



Brussels, 19 April 2019

## ECOS response to EU-U.S. regulatory cooperation activities

In the context of the Commission consultation on EU-U.S. Regulatory Cooperation, ECOS presents its views on the discussions related to conformity assessment and the dialogue on standards. The consultation makes reference to the dialogue especially on areas where no standards exist yet, *“in order to facilitate trade in the future and increase regulatory convergence”*.<sup>1</sup>

ECOS considers that closer regulatory convergence and technical cooperation on standards may likely undermine environmental protections. In particular, we believe that:

- 1) **Conformity Assessment:** Any possible future agreement on conformity assessment, and particularly one aiming at facilitating acceptance of conformity assessment results, should in no way water down the conformity assessment procedures as specified in the EU product-specific regulations. Conformity assessment in the EU aims, among others, at bringing improvements in environmental performance through changes at the product design and production phases; hence, any negotiation should fully preserve a high level of environmental and consumer protection and prevent non-compliant products from entering the market.

It must be noted that the conformity assessment in the EU is mostly done through a self-declaration carried out by the manufacturer and therefore, the obligations from non-EU manufacturers should mirror the obligations of manufacturers based within the EU to allow for a level playing field.

ECOS believes that conformity assessment procedures specifically for the selected sectors (e.g. electric and electronic equipment, machinery, medical devices, toys, construction products, measuring instruments, etc.) should be complemented by effective market surveillance to combat the significant<sup>2</sup> rates of non-compliance.

- 2) **Dialogue on standards:** The objective of regulatory convergence risks exacerbating the tendency of using standards as a replacement for binding regulation. Regulation is more appropriate and effective to address societal concerns, in particular in protecting health and the environment. Resorting to standard development could appear as an easier option as it involves delegating work

<sup>1</sup> [http://trade.ec.europa.eu/consultations/index.cfm?consul\\_id=259](http://trade.ec.europa.eu/consultations/index.cfm?consul_id=259)

<sup>2</sup> [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/614696/EPRS\\_BRI\(2018\)614696\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/614696/EPRS_BRI(2018)614696_EN.pdf)

such as definitions, test methods (or any other typical area for which standards are used) to US or European Standardisation Bodies. However, ECOS has long warned against the growing use of standards as policy tools: maintaining the supremacy of mandatory legislation over voluntary standards in areas of public interest is crucial.

Furthermore, significant structural divergences and philosophies in the standard-setting processes used by the EU and the US are of such magnitude that this should preclude the intended establishment of mutual recognition of EU-US standards. ECOS is opposed to the mutual recognition of standards because EU and US standards in themselves are not comparable, nor is the philosophy or standard-setting process.

International cooperation on standardisation should be preferred over strict bilateral EU-US collaboration when proven brings an added value to the European economy, citizens and the environment. EU-US cooperation in the existing framework for international standard definition should instead be improved and possibly enhanced, instead of EU-US regulatory authorities jeopardising societal and environmental interests when defining areas of common interest for closer regulatory cooperation.

We therefore urge decision-makers to protect the pre-eminence of legislation over standards under this regulatory cooperation and not to jeopardise core principles of the European Standardisation System (ESS), including transparency and inclusiveness. We believe that the proposed regulatory convergence would threaten some of these hard-gained core principles.

Cooperation between EU and US regulators could be enhanced within the realms of existing international fora for standardisation, while avoiding the drafting of standards reflecting the lowest common denominator among national standardisation bodies.