



COMMON PAPER FROM THE BOATING INDUSTRY Transatlantic Trade & Investment Partnership

27 September 2013



1. Introduction

Following individual submissions for the preparation of the Transatlantic Trade & Investment Partnership (TTIP) agreement, European Boating Industry and the National Marine Manufacturers Association (NMMA) acknowledge their common interests in the success of this free-trade negotiation and have signed a common declaration in order to materialize their commitment to work together at achieving global harmonization and mutual recognition for the recreational boating industry¹. The boating industry both in the EU and the US believes it is possible to reduce unnecessary regulatory costs and unjustified regulatory differences in this sector, and jointly call for the boating sector to be included in the scope of the on-going negotiations for the Transatlantic Trade & Investment Partnership.

By way of background, NMMA is the leading national recreational marine trade association in North America, with nearly 1,400 members involved in every aspect of the boating industry. NMMA members manufacture over 80 percent of recreational boats, engines, trailers, accessories, and gear used in the United States.

European Boating Industry is the European recreational marine federation formed of 19 national associations from 15 EU countries, Norway and Switzerland. The boating industry in Europe consists of all sectors relating to boating and watersports including: boat builders, equipment manufacturers, infrastructure builders, and service providers.

2. The EU and US represent 80% of the boating industry and markets

The US and the EU are natural trade partners and have a long tradition of exchanges in the boating industry, both at supply chain level (e.g. engines, equipment and components) and consumer levels. North America and the European single market have been the traditional markets for recreational boating for the last 50 years. The financial and economic crisis impacting the US and EU has strongly affected the boating markets in both regions since 2008.

Despite the negative impacts of the crisis, the US and the EU remain the two largest boating markets in the world and their respective industries are world leaders. These two regions together represent about 80% of the world's production (boats, engines, equipment, components, accessories) and also 80% of the world's boating market. In Europe, the industry accounts for 37,000 companies directly employing over 234,000 people and generating a turnover of approximately 20 billion EUR in 2011. In the US, the recreational marine industry is a significant contributor to the economy, with a total economic impact of 121.5 billion USD in 2012. It employs nearly 340,000 people through more than 34,800 boating businesses.

The US and the EU share similar boating cultures in the way boats are used and recreational watersport activities are practiced. 88 million people in the US participated in boating in 2012, and over 12 million own registered boats. In Europe, over 48 million EU citizens enjoy watersports, while 36 million of them are boaters, with over 6 million boats. The Mediterranean Sea attracts over 70% of the world's boat charter activity and nautical tourism and is a significant contributor to the European tourism industry.

¹ The common declaration was signed on 18 September 2013 and covers all products from the boating industry, namely recreational craft (boats), their components, accessories, engines and personal flotation devices (lifejackets).

Marine related companies both in Europe and the US are largely small to medium-sized enterprises, often family-owned businesses, which would highly benefit from improved and simplified trade conditions between the EU and the US.

3. Objectives of the boating industry within the TTIP negotiations

For European Boating Industry and NMMA, the opening of the negotiations for the Transatlantic Trade & Investment Partnership offers an unprecedented opportunity to simplify and strengthen the existing trade relationships in the boating industry.

European Boating Industry and NMMA share the common views that the inclusion of the recreational marine industry into the scope of the EU-US free trade agreement would provide an increase in comprehensive market access for its products, components, systems and accessories, while improving regulatory coherence and introducing reduced tariffs. The establishment of a dedicated Annex to address the sectoral issues of the boating industry could also lay down the basis for future regulatory cooperation and enhanced regulatory convergence in this sector.

European Boating Industry and NMMA strongly urge negotiators from both governments to establish a Recreational Boating Annex in the TTIP process. Recreational boating significantly impacts the domestic and export economies of the EU and US, and would greatly benefit from the objectives of TTIP, including: functional equivalence for marine certification, regulatory standards harmonization, and reduction and/or elimination of tariffs. Achieving these objectives will reduce export costs for manufacturers of both countries, reduce burdensome trade barriers, and encourage further export growth of the industry.

4. Functional Equivalence for Marine Product Certification

Recreational boats being offered for sale in the United States must comply with the laws and regulations as published in the US Code of Federal Regulations (CFR). NMMA is committed to boating safety and quality through its extensive certification program. With many of the CFR² boat building requirements being currently out dated and not meeting safe boat building standards, the NMMA certification program incorporates additional and voluntary safety standards established by the American Boat & Yacht Council (ABYC) to meet or exceed regulatory requirements in the US CFR.

