Incorporation of Standards by Reference in Canada: Considerations for Trade

November 12, 2019
Presentation Overview

Voluntary Standardization in Canada

Incorporation by Reference

Trade policy considerations
Voluntary Standardization
in Canada
The Standards Council of Canada

Canada’s national standards and accreditation body

As a Crown corporation, SCC reports to the Federal Government through the Minister of Innovation, Science and Economic Development (ISED)

SCC:

- Coordinates standardization activities in Canada
- Accredits Standards Development Organizations & Conformity Assessment Bodies
- Advises federal and provincial governments
- Supports strategic priorities of industry and governments
- Represents Canada in international and regional forums
Standards in Canada

As of March 31, 2019, there were **3,143** active standards published under SCC accreditation.

In FY 2018-2019, **2,550 (81.1%)** active standards under SCC accreditation were **National Standards of Canada (NSCs)**.
SCC and ISO Standards by ICS Sector

Note: The distribution of standards across ICS sectors is based on the total number of ICS codes assigned to each standard. Since a standard can have multiple ICS codes, the number of standards that could be derived from the distribution presented in this chart, will equal the total number of ICS codes associated with standards in the Canadian and ISO catalogues, not the total number of standards.
Incorporation by Reference
Incorporation by Reference (IBR)

- IBR is a drafting technique used to include a document, such as a standard, within a legislative text as if it were reproduced word for word.

- Documents incorporated by reference have the same binding effect as the regulation in which it is incorporated.

- Canadian federal regulators, as well as all of the provinces and territories, incorporate standards by reference in regulations.
Examples of Incorporation by Reference (IBR)

**Static reference**: when a standard is incorporated by reference as of a specific date, and that subsequent revisions to the standards are not automatically incorporated into the regulation.

*Example:*

Floor coverings must meet the Canadian General Standards Board standard CAN/CGSB-4.2 No. 27.6, Textile test methods – Flame resistance — Methenamine tablet test for textile floor coverings, published in September 2015.
Examples of Incorporation by Reference (IBR)

Ambulatory reference: when a standard is incorporated by reference with no mention of a date of issue or specific version. For additional clarity, ambulatory references should included phrases such as “latest edition of” or “as amended from time to time.”

Example:

Trade policy considerations
Coordinating the Canadian Standardization System

SCC works to better understand the economic impact of incorporating standards in regulations.

SCC’s Monitoring Standards in Regulation project provides federal, provincial and territorial governments with reports detailing which standards they have incorporated by reference as well as the status of those standards.
In FY2018-2019, SCC identified 1,409 references to standards in 132 Canadian Federal regulations.
Standards experts. Accreditation solutions.

When referencing standards in regulations, Canadian regulators may consider whether domestic, other national/regional or international standards would best meet their regulatory objectives.

Number of References to standards in Canadian federal regulations (As of March 31 of the calendar year)

- References to international standards
- References to other national / regional / North American standards
- References to domestic standards

2014: 313 (22.2%)
2015: 609 (43.2%)
2016: 487 (34.6%)
2017: 313 (22.2%)
2018: 609 (43.2%)
2019: 487 (34.6%)
Standards in Regulations

Number of References to Standards in Provincial and Territorial Regulations (As of March 31, 2019)
Work to align Standards Incorporated by Reference

Over time, provincial and territorial governments have incorporated different standards, or different versions of the same standard, in regulations across Canada.

This has lead to the creation of technical barriers to trade within the country.

SCC works with key stakeholders to identify standards referenced in regulations that impact trade and to analyze the economic impact of technical barriers to trade.
Policy Considerations for Incorporation by Reference

Need for increased awareness on standards nomenclature and maintenance cycle

Request for guidance on policy considerations for incorporating standards by reference in regulation

Guidelines on IBR developed with input from Department of Justice and Treasury Board of Canada Secretariat published in 2018
Benefits of Standards as a Regulatory Tool

- Allows regulators to make use of the expertise in Canada’s standardization system to efficiently advance regulatory objectives.
- Supports a regulatory system that fosters innovation and ensures needs of industry and the latest scientific trends/technologies are reflected.
- Supports global supply chains and reduces technical barriers to trade and trade irritants.
- Supports market access for Canadian products and services and reduces compliance costs.
- Balances the interests of diverse stakeholders.
Thank you

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