporting of corruption, and provide for discipline of public officials engaging in acts of corruption.
- Effectively enforcing anticorruption laws and regulations.
- Involving private organizations in the fight against corruption.
- Adopting laws criminalizing corruption in accounting practices.
- Ensure that all laws, regulations, procedures, and administrative rulings regarding any issue covered in the PPP agreements are made publicly available.
- Giving citizens the opportunity to provide input on any proposed measures relating to issues covered by the PPP agreements.

### 5.0 Selecting and Developing a PPP Project

***When evaluating infrastructure projects that are appropriate for a PPP delivery model, governments need to recognize that, to the private sector, PPP projects are investments that compete with PPP projects in other countries and other types of investments.*** The ability for a government to attract the private sector investment necessary to successfully deliver infrastructure through a PPP delivery model requires the government to pick projects that are suited to the PPP model and then package its projects in a manner that demonstrates that attractiveness of the investment. To that end, defining and packaging a PPP project involves the following elements:

- Identify all the stakeholders
- Define Project Objectives
- Build a business case for the project
- Prepare project parameters
- Address the project's business and commercial issues
- Determine the best PPP model for the project

## Project Objectives

*When considering a PPP, governments need to recognize that the basic element of a public-private partnership is essentially a public asset.* This fact affords the public sponsor with considerable latitude in setting the parameters of a PPP transaction. This includes a broad array of commercial issues including project governance, contract terms, operational requirements, schedule, revenue regimes, risk sharing, etc. It is important to note that these parameters are subject to commercial and market realities. By varying these parameters, the sponsoring agency can significantly influence a PPP project's value to a private partner, and ultimately, a project's financial feasibility.

When considering using a PPP model to deliver an infrastructure facility, governments should first determine its objectives for entering into a PPP and then structure a transaction to meet those objectives. Potential reasons for utilizing a PPP include:

- 1) Maximize use and leverage of existing public funds.
- 2) Move project more quickly to construction and operation.
- 3) Make possible major infrastructure investment that might not otherwise receive financing.
- 4) Shift operational and maintenance obligations to private sector.
- 5) Stimulate economic development by improving the necessary infrastructure to support and sustain that economic development.

Understanding its objectives for a PPP project will create the framework to develop a project that optimizes the government's objective and provides a benchmark to determine a PPP project's success.

## Business Case

A project business case provides potential private sector firms with the basic rationale and internal logic for the project. Elements that should be included in the business case include the following:

- 1) Country's Background and Update
  - a) Demographics
  - b) Political and institutional/legal structure
  - c) Condition of existing infrastructure
  - d) Economic stability and growth
  - e) Other factors
- 2) Need for the Project

- a) Project's role in the government's master infrastructure plan
  - b) Potential users
- 3) Regional Economics
- a) Population
    - i) Education
    - ii) Workforce
  - b) Regional Income
  - c) Economic drivers
    - i) Employers
    - ii) Commercial activity
  - d) Regional growth potential

The business case provides the background information needed by private sector entities to understand the basic economic fundamentals of a project. A well-presented business case can introduce a potential PPP project to the industry in a positive way and help create momentum for the project.

### **Profile of Facility**

Equally important to the business case is the profile of the project. This very project specific information needs to be supported by credible and accepted analysis. The work can be done at a conceptual or preliminary level.

- 1) Project Costs
  - a) Construction costs
  - b) Operational and maintenance costs
  - c) Capital maintenance requirements
- 2) Revenue Potential
  - a) User fee
    - i) Structure
    - ii) Ability to increase
    - iii) Ability to collect
    - iv) Ability to enforce non payment
  - b) Potential non-user revenue sources
    - i) Sponsoring government's direct investment
    - ii) Sales or property taxes
    - iii) Development Assistance bank support
    - iv) Others

In addition to demonstrating to the private sector the public sponsors understanding of the project, this information forms the basis for establishing the sponsor's initial commercial terms and project expectations. During discussions and negotiations with potential private sector partners, this same information provides a basis to evaluate various requested changes in submitted P3 proposals.

### **Commercial Issues**

***The commercial issues are the heart of a PPP transaction.*** These are extremely complex and are dictated by a number of factors including the objectives of both parties; general market conditions; perceived project risks; financial market conditions; and other opportunities around the world.

The following two lists, Commercial Terms and Conditions and Risk Transfers, are general in nature but a government who is developing a PPP project should be aware of these factors and how the details may impact the commercial and financial feasibility of a PPP project.

- 1) Contract Terms and Conditions
  - a) Length of contract
  - b) Termination provisions
  - c) Revenue Sharing
  - d) Restrictions on adding or upgrading competing facilities
  - e) Ability to enforce user fees
  - f) Letter of credit and security
  - g) Performance monitoring
  
- 2) Risk Transfers
  - a) Permitting (may be a shared risk)
  - b) Land acquisition (may be a shared risk)
  - c) Construction
  - d) Operational
  - e) Revenue
  - f) Change in Law
  - g) Currency Risk
  - h) Financial risk
  - i) Timely decision making

When a PPP project is put out for procurement, the public sponsor should be able to transmit its initial position on the commercial issues. These will be the starting point for future discussions and negotiations. Consequently, when a public agency is procuring its first PPP project, it needs to have the assistance of advisors and consultants experienced in managing and structuring the commercial issues. The private sector entities who bid on PPP projects do this for a living and have such experience and expertise.