The American Boat & Yacht Council (ABYC) is a non-profit organization created with the purpose of developing safety standards for the design, construction, equipment, repair and maintenance of boats. ABYC develops standards, through ANSI processes, based on extensive consultation with a standards development technical board, comprised of industry stakeholders and technical experts. NMMA certified boats, though not mandated in the US CFR, ensure compliance with US law and establish a high level of boat building safety and environmental compliance. NMMA certification is a prerequisite for NMMA association membership.

Boats offered for sale in the EU must be accompanied by the CE declaration of conformity and bear the CE marking, which mean that the manufacturer or the importer assumes responsibility for the compliance of the product to the requirements of the EU Recreational Craft Directive 98/25/EC as amended by Directive 2003/44/EC³ as well as other EU

² CFR: Code of Federal Rules

³ The Recreational Craft Directive is currently at the final stage of its revision and it is expected that the new Directive be published by the end of 2013

directives applying to the product. For the boating sector, the EU internal market encompasses all EU Member States, the EEA⁴ and Switzerland. CE markings must be affixed before the product is placed on the EU internal market, whether by the manufacturers or the importers.

Both US and EU manufacturers face the unnecessary and costly burden of certifying their products twice to sell in both the US and EU markets. Yet, the double certification of similar products does not provide any additional value in terms of product safety for the consumer, but only artificially increases the final price for the consumer.

It is difficult to draw a comparison of costs for manufacturers between the EU and the US since the 2 systems have different approaches and costs vary greatly between smaller and larger boats. Costs comprise of the certification cost (paid by the manufacturer to the 3rd party inspection or notified body) and the adaptation cost, which is the manufacturer's internal cost for the supply, purchase and installation of different raw materials and components, the additional engineering and labour hours to adapt the product to the EU and the US markets, etc. These costs represent a higher proportion of the final price for smaller vessels than for larger ones. Also, these costs apply individually to each boat model. For European companies exporting to the US, certification costs represent about 3% of the boat's market price (with 1% for the annual certification cost and about 2% for the product adaptation). The cost of NMMA certification includes a 300 USD initiation fee plus time for plant inspection to ensure boat building standards conformity.

The concept of "functional equivalence" put forward by the automotive industry could provide an innovative solution to an old problem and could be easily transposed to the boating sector. This concept respects each other's regulatory model but examines whether differences are significant enough that relevant regulations cannot be considered as equivalent. If the differences are not deemed significant, mutual recognition by appropriate authorities could confirm that recreational craft, components, systems, engines, and accessories manufactured in accordance with each other's technical requirements offer the same level of safety. Where mutual recognition is not directly feasible, there should be intermediate steps agreed in the Annex in order to gradually reduce unnecessary duplication and avoid further differences in the future.

This approach would offer significant cost reductions for companies by avoiding duplication of certifications and conformity assessment procedures. If recreational crafts with NMMA certification, meeting ABYC standards, could be offered for sale on the EU internal market, as "functionally equivalent" to the craft that bear the CE mark, this would reduce duplicative costs for US boat manufacturers. Similarly, the US could accept European CE-marked boats, with 3rd party inspection⁵, as "functionally equivalent" to the mandates in the CFR and therefore allowable for sale in the US.

The boating industry wishes to explore routes for further mutual recognition and acceptance of national and regional conformity assessment systems via the International Standardization Organisation (ISO) Committee CASCO⁶. This ISO Committee develops policy and publishes standards related to conformity assessment, but it does not perform conformity assessment activities. A cooperation scheme between the ISO Technical Committee 188 in charge of small craft standardization, the US counterparts⁷ and the ISO CASCO Committee could also be a solution for harmonizing conformity assessment procedures and eliminating double certifications.

⁴ The European Economic Area comprises of the EU Member States plus Iceland, Liechtenstein and Norway

⁵ As foreseen in the EU Recreational Craft Directive 94/25/EC as amended by Directive 2003/44/EC, based on boat's design categories and related conformity assessment modules with 3rd party inspection.

