

Brussels, 24th March 2010

ORGALIME OPINION ON THE PROPOSED REGULATION LAYING DOWN HARMONISED CONDITIONS FOR THE MARKETING OF THE CONSTRUCTION PRODUCTS
(Reference: COM (2008)311 and IMCO report A6-0068/2009)

Orgalime is the European Engineering Industries Association, representing the interests of the Mechanical, Electrical, Electronic, Metalworking and Metal Articles Industries. On behalf of the 33 national association members, Orgalime speaks for an industry, which includes over 130.000 companies, the vast majority of which are small and medium enterprises.

In 2008, these companies employed some 11.1 million people in the European Union and accounted for some € 1 885 billion of annual output: over a quarter of the EU's manufacturing output and a third of its manufactured exports.

Construction products are within the remit of Orgalime's constituency. Our industry covers a heterogeneous sector, which includes a wide variety of products, including structural metal products, metal structures and parts of structures, metal building and construction products in general.

Orgalime believes that the European industry needs a clear and harmonised framework, avoiding different national implementation and interpretations, which have for a long time given rise to significant problems and barriers to trade for European manufacturers. We welcome the revision of the existing directive; however, we feel that the current draft Regulation's text still presents a number of points of concern that should be reconsidered.

Therefore we submit to your attention hereafter the following comments and additional proposal for amendments.

1. Duplication of regulations

The proposed Regulation covers aspects of construction products design, which are already regulated by other European directives or regulations (for example the Low Voltage Directive, Ecodesign Directive, REACH and RoHS) or, as in the case of High Voltage electrical equipment, other well established existing regulations and standards. These regulations already address issues which are being duplicated by the draft Construction Products Regulation. Orgalime feels that duplication of legislation should be avoided and so should the introduction of pointless administrative burden for products, particularly all electrical equipment, which up to now were excluded from the scope of the Construction Products Directive, as long as they do not affect the basic works requirements.

In particular, we oppose two amendments (nr. 49 and nr. 101) approved by the European Parliament during the plenary session vote held on 24th April 2009, which introduce the obligation to insert information about hazardous substances into the declaration of performance: this is

Orgalime, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 11.1 million people in the EU and in 2008 accounted for some €1,885 billion of annual output. The industry 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.

already covered at present by REACH requirements, in particular article 33. In addition, these amendments go far beyond this regulation with regards to the substances to be declared.

To avoid confusion between the requirements of CE marking for this Regulation and that of other European legislation, we request therefore to reject amendments n. 49 and n. 101 and we propose the following amendments to Article 1 and Annex IV.

Proposal 1: Amendment to Article 1 – Subject matter

<p>This Regulation lays down conditions for the marketing of construction products by establishing rules on how to express the performance of construction products in relation to their essential characteristics and on the use of CE marking on those products.</p>	<p>This Regulation lays down conditions for the marketing of construction products by establishing rules on how to express the performance of construction products in relation to their essential characteristics and on the use of CE marking on those products.</p> <p>Where, for construction products, the essential characteristics with respect to the basic works requirements referred to in Annex 1 are wholly or partially covered by other Community legislation, this Regulation shall not apply to that construction product in respect of such characteristics from the date of implementation of those other regulations</p>
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Proposal 2: Amendment to ANNEX IV Product areas and requirements for Technical Assessment Bodies. Table 1 - Product areas, Area Code I

<p>Any construction product related to electric installation</p>	<p>Any construction product related to Low Voltage electric installations not covered by the Low Voltage Directive, except for construction products used in the provision of special functions to meet the Regulation basic works requirements.</p>
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Proposal 3: Content of declaration of performance: Article 5 and ANNEX III a (Ref. doc. EP P6_TA-PROV(2009)0320)

<ul style="list-style-type: none"> • Reject EP amendment 49 related to Article 5 - paragraph 2 - point c c (new). • Reject EP amendment 101 related to Annex III a Hazardous substances to be declared in the Declaration of performances.
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2. Conditions for drawing up the declaration of performances

Regarding Article 4 of the draft Regulation, Orgalime believes that the best option is to make the CE marking and the Declaration of Performance mandatory when an essential characteristic of a product in relation to basic works requirements is covered in the harmonized technical specifications.