### **PPP Models**

There are several PPP models which can be utilized. Each of the models listed below has specific pros and cons.

- 1) Design/Build/Finance
- 2) Design/Build/Finance/Operate/Maintain (Availability Payment)
- 3) Operational Concession
- 4) Full Revenue Risk Concession

The appropriate model is project specific and very dependent upon the government's objectives, the available commercial terms, and project risks.

## **6.0 Procuring the Project – Critical to Select the Right Project Partners**

***Finding the right partner is not a matter of simply putting a contract out for bid and waiting for proposals. Governments must create a clear, competitive, and transparent process that encourages participation from many potential private-sector partners.*** That means being very clear about what the requirements are, including the timeline for the selection, the milestones that must be reached during the bidding process, and the criteria on which bids will be judged. Too often, bidders don't know which factors are the most important in selecting a winner. Running the selection process in such a professional manner not only ensures a large pool of well-qualified bidders but also lays the groundwork for a productive relationship with the winner.

To attract as many qualified bidders as possible, the government should actively seek out domestic and international bidders. In addition, the bidding process should start with a pre-selection round that does not require bidders to pony up a steep investment. The development of PPP's regardless of financial scale may top \$10M and many companies won't participate if the contract size is too small or their chance of winning too slim. The initial round should draw a large pool of applicants that make a preliminary bid, and then a smaller group, often three to five companies, should be selected to move ahead with a final, detailed bid.

The evaluation of those bids must be conducted by an experienced team, which may comprise a mix of government officials and outside experts. The team should follow the bidding rules strictly, and the process should be as transparent and public as possible. Failure in either regard

will often lead to contested outcomes. Case in point: In India in 2005, preliminary contract awards for the modernization of the Delhi and Mumbai airports were rejected not once, but twice. A board established to look into the matter found, among other things, that there were technical flaws in the evaluation of the bids and that one bidder was treated more favorably than others. This is the un-level playing field that plagues American companies pursuing PPP's outside of the US and, therefore, ***it is vitally important that US Trade Negotiators insist on transparency in the bidding and selection process.***

## **7.0 Project Implementation – Track the Performance of the Project**

A major factor for undertaking a PPP project is to allocate certain project risks which are usually borne by a government sponsor to a private partner. While there are several PPP delivery models, the one set of risks that are generally transferred, in whole or in part, are those associated with design and construction. Typically PPP contracts are referred to as performance based contracts, where the government sets forth a set of operational, or performance requirements, and afford the private partner the latitude to design and construct the project to meet the specific performance parameters. The allocation of these risks are set forth in the contract documents and are priced within a private partners bid. This in essence becomes the “deal” struck between the government and its private partner.

As a result of the performance based contract and the risk sharing that is priced in the private partners bid, the administration of PPP contracts is significantly different than traditional government infrastructure projects. In administering the implementation of a PPP project, the government needs to be aware that the decisions it makes which are outside the terms of the contract could significantly alter the risk allocation on which the PPP contract is based. The government's implementation team needs to have a good understanding of the contract documents and not fall back on a business as usual approach to delivering infrastructure projects.

### **Operations Oversight**

PPPs are long-term partnerships that will often last more than 20 years. Keeping a close watch on how well the operation of the project is going is critical. A government should dedicate resources to this effort and establish a team to monitor performance over time. This entails identifying the set of sector-specific Key Performance Indicators (KPIs) that should be tracked, such as the system Average Interruption Duration Index (SAIDI), which is used to track the availability of electric power for consumers. Monitoring KPIs through a risk management system will allow the contract team or regulating authority to spot problems early on and take steps (which should already have been outlined in a contingency plan) to remedy the situation.

Even with a well-thought-out contingency plan, however, making changes to a PPP agreement may be necessary. After all, it is impossible to account for every potential development in

advance. At a minimum, however, the contract should spell out what sorts of events trigger renegotiation, exactly how renegotiation will be conducted, and how disputes will be resolved.

One of the most valuable – though frequently overlooked – steps in the PPP process is determining whether a partnership is delivering the expected value for money and what has worked, or not worked, so far. Governments should allocate resources for these analyses, which can start as early as one or two years after a PPP begins operating. (Eventually an evaluation across the entire life cycle of the project will be essential.) Questions such as whether the project was designed correctly, whether demand fell into expected ranges, and whether renegotiation was required should be answered with an eye toward improving the future structure of PPPs.