⁶ For more information on ISO CASCO, please visit <http://www.iso.org/iso/home/about/conformity-assessment/casco.htm>

⁷ ABYC, USCG, EPA for boats and components; UL/USCG for personal flotation devices

Though the boating industry understands the laws and regulations in the US⁸ and the EU are not exactly similar, accepting the concept of “functional equivalence” for boat certification will not reduce product safety, but rather significantly lower costs for manufacturers and encourage trade and exchanges between the US and EU for this market sector. As international standards strive towards conformity, functional equivalence for certification would be a significant step in reducing cost barriers. This will result in a significant reduction of conformity assessment and certification costs for both EU and US manufacturers, while not modifying any of the safety and environmental requirements in place in Europe and in the US.

5. Standards Convergence and Harmonization

For historic reasons, the EU and the US followed two different routes in their standard development activities. Efforts have been made in the recent years in order to bring more convergence between the ABYC standards⁹ and ISO standards used in Europe. Without complete harmonization, however, companies in the US and Europe nevertheless still have to comply with two different sets of standards, two different conformity assessment systems and two different certifications in order to sell in each other’s markets. The ratio between mandatory and voluntary standards also varies between Europe and the US, adding a layer of interpretation for companies. These differences apply both to the boat as finished product and to nearly all components, systems and accessories which are fitted inside or on the recreational craft, making it more complex to understand for manufacturers.

Manufacturer costs are reduced when there is a single global standard that would ensure that EU and US boat building standards and certifications are compatible. With over 60 ISO standards used in Europe and about the same number used in the US¹⁰, the International Council of Marine Industry Association (ICOMIA) has recognized the need for standards compatibility among its members within the international boatbuilding community and initiated a joint committee of standards experts to look at the potential harmonization of recreational boat standards from both ISO and ABYC. This joint committee, made up of industry experts from ISO, ABYC, NMMA, ICOMIA and the RSG¹¹ has been instrumental in defining and cataloguing requirements within the two groups of standards that have potential for harmonization.

Through these committee efforts, standards such as vessel capacity labels have been harmonized between the EU and US, significantly reducing manufacturer costs. To date, nine boat building standards have undergone extensive international harmonization efforts, including conformity guidelines for: fuel, LPG, electrical standards, closing appliances, powering, man overboard prevention, capacity label, ventilation, and field of vision. In 2013, the ICOMIA standards harmonization initiative continues to revise and harmonize standards for fuel systems, LPG systems, electrical systems, powering and ventilation. Anchoring is a new standard the ICOMIA committee is intending to harmonize.

Though a rigorous process, European Boating Industry and NMMA call for a Recreational Marine Annex in the TTIP which promotes the continued efforts of standards harmonization. Public commitment by the EU and US to move towards international standards harmonization for the marine sector is critical. Additionally, both governments should aim towards international conformity when adopting new laws and regulations affecting the leisure marine sector.

⁸ US boating requirements are established by the Code of Federal Rules (CFR), the US Coast Guard (USCG) and the US Environmental Protection Agency (EPA)

⁹ Standards used in the US are USCG requirements and ABYC standards for boats, systems and components; USCG/UL standards for lifejackets; EPA standards for engines

¹⁰ US standards are originated by ABYC, USCG-UL and EPA standards

¹¹ RSG (Recreational Craft Directive Sectoral Group) gathers the EU notified bodies involved in the conformity assessment of recreational craft in Europe. More on www.rsg.be

The on-going revision of the EU Recreational Craft Directive 94/25/EC as amended by Directive 2003/44/EC will result in the alignment of the engine exhaust emissions with those which will be in place in the US as of 1st January 2015. Similarly, holding tanks and on-board water treatment systems will be required for sewage. By 2015, US and European CE-marked boats will already provide similar levels of environmental protection.

In terms of working process, European Boating Industry and the NMMA are currently working together in order to identify the families of products and related regulations / standards which are already equivalent, and could be directly included in the Annex as basis for the mutual recognition¹². The industry is also jointly working at identifying the remaining areas which would need further work and additional time to reach equivalence¹³.

In determining “functional equivalence”, the approach will look at whether and why a certain standard would not offer a similar and comparable level of protection. In practice, such comparative analysis will be easily conducted by European and US boating experts and could be put forward for approval by the ISO Technical Committee 188 on small craft. The US authorities would define a similar endorsement procedure in order to grant equivalent recognition to ISO standards in the US Code of Federal Rules, the US Coast Guard and the US Environment Protection Agency requirements. In order to maintain the initial impetus, the Annex would contain timelines for identifying standards where functional equivalence (rather than harmonization) is already achievable and for achieving harmonization of remaining standards.