Moreover, we feel that the system in the current Directive (Non Performance Declared) is functioning well and should be maintained. These solutions would prevent the unsatisfactory situation, whereby a large number of construction products may be placed on the market without accurate product information.

Proposal 4: Amendment to Article 4 – Conditions for drawing up declaration of performance

<p>1. The manufacturer or the importer when placing a construction product on the market shall make a declaration of performance if the following conditions are met:</p> <p>(a) the construction product is covered by a harmonised standard, or a European Technical Assessment has been issued for that product; and</p> <p>(b) the requirements in relation to essential characteristics of that product exist where the manufacturer or importer intends to place the product on the market.</p> <p>The manufacturer or the importer may make a declaration of performance where the requirements referred to in point (b) do not exist.</p> <p>2. The declaration of performance referred to in paragraph 1 shall cover at least the essential characteristics for which requirements referred to in point b of paragraph 1 exist.</p>	<p>1. The manufacturer or the importer when placing a construction product on the market shall make a declaration of performance if the following conditions are met:</p> <p>(a) the construction product is covered by a harmonised standard, or a European Technical Assessment has been issued for that product; and</p> <p>(b) the requirements in relation to essential characteristics of that product exist where the manufacturer or importer intends to place the product on the market.</p> <p>The manufacturer or the importer may make a declaration of performance where the requirements referred to in point (b) do not exist.</p> <p>2. The declaration of performance referred to in paragraph 1 shall cover at least the essential characteristics for which requirements referred to in point b of paragraph 1 exist.</p>
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Proposal 5: Amendment to Article 5 – Content of the declaration of performance

<p>1. The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications.</p> <p>2. The declaration of performance shall contain the following information:</p> <p>a) the product-type for which it has been drawn up;</p> <p>b) the list of the essential characteristics of the construction product for which the performance is declared, and the levels or classes of that performance;</p> <p>c) the reference number of the harmonised standard, the European Assessment Document or the Specific Technical Documentation, which has been used for the assessment of each essential characteristic</p>	<p>1. The declaration of performance shall express the performance of construction products in relation to the essential characteristics of those products in accordance with the relevant harmonised technical specifications.</p> <p>2 The declaration of performance shall contain, in particular, the following information:</p> <p>a) the reference of the product-type, for which it has been drawn up;</p> <p>b) the system of assessment and verification of constancy of performance for the construction product, as provided in Annex V of this regulation;</p> <p>c) the reference number and date of issue of the harmonised standard, or the European Assessment Document and European Technical Assessment, which has been used for the assessment of each essential characteristic;</p> <p>d) where applicable, the reference number of the Specific Technical Documentation used and the requirements the manufacturer claims the product complies with.</p> <p>3. Additionally to paragraph 2, when the manufacturer draws up the declaration of performance of a construction product, he shall declare at least:</p> <p>a) the intended use or uses for it, in accordance with the applicable harmonised technical specification,</p> <p>b) the list of essential characteristics as determined in that harmonised technical specification for the declared intended use or uses,</p> <p>c) the performance, by levels or classes, of the</p>
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	<p>construction product in relation to all essential characteristics for which there are provisions related to the intended use or uses (as foreseen by the manufacturer) where the manufacturer makes the product available on the market, d) the performance in relation to its essential characteristics determined in accordance with Article 3(3) as being pertinent for the declared intended use or uses.</p>
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Conclusion

In conclusion therefore, Orgalime thanks regulators for the progress that they have made so far for making the proposed Regulation more operational and effective as an instrument supporting the internal market.

We kindly request your support for these proposals we have made, which we feel will contribute to turning what has long been considered an over complex and, to a large extent, inadequate legislation into an example of Better Regulation.



The European Engineering Industries Association

ORGALIME aisbl | Diamant Building | Boulevard A Reyers 80 | B1030 | Brussels | Belgium
 Tel: +32 2 706 82 35 | Fax: +32 2 706 82 50 | e-mail: secretariat@orgalime.org
 Ass. Intern. A.R. 12.7.74 | VAT BE 414341438