**In summary, the use of Public Private Partnerships (PPPs) is a way to bring government and the private sector together to advance major infrastructure implementation. The concept is fairly easy to understand, however, the details of the project delivery are among some of the most complex. Trade negotiators need to understand that before U.S. companies step to invest in PPPs, the need for procurement clarity, integrity and transparency in government procuring the project, and security of the financial investment are key parameters that will be carefully considered. This Best Practices Guide has been prepared to provide basic information on PPPs and how to maximize their success.**

May 3, 2016

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

Dear Secretary Pritzker:

Environmental services often represent an entry point for United States (U.S.) firms seeking to expand into international markets. Development assistance entities like the U.S Agency for International Development (USAID), the World Bank, and others are a significant and growing source of funding for international environmental services. However, there are a number of development assistance entities that restrain U.S. firms' participation.

To assist the Department in understanding these restraints, the Environmental Technologies and Trade Advisory Committee (ETTAC) has prepared a reference guide. Attachment 4-1 entitled ***Procurement Policy Assessment for U.S. and Non-U.S. Donors, Lending Agencies and Multilateral Banks (March 2016)*** which compares the procurement policies of various donors and provides insights and recommendations that may be useful for U.S. Trade Negotiators, Trade Specialists, and Commercial Officers. In summary, the practices affecting U.S. participation addressed include:

- *Funding focus areas*
- *Open competition*
- *Local content*
- *Contract-size based procurement models*
- *Registration or pre-qualification*
- *And where applicable, company headquarters location preference, use of acquisition regulations and labor restrictions.*

**ETTAC recommends trade personnel utilize and maintain this document in their efforts to promote trade policy and U.S. participation in tenders abroad.** Additionally, trade personnel should seek opportunities to advocate for the recommendations contained herein.

On behalf of the members of ETTAC, we thank you for your consideration of these recommendations.

Sincerely,



Ron Swinko  
Chair, ETTAC

Encl: Attachment 4-1 *Procurement Policy Assessment of U.S. and non-U.S. Donors, Lending Agencies and Multilateral Banks (March 2016)*