In order to continue reaping benefits and achieve global standards in the boating industry, European Boating Industry and NMMA consider it vital that an institutional mechanism be developed between EU and US governments¹⁴ in order to provide an official forum to discuss implementation issues, future policies, and regulatory convergence. The existing EU-US High Level Regulatory Cooperation Forum which meets annually could embed this proposal by providing sectoral working groups to discuss vertical issues.

6. The Example of Personal Flotation Devices

Personal Flotation Devices (PFD or lifejackets) are a critical example of the problems raised by regulatory incompatibility, rather than technical incompatibility. In the past, the US PFD standards and labelling model has been significantly different from international models.¹⁵ For the past several years, US manufacturers, US Coast Guard (USCG), and Underwriters Laboratories (UL) have been working to harmonize the US PFD standards with international ISO requirements set by ISO 12402 standard. The USCG recently proposed regulatory changes to amend the labelling and standards requirements with the new UL 12402 PFD standard.¹⁶ A final rule amending 46 CFR 160 and 46 CFR 169 on PFDs will significantly reduce the standards and labelling differences between US and international PFDs. However, the UL 12402 standard remains a different standard, although based upon ISO 12402 standard. For the time being, the UL and ISO 12402 standards will continue to coexist as 2 separate standards and manufacturers will have to submit their products to 2 different certifications processes. In order to avoid possible confusion on the market place, these standards should be deemed “functionally equivalent”. The next step for further convergence would be to convert the UL standard into an ANSI ISO standard, which would still allow for national deviations if needed by the US regulators, but already provide more harmonisation.

¹² See Annex I – Non-exhaustive list of candidate regulations for mutual recognition

¹³ See Annex II – Non-exhaustive list of regulations to be harmonised

¹⁴ At least European Commission, US Coast Guards, US Environmental Protection Agency, stakeholders such as industry and users' representatives, standard developers, etc.

¹⁵ See US Code of Federal Rule: 46 CFR 160

¹⁶ See US Docket No. USCG—2013—0263

Other barriers for PFD exports also remain. A European company willing to export personal flotation devices to the US has to be granted the USCG type approval, which requires all products to be tested by a USCG recognized laboratory. UL has maintained a lab testing monopoly on PFDs, with only recent exceptions—the recognition of IMANNA and FORCE Certification A/S laboratories, respectively based in Florida (US) and Denmark. Now IMANNA, FORCE Certification A/S and UL are the only three USCG approved labs available to PFD manufacturers willing to sell on the US market. Though there is some expansion in the market, UL still holds a monopoly on PFD testing because of the Follow Up Services (FUS) process. FUS is required as part of USCG approval. UL does not accept other labs tests for FUS, even though they are standardized. This prevents many PFD manufacturers from having access to non-UL controlled labs and serves as a barrier to exportation.

The cost of exporting to the US is prohibitively expensive for European PFD manufacturers, as British lifejacket manufacturers recently estimated the cost to be up to 75,000 USD. Looking at the conformity assessment procedures, it would be essential that the free-trade agreement allows EU Notified Bodies to test to US standards while US test laboratories would test to ISO standards. Harmonizing the ISO 12402 standard and USCG regulations seems to be progressing, but testing barriers remain a trade concern and should be addressed in the Recreational Marine Annex to TTIP.

7. Reduce or Eliminated Tariffs

NMMA and European Boating Industry support the matching and/or elimination of tariff schedules for recreational craft, their components and other accessories. Currently, recreational crafts imported to the US face tariff rates of 1.5 percent and outboard motor tariffs of 1 percent. These rates are significantly lower than those imposed by the EU for the same sector. US manufacturers exporting to the EU must pay between 1.7 to 2.7 percent for outboard motorboats and 4.3 to 6.2 percent for outboard marine engines. This tariff imbalance further hurts US manufacturers wishing to access European markets. European Boating Industry and NMMA support full free trade in the TTIP negotiations, particularly for the leisure marine sector, and request tariff rates be reduced or cancelled in the Recreational Marine Annex.

6. Conclusions

Taking into account the willingness and efforts made so far by the National Marine Manufacturers Association and European Boating Industry, we believe that the Transatlantic Trade & Investment Partnership agreement could become a significant milestone for improving and simplifying trade conditions between the US and Europe for thousands of small and medium-sized companies in the boating industry.

