
Brussels, 21 April 2015

Orgalime comments on EU's position paper on the engineering industries and TTIP¹

1. INTRODUCTION

Orgalime welcomes the publication of the EU's position on a sectorial approach for the engineering industries <http://trade.ec.europa.eu/doclib/html/153022.htm> (mechanical, electrical and electronic sectors) in the Transatlantic Trade and Investment Partnership (TTIP). The publication of the EU's position contributes to transparency and allows our industries to submit comments that could prove useful for drafting an annex on the engineering industries.

Orgalime supports an annex on the engineering industries, because we expect it to contain specific commitments or steps aimed at reducing costs stemming from regulatory differences in our sectors.

We also consider it important that the annex on the engineering industries should prevail, as foreseen, over the horizontal agreement on regulatory cooperation. Thereby, it could be more ambitious in some aspects, for example it could include provisions on streamlined regulatory acts issued by EU Member States and US States (defined as "non-central level" in the proposal for regulatory cooperation).

2. REGULATOR-TO-REGULATOR COOPERATION

Orgalime agrees with the Commission's proposal that TTIP could – and should – establish transatlantic cooperation mechanisms among all the relevant regulators. We consider that this should also include EU Member States and US States, whenever they are allowed to influence the requirements for placing products on the market, whether for consumer or professional use.

Moreover, we fully support the commitment to closely cooperate in the development of international disciplines. We consider that the application of acts of international instruments to which both partners abide, such as the United Nations Economic Commission for Europe (UNECE) could be an optimal way to harmonise legislation or assess regulatory equivalence between the trade partners.

In principle, Orgalime supports the idea of reviewing existing legislation that is considered to create significant trade barriers. Nevertheless, it is important not to take any measures that could

¹ This Orgalime position papers refers to the EU's position on engineering <http://trade.ec.europa.eu/doclib/html/153022.htm> as published on 7 January 2015

Orgalime, the European Engineering Industries Association, speaks for 41 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10 million people in the EU and in 2013 accounted for more than €1,700 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

undermine the successful steps taken to simplify the European internal market for electrical, electronic and mechanical engineering goods.

Any regulatory steps should in particular support the Directives that are currently being or have been recast/aligned with the New Legislative Framework, which is a single set of rules for placing products on the market ². This framework provides clarity and predictability to manufacturers each time that a product-specific Directive is revised, because the regulator is obliged to choose among a common set of conformity assessment procedures and definitions that are laid down in these two pieces of legislation. This important exercise has already had a positive impact on manufacturers operating in Europe and it should be taken into account before any review is discussed with the US authorities, even if the aim of the review is to *“reduce unnecessary regulatory divergences regarding technical regulations and to introduce the least possible burdensome conformity assessment procedures, while guaranteeing high levels of safety”*.

Moreover, the EU negotiators, under all circumstances, have to preserve the EU’s conformity assessment system in the electrical, electronic and mechanical engineering sectors, as it is less burdensome and more proportionate than the US system.

Contrary to what is stated in the Commission’s position, self-declaration of conformity is not a *“lighter”* conformity assessment procedure. It relies on the fact that the manufacturer is the most knowledgeable party on the product’s inherent risks and ways to mitigate them. Therefore, the EU conformity assessment system obliges the manufacturer to bear the full responsibility for the products’ compliance even if a third party conformity assessment body is consulted. We expect the EU negotiators to promote the benefits of the EU conformity assessment system and to eradicate any unnecessary, duplicative and diverging certification requirements that would be deemed necessary to ensure trust in transatlantic trade operations.

3. COOPERATION BETWEEN STANDARD SETTING ORGANISATIONS

We consider that any steps in regulatory cooperation should be accompanied by a corresponding cooperation at standardisation level.

Orgalime firmly supports the idea that TTIP should promote standardisation work primarily at ISO, IEC and ITU level at least for the standards that are relevant to both constituencies ³. Thereby, we could aim to achieve the goal of *“one standard, one test accepted everywhere”* instead of creating new regional *“transatlantic standards”* or causing a proliferation of similar but yet not identical standards on both sides of the Atlantic.

4. COOPERATION ON ENFORCEMENT/MARKET SURVEILLANCE LEVEL

Orgalime supports the EU’s position to reinforce the existing elements of cooperation among EU Member States’ and U.S. authorities. Moreover, we consider it necessary to involve the customs authorities in this cooperation agreement, as they constitute the first filter for assessing compliance with the respective legislative framework of products entering the EU and U.S. markets.

² New Legislative Framework (Regulation 765/2008 and Decision 768/2008)

³ For example, the U.S. is already very active in the standardisation work of the IEC System for Certification to Standards relating to equipment for use in explosive atmospheres (IECEx System) <http://www.iecex.com/countries.htm> and of IEC’s TC 66 on Safety of measuring, control and laboratory equipment http://www.iec.ch/dyn/www/f?p=103:14:0:::FSP_ORG_ID,FSP_LANG_ID:2615,25 as well as to the cooperation among Conformity assessment bodies at IEC level.

Furthermore, we suggest that relevant EU and U.S. authorities should establish regular dialogue between themselves that involves interested stakeholders on both current and future challenges, such as traceability to the liable economic operator, e-labelling of products, or other demonstration of conformity procedures.

5. TRANSPARENCY AND ACCESS TO REGULATORY INFORMATION

Orgalime supports the Commission's proposal to improve the access of market operators and officials to information about the other trading partners' applicable rules, standards and procedures, in particular when it comes to information on the requirements applied at U.S. state level. We consider that this could be promoted by establishing single gateways of information to the public and in particular to SMEs. This role could be the responsibility of the foreseen "focal points" of the regulatory cooperation proposal (article 8.3).

6. SPECIFIC ACTION IN CERTAIN AREAS

Orgalime welcomes the Commission's invitation for input and concrete proposals from industry from both sides for the determination of the areas where specific action could be envisaged. Orgalime and NEMA have already provided concrete proposals to negotiators.

<http://www.orgalime.org/news/ttip-joint-statement-eu-and-us-industry-associations-orgalime-and-nema>

Moreover, we suggest that an annex on engineering would establish an ambitious form of dialogue among economic operators and regulators at transatlantic level, going beyond the relevant provisions for an annual stakeholder-regulators' meeting foreseen in the Regulatory Cooperation proposal (article 15). Such a dialogue would identify the need for specific action in the future. Thereby, TTIP would become an agreement which is able to accommodate the needs of the constantly evolving engineering sector.

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