US-Based Donors, Lending Agencies, and Multilateral Development Banks								
	Core Purpose & Use of Funds	US Content Requirements/Bidding Process	US HQ Advantage/Local Content Preference	Federal Acquisition Regulation (FAR) Requirements	Labor Restrictions	Contract Restrictions/Thresholds	Registration, Pre-qualification, or Short-listing Process	Recommendations
<b>Export-Import Bank (Ex-Im)</b>	Ex-Im funds are used to provide working capital guarantees (pre-export financing); export credit insurance; and loan guarantees and direct loans (buyer financing). Key industries include oil and gas, mining, agribusiness, renewable energy, medical equipment and services, construction equipment and services, aircraft, and power generation and related services. Regarding financing, a plurality (39%) supported small businesses. The next largest funding pieces went to the aircraft and avionics sector, followed by "all other industries and manufacturing". Smaller amounts of funding went to the service industry, oil and gas, and satellites.	<b>Member-Only (US only):</b> For non-small businesses, goods AND services require 50% or more for short-term transactions; 100% for medium-long term transactions; US content for standalone services performed inside or outside US requires contracts signed by US-based operations; person(s) performing the services must be legal US workers as evidenced by IRS Form I-9.	<b>Yes.</b> With Ex-Im Bank, there is a clear US advantage as it enables U.S. companies - <b>large and small</b> - to turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy.	<b>Yes.</b> All agencies under the Executive Branch are required to comply with FAR. FAR's requirements are foundational, so an agency's requirements will either match or exceed what FAR stipulates.	<b>Yes.</b> Employees and subcontractors must be legal, U.S. workers with IRS Form I-9 documents. Anything absent this is considered foreign content	<b>Yes.</b> Goods and services must be shipped from the United States to a foreign buyer. Ex-Im Bank will support the lesser of 85% of the Net Contract Price or 100% of the US content. Regarding Local Cost Policy, Ex-Im Bank can support up to 30% of the Net Contract Price for locally originated and/or manufactured goods and services.	<b>Yes.</b> Potential contractors are asked to register at System for Award Management (SAM).	<b>Support.</b> Recognizing that when non-US equivalent Ex-Im Banks provide sovereign guarantees or direct project financing, this means US based companies will be disadvantaged. Consider expanding Ex-Im Bank to provide backing of public-private partnership (PPP) deals where the PPP entity is a US firm with US services and goods content of at least 80%.
<b>Millennium Challenge Corporation (MCC)</b>	MCC provides large-scale grants to fund country-led solutions for reducing poverty through sustainable economic growth. Grants complement other U.S. and international development programs. There are two primary types - compacts and threshold programs. Compacts are large, five-year grants for countries that pass MCC's eligibility criteria. Threshold Programs are smaller grants awarded to countries that come close to passing these criteria and are firmly committed to improving their policy performance.	<b>Open-Competitive:</b> Host-Country entities operating under the Millennium Challenge Account Program (MCA) are not permitted to deny qualification to a firm for reasons unrelated to its capability and resources to perform the contract successfully. In other words, there should be no local/regional/national bias shown by either MCC or the Host Country. Additionally, per MCC's <b>Excluded Parties Verification Procedures</b> which applies to all contracts (Direct and Host-Country), to ensure that all contractors are eligible for an award, the Host Country must conduct an eligibility check of 7 websites (including <i>Excluded Parties List System (EPLS)</i> , <i>World Bank Debarred List</i> , and the <i>US State Department, Directorate of Defense Trade Controls, Debarred Parties List</i> to name a few) and declare any firm found on any of the lists as ineligible.	<b>No.</b> MCC's Program Procurement Guidelines are based largely on the World Bank's Guidelines for the Selection and Employment of Consultants but differs in that <b>MCC prohibits national preference</b> in the procuring of goods, works and services. Sole source selection of consultants is used in extreme circumstances only.	<b>Yes.</b> All agencies under the Executive Branch are required to comply with FAR. FAR's requirements are foundational, so an agency's requirements will match or exceed what FAR stipulates.	<b>No.</b>	<b>No.</b>	<b>Yes.</b> MCC does not furnish a short list or a long list to the MCA Entity, however, if the MCA Entity undertakes a shortlisting procedure before inviting proposals, the record of the shortlisting procedure together with the final short list is to be submitted to MCC for approval before the MCA Entity issues the RFP. The MCA Entity is responsible for preparation of the short list. There is no maximum limit to the number of firms that may be short-listed and care should be taken not to eliminate qualified participants from competing for the consultant contract.	<b>Support Program.</b> Continue to provide procurement planning and oversight support to host country procurement entity.
<b>Overseas Private Investment Corporation (OPIC)</b>	OPIC provides financial products such as loans and guarantees, political risk insurance, and support for investment funds, all of which help American businesses expand into emerging markets.	<b>Member-Only (US majority):</b> Projects must have meaningful US connection. For financing, this means a US-organized entity 25 percent or more US-owned, or a majority US-owned foreign-organized entity.	<b>Yes,</b> but while there is a distinct US advantage, American small businesses are an OPIC priority (over larger enterprises), comprising on average 80 percent of projects supported by the agency annually.	<b>Yes.</b> All agencies under the Executive Branch are required to comply with FAR. FAR's requirements are foundational, so an agency's requirements will match or exceed what FAR stipulates.	<b>No.</b>	<b>Yes.</b> OPIC's minimum loan/guaranty size is \$350k and max is \$250m for terms up to 20 years. Regarding extent of insurance coverage, OPIC can insure up to 90% of an eligible investment. OPIC's statute generally requires that investors bear at least 10% of the risk of loss. For equity investments, OPIC typically issues insurance commitments = to 270% of the initial investment, 90% representing the original investment and 180% to cover future earnings. Coverage amounts may be limited for investments in countries where OPIC has a high portfolio concentration.	<b>No,</b> but OPIC recognizes that US-owned businesses are looking to grow through overseas investment yet find it hard to obtain financial support and encounter unique challenges. OPIC formed <b>Enterprise Development Network</b> - vetted and trained Loan Originators acting as local service providers to businesses with projects in developing countries. EDN Originators help develop loan applications, refine marketing strategies, and draft/enhance business plans. Originators are familiar with EDN's loan application standards, and can improve the likelihood for a loan to receive funding.	<b>Support Program.</b> Consider expanding program to provide backing of PPP deals where the PPP entity is a US firm with US services and goods content of at least 80%.