The objective pursued by European Boating Industry and the NMMA is to achieve genuinely comparable regulations and standards on both sides of the Atlantic that could lead to global regulations and standards becoming the world's benchmark in the boating industry.

Sincerely,



Robert Marx, President
European Boating Industry



Thomas Dammrich, President
National Marine Manufacturers Association

Annex I – Non-exhaustive list of candidate regulations for mutual equivalence

A. Safety regulations

EU regulation	Description	US regulation
ISO 10239, ISO 9094, ISO 15609	LPG systems	ABYC A-01
ISO 10239 ISO 9094, ISO 14895	Galley stoves	ABYC A-03, A-30
ISO 10239, ISO 9094	LPG and CNG fuelled appliances	ABYC A-26
ISO 10133 ISO 13297	Storage batteries	ABYC E-10
ISO 11591	Field of vision from helm	ABYC H-01
ISO 15085	Ladders, handholds and rails	ABYC H-41
EN 28848, ISO 8847, ISO 13929, ISO 10592, ISO 29775, ISO 25197 (ISO 9776, ISO 8848)	Mechanical steering systems	ABYC P14, P17, P21, P22, P24
ISO 10087	Hull Identification Number (HIN)	33 CFR 181 subpart C ABYC T10
EN 28846 (ISO 8846)	Protection against ignition of surrounding flammable gases	UL 1500 33 CFR 183.410
ISO 12133	Carbon monoxide detection systems	ABYC A-24
ISO 9094-1, -2	Fire protection & means of escape	ABYC A-04
ISO 12402	Personal flotation devices	UL 12402

B. Environmental regulations

EU regulation	Description	US regulation
Equivalent as of 2015	Engine exhaust emissions	40 CFR 1045 40 CFR 1060 40 CFR 1065 40 CFR 1068 40 CFR 1042
Equivalent as of 2015	Sewage prevention	40 CFR 1043 40 CFR 140.3

Annex II – Non-exhaustive list of regulations to be harmonized

A. Safety regulations

EU regulation	Description	US regulation
ISO 16180	Navigation lights	ABYC A-16
None	Sound signal appliances	ABYC A-23
ISO 10133 ISO 13297	Battery chargers and inverters	ABYC A-31 UL 1236
ISO 10133 ISO 13297	AC / DC electrical systems ¹⁷	ABYC E-11
ISO 12216	Windows, hatches, doors, port lights	ABYC H-03
ISO 11812	Cockpit drainage systems	ABYC H-04
ISO 14946 ISO 12217-1, -2, -3	Capacity	ABYC H-05
ISO 15083 ISO 8849	Electric bilge pumps	ABYC H-22
ISO 10088, ISO 21487, ISO 7840, ISO 8469, ISO 13592, ISO 16147	Gasoline fuel systems	40 CFR 1045 ABYC H-24, H-2
ISO 11592	Powering	ABYC H-26
ISO 9093-1, -2	Seacocks, through-hulls, drain plugs	ABYC H-27
ISO 10088, ISO 21487, ISO 7840, ISO 8469, ISO 15584	Diesel fuel systems	ABYC H-33 H-32
ISO 15084	Anchoring, mooring, strong points	ABYC H-40
None	Exhaust systems	ABYC P-01
ISO 8845	Propeller shafting systems	ABYC P-06
ISO 8847	Cable and pulley systems	ABYC P-18 (for outboard engines only)
None	Outboard engine weight table	ABYC S-30
ISO 8665	Marine propulsion reciprocating internal combustion engines (used for electric engine)	None
ISO 12215	Hull construction and scantlings	None
ISO 12217	Buoyancy and flotation	ABYC H-08
ISO 6185-1, -2, -3, -4	Inflatable boats & RIBs	ABYC H-28
ISO 8666	Principal data (boat	ABYC S-8

¹⁷ AC / DC electrical systems in the US and Europe are completely different systems.

	measurement & weight)	
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B. Environmental regulations

EU regulation	Description	US regulation
ISO 8099	Marine sanitation device	33 CFR 159
ISO 14509	Noise level limits	State specific

C. Other regulations

EU regulation	Description	US regulation
ISO 10240	Owner's manual	ABYC T-24
ISO 14945	Builder's plate	33 CFR 183 Subpart B ABYC S-7

D. Other standards

EU standard	Description	US standard
None	Refrigeration & air conditioning equipment	ABYC A-06
None	Seat structures	ABYC H-31