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Orgalime proposal for a horizontal Technical Barriers to Trade Chapter in on-going and future Free Trade Agreements

1. INTRODUCTION

Orgalime represents a very healthy industry that is a major employer in Europe (10.9 million people), accounts for over a third of the EU's manufacturing exports and is a significant importer thanks to its extensive supply chain. European engineering leads worldwide in many areas of technology and manufacturing. Europe's success depends to a major degree on the openness of the international economy. Our companies need access to the world's largest and most dynamic economies. The European engineering industries are strongly export-oriented and dependent upon international trade.

2. TECHNICAL BARRIERS TO TRADE

A key feature of free trade agreements, apart from reducing or eliminating existing tariff barriers for the engineering goods and establishing a coherent set of rules of origin, is to reduce technical barriers to trade and to have access to public procurement. Orgalime believes that tackling regulatory divergences will benefit businesses of all sizes and increase trade flows.

Technical regulations, standards and conformity assessment procedures should facilitate trade, not become technical barriers for the engineering industries. Therefore, we support trade negotiations as a way to improve the technical cooperation by reducing as far as possible the existing differences in the respective regulatory frameworks between the EU and the trading partner. We believe that the alignment of national and regional standards with ISO, IEC and ITU international standards is the most effective way forward for the removal of technical barriers to trade.

Orgalime, the European Engineering Industries Association, speaks for 41 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs nearly 11 million people in the EU and in 2016 accounted for some €2000 billion of output. The industry represents over a quarter of the output of manufactured products and over a third of the manufactured exports of the European Union.

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Regulator-to-regulator cooperation

Orgalime welcomes cooperation mechanisms between the signatories of free trade agreements that would seek regulatory convergence between EU technical regulation and the corresponding regulations of the signatory party to the trade agreement. Any future trade negotiation should build on the example of European Directives – setting sector-specific legal requirements – that are currently being or have been recast/aligned with the New Legislative Framework (Regulation EC 765/2008 and Decision 768/2008/EC). The latter provides clarity and predictability to manufacturers when a product-specific Directive is revised, because the regulator is compelled to choose among a common set of conformity assessment procedures and definitions that are laid down in these pieces of legislation.

Moreover, we fully support cooperation in the development of technical regulations. The application of international instruments to which both partners abide, for example agreements under the United Nations Economic Commission for Europe (UNECE) or OECD official documents, could be a suitable way to harmonise legislation or assess regulatory equivalence between the two trading partners as it is already the case in other sectors.

Regulatory Cooperation Body

Orgalime calls for the establishment of a Regulatory Cooperation Body between the EU and the signatory party to the trade agreement, entailing the creation of a ‘living agreement’ to facilitate moving towards achieving regulatory coherence and gradually producing solutions acceptable for both sides.

Transparency in adoption of new technical legalisation and non-discrimination principle

Free trade agreements should include an early warning mechanism for the adoption of new technical regulations. New technical regulations should be translated into the official languages of the contracting party to the trade agreement and published on a freely accessible website. Moreover, it should be possible for any interested party to comment on the draft legislation prior to its adoption, giving the engineering industries the opportunity to submit its comments.

The technical regulation of the contracting party to the trade agreements should not be discriminatory or restrain international trade.

3. STANDARDS

We consider that any steps in regulatory cooperation should be accompanied by a corresponding private cooperation between standards development organisations (SDOs). Orgalime firmly supports the principle that in any trade negotiation, the EU should promote standardisation work primarily at ISO (International Organization for Standardization), IEC (International Electrotechnical Commission) and ITU (International Telecommunication Union) level. Standards alignment, along with cooperation on regulatory issues can achieve the overall goal of European business, which is global market access on the basis of ‘one standard, one test, accepted everywhere’. A common

alignment on using standards in support of the application of regulations benefits long term convergence.

Transparency in setting standards

Effective transparency in the field of standards supporting compliance with public policies is crucial.

In the EU, the development of formal standards supporting compliance with legislation has always been an open process. All interested parties, including foreign companies, can participate through standardisation bodies in EU Member States, which are members of CEN, CENELEC or ETSI. Thereby, the foreign companies present on the European market can influence the development of European standards, which will grant them access to the EU single market. Information on standards and future standardisation requests, interacting with legislation is displayed online by the European Commission, and all standards listed are available for purchase from the national standardisation bodies. Foreign companies therefore have the same rights in this area as do the European companies.

Foreign contracting trade partners to the EU should establish a single portal, listing in a transparent way the applicable legislation and any linked standard, the accredited Standard Developing Organisations (SDO). In the longer term, the EU and the foreign contracting party regulators should commit that only standards developed in close co-operation with IEC, ISO and ITU should be used for supporting compliance with both EU and foreign legislation.

4. MUTUAL RECOGNITION OF CONFORMITY ASSESSMENT PROCEDURES

Orgalime industries value the European system whereby EU authorities rely on the manufacturers' declaration of conformity (DoC) for a wide range of products and require third party conformity assessment certificates only for a limited number of product groups, such as ATEX and pressure equipment. Therefore, we call on policy makers to preserve the flexibility of accessing the European market in the process of streamlining the EU and foreign regulatory systems. This presents an equivalent advantage for both EU and non-EU business.

Recognition of test results among accredited Conformity Assessment Bodies

Where technical provisions concerning the conformity assessment procedures are corresponding at an appropriate level, the results of testing should be mutually recognised and accepted among *accredited Conformity Assessment Bodies*. Where third party involvement is required in the electrical sector, the IEC CB Schemes, which have been established internationally based upon IEC standards, should be used. In our view, the foreign contracting party should have an accreditation system which is similar to the European accreditation one set in place under Regulation (EC) 765/2008. This would mitigate the *de facto* monopolistic behaviour from some certification providers.

Cooperation at enforcement/market surveillance level

Orgalime supports the idea to reinforce the existing elements of cooperation between EU Member States' market surveillance authorities and contracting party enforcement authorities. Moreover, we consider it necessary to involve customs authorities from both sides in this cooperation agreement, as they constitute the first filter for preventing non-compliant products from entering the EU and the contracting party's markets in breach of their respective legislative framework.

Furthermore, we suggest that relevant EU and foreign contracting party authorities should establish a regular dialogue involving interested industry stakeholders on both current and future challenges, for instance traceability to the liable economic operator, e-labelling of products, or other demonstration of conformity procedures.

CONCLUSION

International trade is a key priority for the European engineering industry and our companies hope that overcoming both tariff and non-tariff barriers to trade will bring about tangible cost benefits.

On-going and future trade agreements negotiated by the European Union should reduce or eliminate existing tariff barriers for the engineering goods, establish a coherent set of rules of origin, while reducing technical barriers to trade and enhancing access to public procurement.

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