<b>United Agency for International Development (USAID)</b>	USAID, the lead U.S. Government agency working to end extreme global poverty and enable resilient, democratic societies to realize their potential, plays a critical role in stabilizing countries and building responsive local governance by easing the transition between conflict and long-term development. USAID currently invests in agriculture, health systems and democratic institutions in 80+ countries and has 600+ Acquisition & Assistance professionals designing, executing, and managing actions in agriculture & food security, democracy & governance, economics, education, environment & climate change, gender equality, global health, and water and sanitation, through contracts, grants, or cooperative agreements.	<b>Open-Competitive:</b> Federal statutes require that COs (Contracting Officers) promote and provide for full and open competition (FAR 6.1). When properly justified and approved in accordance with FAR 6.3, COs may award contracts without providing for full and open competition (single source procurement). When USAID decides to use host country contracting procedures rather than direct contracting, it acts as a financier and not a contracting party, reserving certain rights of approval and activity monitoring. This process is very similar to the one used by MCC.	Implementing partners are typically US-based private sector for-profit or non-profit companies and local NGOs. In 2012, USAID implemented a new rule which allows USAID funding to procure commodities and services from Non-U.S. firms. Generally, the procurement of commodities and services, including procurements under grants/cooperative agreements, are subject to 22 CFR 228 Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID.	<b>Yes.</b> The Agency provides awards to organizations in compliance with the Code of Federal Regulations (CFR), Federal Acquisition Regulation (FAR), and internal agency regulations, policies, and procedures (USAID Automated Directives System (ADS)).	<b>No.</b>	For Direct Contracts, all COs must submit any action with an estimated total award amount of \$25m and above to the Contract Review Board (CRB). This includes limited competition contracts, but excludes sole source actions which are subject to a separate review and approval requirement. Mission COs are encouraged to submit all actions greater than \$10m to the CRB for review. A single source, negotiated procurement w/ est. \$5m value may only be authorized by the Regional Assistant Administrator. A single source, negotiated procurement estimated to cost \$5m or less may be approved by the Mission Director. The Mission Director may delegate approval to the Deputy Mission Director only for procurements that are estimated not to exceed \$250k.	<b>Sometimes:</b> Agency procedures call for the overseeing CO to make a determination on whether a pre-qualification (or 'shortlisting') process is merited by considering factors such as a firm's proposal production costs, how complex the required services are, and how many strong responses can be anticipated. This process only occurs after the type of contract has been determined. If a CO decides to send out pre-qualification questionnaires, specific procurement requirements are to be kept secret beforehand—just as they are withheld before an RFP is released—to avoid giving unfair competitive advantage to any firm. Qualifications consider previous experience with USAID.	<b>Modify procurement so that equivalent programs to USAID in other donor countries (i.e. France, Germany, Italy etc.) either do not advantage local country awards or provide US preference to USAID funded projects.</b> The issue with USAID is that it promotes fair and open competition while other similar programs provide clear advantages to local country preference. This creates a very un-level field of competition for US companies. Enhance tied-aid contracts to US firms with requirement for local content and training components. Also, recommend that qualifications be considered equally between those from USAID projects and other development assistance projects.
<b>United States Trade &amp; Development Agency</b>	USTDA has historically supported feasibility studies, pilot projects and technical assistance, but the President's 2010 plan to double US exports in 5 years* initiated USTDA's <b>International Business Partnership Program</b> which includes reverse trade missions, technology demonstrations, training and sector-specific workshops and conferences. The express intent of these initiatives is to bring foreign procurement officials to US businesses to witness operations firsthand and to facilitate relationship building. *As of Jan. 2015, manufacturing trade has increased somewhere between 52-67%.	<b>Member-Only (US only):</b> USTDA's statutory purpose is to promote United States private sector participation in the trade and development projects it assists.	<b>Yes.</b> There is a clear US advantage, but TDA focuses largely on small businesses; <b>Desk Studies</b> and <b>Definitional Missions</b> awarded exclusively to smaller firms. Larger US companies, however, can submit <b>Sole Source Project Proposals</b> when an overseas project sponsor has been identified and deemed eligible. Cost-sharing and success fees apply. Another procurement avenue for larger companies is <b>Trade Leads</b> (on USTDA website). Contains real-time information on procurement opportunities in emerging markets.	<b>Yes.</b> All agencies under the Executive Branch are required to comply with FAR. FAR's requirements are foundational, so an agency's requirements will match or exceed what FAR stipulates.	<b>Yes.</b> US nationality required for prime contractors and subcontractors (unlimited) or non-US citizens lawfully permitted to work and/or reside in US; up to 20% of grant funds can be applied to Host-Country subcontractors and Host-Country nationals who are employed by prime contractor.	<b>Yes.</b> Desk Studies \$2500-\$10,000; Definitional Missions \$40,000 -\$75,000; Grants for Sole-Source Project Proposals are typically in \$500k range; rarely exceed \$1million.	<b>Yes.</b> USTDA Consultant Database is for small-business contractors interested in selection for desk study contracts. USTDA's website is currently still referring to Central Contractor Registration (CCR) which is in the process being replaced by System for Award Management (SAM). Other U.S. consulting firms should check the Business Opportunities section of USTDA's website regularly to view open bid opportunities with USTDA and its grant recipients. Subscribing to USTDA's free eNewsletter, USTDA News and Information, provides bi-weekly emails with links to these opportunities, as well as information on upcoming deal-making events.	<b>Support Program.</b> Consider modification of cost sharing provisions to allow performance with a reduced fee rather than no fee.

