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Orgalime position paper on the modernisation and simplification of the European Customs environment:

Proposal for a Commission Regulation amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (DG TAXUD working document 1250/2005 – Rev. 7)

Brussels, 12 September 2006

Orgalime represents the interests of the European mechanical, electrical, electronic and metalworking industries at the level of the EU. Our members include, at the present time, 35 national trade federations representing some 130,000 companies in 24 European countries. These industries, which include mainly SMEs, employ some 10 million people and account for around 1,598 billion euro of output, which not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union. Our industry also relies significantly on imported inputs for the manufacture of our products. This issue is therefore of the highest importance for our companies whose competitiveness depends on their ability to trade.

The European engineering industry is following the discussions about the Commission's customs security initiative very closely and while we fully support the objective of simplifying and modernising customs legislation and procedures in the EU and worldwide, we are concerned by the practical changes certain Commission proposals imply. The envisaged amendment to the implementing provisions of the Community Customs Code will set the details for pre-arrival and pre-departure declarations in customs procedures aiming at improving security at external borders. The texts of the draft Commission Regulation amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (working documents TAXUD/1250/2005 – Rev. 7) are raising serious concerns within our companies and within the entire business community.

Orgalime seriously fears that the pre-arrival and pre-departure declarations will lead to greater administrative and financial burdens for companies without contributing significantly to increased security and without containing the necessary simplification for legitimate trade. We are worried that customs procedures will become more difficult, especially for small and medium-sized enterprises and for companies with a significant volume of external trade.

For the European industry, a business-friendly environment in customs legislation and customs procedures is of utmost importance. In a globalised economy, the EU cannot afford to live with a customs regime which would put European companies at a permanent disadvantage vis-à-vis their competitors. We believe that it is time for a sober analysis of the terrorist threat in the area of international trade and of the effectiveness of the proposed countermeasures. As a result of this analysis, the Commission and Member states should agree on amendments of Customs Code Implementing Provisions that ensure a healthy balance between security on the one hand and freedom of trade on the other.

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In particular, the following requirements must be fulfilled for a practical and workable solution:

- Decreasing the required set of data:

The data set for the prior declarations should contain only the information which is available to the declarant and which is relevant for security purposes. The last published draft of the data set requires 11 elements for pre-departure and 17 elements for pre-arrival declarations for the Authorized Economic Operators (AEO) and respectively 23 and 29 elements for other. The acceptance of these requirements would in practice mean the end of the simplified custom clearance procedure, which is the reason why we cannot accept them. Furthermore, such a detailed prior declaration represents an enormous burden for companies and is not necessary for security purposes. We suggest that the **AEO should be exempted from pre-arrival and pre-departure declarations**. We therefore put many hopes in art 125 of the modernized custom code (not yet in force), which will allow a simplified declaration.

- Making the 24 hours rule work in practice:

Industry depends on short time limits that do not affect logistical procedures, just-in-time production and urgent shipments of spare parts. For example, the 24 hour limit before loading for containerized cargo by sea will lead to significant problems, especially in trade with emerging and developing countries. Although we are aware that this rule is reduced (2 hours) for ships coming from the Baltic sea, the Black sea and the Mediterranean sea. In order to make the 24 hours rule acceptable, the rule has to apply **before** the ship reaches the first port in the EU. Furthermore we also need a business-friendly solution for the neighbouring countries of the Community.

- Meaning and advantages of the status of an AEO:

Generally speaking, the award of an AEO status should lead to a real simplification of the administrative burden. Making an effort to reach this status must be worthwhile for companies. Orgalime hopes that the pilot projects that some administrations are now running will lead to a decrease of the burden and that they will take into account the efforts already made by companies by gaining certifications like ISO, SOX etc. The rules must provide a workable framework for AEO with realistic criteria and meaningful relief. The proposed criteria for granting this status are much too stringent, largely unrealistic and in parts even questionable from a legal point of view. This applies in particular to the security screening of employees – including periodic unfounded background checks – which is not acceptable for our companies or for their employees. Furthermore, AEOs must benefit from meaningful simplifications. Especially for authorized exporters, a complete waiver from pre-departure declarations for every single export is indispensable. Without such a waiver, a typical medium-sized company would be confronted with additional costs of 20.000 euros per year and a “global player” with several 100.000s or even millions of euros per year – even though these companies would be considered reliable exporters by their customs administrations. Therefore, an explicit clarification concerning the possibility of global requests covering exports is of utmost importance.

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Furthermore, one has to be aware that companies will only apply for and pay the costs of obtaining the status of an AEO if they receive in exchange sufficient advantages. In order to compensate this costly status, the AEO must therefore be **exempted from the physical control**.

In addition, in the case of dual use goods, an AEO with an safety and security certificate should be exempted from the licence exportation when trading with another AEO or between subsidiaries of the same group, since in both cases the company, when it applied and was granted the status of an AEO, has already proven that it respects the very strict requirement of dual use legislation (otherwise it would not have obtained that status; see document Taxud 2006/1450, point 2.02). Not exempting him from the licence exportation would mean an unnecessary double verification that would mean further costs and time delays.

- Mutual recognition of the status of the AEO:

It is essential that the EU negotiates with its trade partners and obtains an full acceptance and recognition of the AEO, notably by our major trade partners such as the US, Japan, China and India.

We believe that the above mentioned points would both contribute to simplifying and modernising these legislative procedures while, at the same time, ensuring security on Community territory. Moreover such procedures would not unduly penalise companies through increased costs and administrative burdens. We are looking forward to working with the Commission towards a practical solution for business in Europe and hope that the Commission will take due account of our concerns.

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