**US-Based Donors, Lending Agencies, and Multilateral Development Banks (cont.)**

	Core Purpose & Use of Funds	US Content Requirements/Bidding Process	US HQ Advantage/Local Content Preference	Federal Acquisition Regulation (FAR) Requirements	Labor Restrictions	Contract Restrictions/Thresholds	Registration, Pre-qualification, or Short-listing Process	Recommendations
<b>Inter-American Development Bank (IDB)</b>	The IDB is the leading source of development financing for Latin America and the Caribbean with an evolving reform agenda that seeks to increase development impact in the region. Besides loans, they provide grants, technical assistance and do research.	<b>Member-Only:</b> To participate in IDB-financed project opportunities, bidders and goods need to comply with the eligibility requirement of being from one of IDB's 48 member countries which includes the US. For goods and services, IDB prefers International Competitive Bidding (ICB), to provide all eligible prospective bidders with timely and adequate notification of a Borrower's requirements and an equal opportunity to bid. However NCB (National Competitive Bidding) may be used when foreign bidders are not expected to be interested because of small contract sizes, geographically difficult or labor-intensive projects, or when goods & services are available locally at prices below the international market. For Consulting Services, the IDB prefers a Quality & Cost Based Selection (QCBS) competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection is used judiciously. For consulting services, experience in the region including knowledge of the local language, culture, administrative system, government organization, etc. is a major sub-criteria in the evaluation of key personnel.	<b>No</b> , but as a member of The World Bank Group (WBG), a family of five international organizations that make leveraged loans to developing countries, having a locally-branded office in the Borrower's country and/or near project site could be advantageous toward making a short-list, esp. if host-country nationals are employed as participants in the project.	<b>No.</b> FAR is not applicable to the IDB.	<b>Yes.</b> Only companies and professionals domiciled in, or nationals of one of the Bank's member countries, are eligible to provide goods and services financed with Bank resources. Regarding consulting and standalone services, Bank resources can be used only for payment of services rendered by individuals or firms from Member Countries of the Bank.(The US is a Member-Country.)	<b>Yes.</b> The Bank will make international competitive bidding <i>compulsory</i> for the procurement of goods, works, and services financed wholly or partially with the proceeds of Bank loans when the amount of the contract is over US\$5 million in the case of works and services, and over US\$350,000 for goods.	<b>Yes.</b> 14 days following first posting of REOI (Request for Expression of Interest) on UNDB (United Nations Development Business) online, preparation of a short list can begin. Compiling a short list is the responsibility of the Borrower. Short lists are to be comprised of six firms with a wide geographic spread; <b>no more than two firms from any one country</b> ; and at least one firm from a Bank Borrowing member country unless qualified firms from Bank Borrowing member countries are not identified.	<b>Support Program</b>
<b>International Finance Corporation (IFC)</b>	The IFC offers investment, advisory, and asset management services to encourage private sector development in developing countries. Also offers IFC InfraVentures (the IFC Global Infrastructure Project Development Fund) to help develop public-private partnerships and private projects for infrastructure in developing countries.	<b>Open-Competitive:</b> IFC is involved only in the financing of projects, and has no part in the procurement process. The local project company is responsible for all aspects of procurement, such as evaluation of bids and contract awards, and is the contact point for any information regarding the bidding process. The project company is identified in the Summary of Proposed Investment (SPI) for each project.	<b>No</b> , but as a member of The World Bank Group (WBG), a family of five international organizations that make leveraged loans to developing countries, having a locally-branded office in the Borrower's country and/or near project site could be advantageous toward making a short-list, esp. if host-country nationals are employed as participants in the project.	<b>No.</b> FAR is not applicable to the IFC.	<b>No.</b>	<b>Yes.</b> IFC offers A-Loans for private sector projects in developing countries typically with 7-12 year maturities. To ensure the participation of other private investors, A loans are usually limited to 25 percent of the total estimated project costs for greenfield projects. For expansion projects, IFC may provide up to 50 percent of the project cost, provided its investments do not exceed 25 percent of the total capitalization of the project company. Generally, loans for IFC's own account range from \$1m to \$100m.	<b>No.</b> There is no standard process or application form for IFC financing. A company or entrepreneur, foreign or domestic, seeking to establish a new venture or expand an existing enterprise can approach IFC directly.	<b>Support Program</b>
<b>World Bank (WB)</b>	The WB provides low-interest loans, zero to low-interest credits, and grants to developing countries. The Bank's role in procurement includes assessment, assisting the Borrower in planning, monitoring compliance with loan/credit agreement and providing translations. The Borrower's role is to design, prepare, invite, evaluate the bids and subsequently award the contracts.	<b>Open-Competitive:</b> For goods and non-consulting services, the WB requires Borrowers to find through International Competitive Bidding (ICB). Other methods are National Competitive Bidding (NCB) and Direct Contracting. For Consulting Services, Quality and Cost Based Selection (QCBS) is the preferred method to adhere to the WB's principles of economy, efficiency, fairness, transparency and development of national consultants from borrowing member countries. Other possible selection methods including Least Cost Selection (LCS), Consultants' Qualifications (CQS) and SSS (Single Source Selection).	<b>No</b> , but as a member of The World Bank Group (WBG), a family of five international organizations that make leveraged loans to developing countries, having a locally-branded office in the Borrower's country and/or near project site could be advantageous toward making a short-list, esp. if host-country nationals are employed as participants in the project.	<b>No.</b> FAR is not applicable to the WB.	<b>No.</b>	<b>No.</b>	The Borrower's role in consultant selection includes preparing a short list of 6 firms spread geographically - <b>no more than two from any one country</b> . Participation of national consultants is encouraged. For smaller contracts, short lists may be comprised of all national consultants. Winning a contract is based on regional experience, technical qualifications and appropriate timing. WB encourages contacting/visiting clients before short-listing, partnering with a local/national firm and promptly expressing interest.	<b>Modify terms for selection.</b> Currently, the WB shortlists six firms spread geographically with no more than two firms from any one country. This process denies the selection of best value which ultimately is in the best interest of the host country.

Non US-Based Multilateral Development Banks and Donors					
	Core Purpose & Use of Funds	Bidding Process	Local Content Preference	Contract Restrictions/Thresholds	Registration, Pre-qualification, or Short-listing Process
<b>African Development Bank (AfDB)</b>	The African Development Bank (AfDB) Group's objective is to spur sustainable economic development and social progress in its Regional Member Countries (RMCs). The Bank Group achieves this by mobilizing and allocating resources for investment in RMCs and providing policy advice and technical assistance to support development efforts. (The US is one of 26 <i>Non-Regional Member Countries</i> .)	<b>Open-Competitive:</b> The Bank believes International Competitive Bidding (ICB), <i>with allowance for preferences for domestic or regional contractors for works</i> is often the most appropriate method and requires it in most cases. Regarding Consultants, the African Development Fund (ADF) permits firms and individuals from all countries to offer consulting services for ADF funded projects. Proceeds of any financing undertaken in the operations of the ADB and the Nigeria Trust Fund (NTF) will be used to cover goods, works and services from Eligible Countries (ie AfDB Member Countries). In the case of AfDB and NTF, Consultants from Non-Member Countries offering services are not eligible even if they offer these from Eligible Member Countries. Rule does not apply to ADF.	<b>Yes.</b> Although certainly eligible to compete, US companies may be at a disadvantage unless they have a local affiliate or partner. While AfDB's policy is to give all eligible consultants an opportunity to compete, it also actively promotes and encourages the <i>development and participation of contractors and suppliers from Regional Member Countries</i> .	<b>No.</b>	<b>Yes.</b> The Bank is responsible for preparing the short list. Short lists must include six firms with a wide geographic spread, <i>with no more than two firms from any one country and at least one firm from a Regional Member Country</i> ( unless qualified firms from RMC's are not identified). The short list may comprise entirely national consultants if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Bank, a sufficient number of qualified firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is prima facie not justified or foreign consultants have not expressed interest. However, if foreign firms express interest, they will be considered.
<b>Asia Development Bank (ADB)</b>	ADB invests in infrastructure, health care services, financial and public administration systems, and helping nations prepare for the impact of climate change or better manage their natural resources. The main devices for assistance are loans, grants, policy dialogue, technical assistance and equity investments.	<b>Open Competitive:</b> ADB believes open competition is the basis for efficient public procurement but allows Borrowers to select the most appropriate method for the specific procurement. International Competitive Bidding (ICB), with the allowance for preferences for domestically manufactured goods and for domestic contractors for works under prescribed conditions, is the most appropriate method and the Bank requires it in most cases. A firm which has been engaged by the Borrower to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from also providing goods, works, or services as a result of the consulting firm's preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the contractor's obligations under a turnkey or design and build contract.	<b>No.</b> With any contract financed in whole or in part by ADB, denying the participation of a bidder for reasons unrelated to its capability and resources to successfully perform the contract is not permitted; nor is disqualifying any bidder for such reasons.	<b>No.</b>	<b>Yes.</b> Invitations to prequalify or to bid are advertised as specific procurement notices on ADB's website, in a newspaper of national circulation in the borrower's country (at least in one English language newspaper), or on an internationally known and freely accessible website in English. Generally, a minimum period of six weeks shall be allowed for the submission of prequalification applications. No limits on the number of bidders to be prequalified, and all found capable of performing the work will be prequalified and invited to submit bids.
<b>European Bank for Reconstruction &amp; Development (EBRD)</b>	Financial investment projects, spanning a range of industries from agribusiness to infrastructure to transport, are at the heart of EBRD's operations in more than 30 countries throughout Southeastern Europe, Central Europe and Baltic States, Eastern Europe and the Caucasus, Central Asia, and the Southern and Eastern Mediterranean regions. They also provide business advisory services, promote trade finance and loan syndications, offer regional economic analysis and forecasts and engage in policy dialogue with governments, business leaders and regional officials.	<b>Open-Competitive:</b> The Bank permits firms and individuals from all countries to offer goods, works and services for Bank-financed projects regardless of whether the country is a member of the Bank.	Most opportunities are related to EBRD-financed projects in their region of operations, but there are also a limited number of opportunities to tender for contracts involving internal EBRD projects and departments. EBRD promotes open and fair competition in all procurement activities, but <i>having a locally-branded office in the ERBD's region of operations would likely be advantageous for a US company</i> .	<b>No.</b> but for contracts €75,000 or more and less than €300,000, a short list will be prepared and the selection must be based on an evaluation of the short-listed firms' proven experience and current expertise related to the assignment without a requirement that the firms submit specific proposals for carrying out the assignment. Major contracts with firms estimated to cost €300,000 or more shall normally follow a competitive procedure based on invited	<b>Yes.</b> Short lists normally include 3-6 consultants from a wide geographic spread including at least one consultant from one of the Bank's countries of operations and <i>normally no more than two from any one country</i> . EBRD also has a consultant procurement system called <i>eSelection</i> which notifies of opportunities in sectors of interest, allow for direct expression of interest, technical and financial proposal submission and to monitor progress in the selection process.
<b>European Commission (EC)</b>	The EC has overall responsibility for implementing the EU budget. About 80% of the EU budget is managed by national governments in EU countries. This is called shared management. Under indirect management, on the other hand, the EC delegates managing the EU budget to partners such as decentralised agencies, joint undertakings, national agencies, specialised EU bodies, international organisations and non-EU countries. EC's funding and public contracts span a wide range of funding opportunities including Research and Innovation Funding, Tenders, Grants, European Structural and Investment Funds, and EU-backed small business loans.	<b>Member-Only (EU):</b> Currently only does procurement work with EU member countries or economic operators from a non-EU country which has an agreement with the EU about opening of procurement markets. <i>The US and EU are still in negotiations regarding such an agreements</i> (Transatlantic Trade and Investment Partnership)	US firms are eligible to compete for work performed in least developed or highly indebted poor countries. A large part of the EU external aid assistance is directed there so it is a large market for US firm. <b>However, in practice (informally), EU donors often give preference to EU firms.</b>	<b>No.</b>	Procurements are typically carried out as a two stage process: expression of interest and then bidding – technical and financial. However, this can be altered to include other steps depending on the nature and value of the procurement.
<b>European Investment Bank (EIB)</b>	The EIB is the European Union's bank and the only bank owned by and representing the interests of the European Union Member States. As the largest multilateral borrower and lender by volume, they provide finance and expertise for sound and sustainable investment projects which contribute to furthering EU policy objectives. They support projects that make a significant contribution to growth and employment in Europe focusing on 4 priority areas: innovation and skills, access to finance for smaller businesses, climate action, and strategic infrastructure.	<b>Member-Only (EU):</b> <i>for both EC/EIB, the procurement market is partly protected for EU based firms (legal entity) or for firms coming from the project beneficiary countries</i> ; this is particularly true for the EU fundings which finance programs/projects in the EU acceding countries (e.g. Turkey, Western Balkans countries) or in the EU neighboring countries - Mediterranean and former Commonwealth of Independent States (CIS) countries.	US firms are eligible to compete for work performed in least developed or highly indebted poor countries. A large part of the EU external aid assistance is directed there so it is a large market for US firm. <b>However, in practice (informally), EU donors often give preference to EU firms.</b>	<b>No.</b> But EIB generally finances 1/3 of each project but it can be as much as 50%. This long term, supportive financing often encourages private and public sector actors to make investment which might not otherwise be made.	Procurements are typically carried out as a two stage process: expression of interest and then bidding – technical and financial. However, this can be altered to include other steps depending on the nature and value of the procurement.

Non US-Based Multilateral Development Banks and Donors (cont.)					
	Core Purpose & Use of Funds	Bidding Process	Local Content Preference	Contract Restrictions/Thresholds	Registration, Pre-qualification, or Short-listing Process
<b>Department for International Development (UK)</b>	DFID spends nearly £1bn a year on wealth creation programmes in poor countries and many of these are open to participation from business based anywhere in the world. These programmes include financing through grants, loans and other financial instruments and cover activities ranging from infrastructure to water, to agricultural development and to innovation.	<b>Open-Competitive:</b> Contracts are open to any company or other body, anywhere in the world. SMEs (small-medium enterprises) encouraged to bid; typically win around a third of the opportunities offered	<b>No.</b>	<b>No</b> , but the size and scale of DFID programmes vary. Large frameworks exist which are usually set up to define the business case or design a programme and usually procure out at anything up to \$8M. Individual programmes have been known to be worth £100M, however these often include large grant components going to the company books and therefore profit is reduced to the value of the contract dedicated to fees.	<b>Yes.</b> For all DFID opportunities above the EU Directives Threshold: All new business over £101,323 will be advertised/tendered through the DFID Supplier Portal. To work on any of the DFID Business administered through the UK, registration is required through the DFID Supplier Portal. Once registered with the DFID Supplier Portal, you will be able to register for open tendering exercises and your profile will also be brought up when DFID searches for suppliers and/or contractors in sourcing exercises.
<b>Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)</b>	As a federal enterprise, GIZ supports the German Government in achieving its objectives in the field of international cooperation for sustainable development. GIZ operates in many fields and takes account of political, economic, social and ecological factors. They also support their partners with management and logistical services, and act as an intermediary, balancing diverse interests in sensitive contexts.	<b>Member-Only (Germany majority):</b> Since GIZ essentially acts on behalf of the German Government, commissions granted to GIZ by German ministries are subject to the <i>'in-house' contract awarding principles established by the European Court of Justice.</i>	US Companies are at a near total disadvantage to win GIZ contracts. Since 2012, roughly 90 percent of GIZ's turnover was under contracts from the German gov't; GIZ made 18.7 percent in 2012 from contracts from other clients such as financing institutions or private sector companies. Cooperation with private enterprises is an emerging field, promoted under the name of sustainable development where, together with German, European and international enterprises, develop strategies for sustainable business practices. On behalf of BMZ, GIZ coordinates around 50 development partnerships each year.	<b>No</b> , but direct awards are used for contracts up to 200,000 Euro. Awards worth more than 200,000 Euros will not be considered for direct awards, but rather through negotiation procedures unless there is prior announcement, or competitive bidding. Letters of interest are generally requested for a tender volume exceeding EUR 200,000 and/or a term exceeding 12 months.	Mainly a two stage process (expression of interest and then bidding – technical and financial).