

**Brussels, 21 April 2009**

**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 35 national association members, Orgalime speaks for an industry which includes over 130.000 companies, the vast majority of which are small and medium enterprises. These companies employ some 10.9 million people in the European Union and in 2007, accounted for some € 1 813 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 is a heterogeneous sector which covers 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 and we think that the amendments recently approved by EP IMCO Committee provide a number of improvements to the proposal of the European Commission.

However, we feel that the current draft Regulation's text still presents a number of points of concern that should be reconsidered in view of the incoming vote in the plenary session of the European Parliament. Therefore we submit to your attention hereafter the following comments and additional proposal for amendments:

**1. No to a possible new Annex VI introducing confusion into the scope of the directive – No to amendment 126**

We firmly reject amendment 126, which refers to a new annex (Annex VI), which is not further included or specified.

However, following the debate on the draft Regulation in the Council Working Party on Technical Harmonisation, we understand that this Annex VI would be foreseen to contain a list giving the possible 'intended end use' of construction products and contain a number of products (Water heaters, space heating, cooling and air conditioning, supply of electricity, lighting, communications, transport-lifts, hoists, escalators and conveyors) which belong to our industrial sector and which are already regulated by other Directives.

The introduction of this Annex VI is a matter of major concern. The reasons are twofold. First, the list in annex VI would lead to duplicating existing legislation and secondly, it would be confusing

*Orgalime, the European Engineering Industries Association, speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.9 million people in the EU and in 2007 accounted for some €1,813 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.*

and misleading as to its purpose since the concept of “intended end use” does not provide any added value to the current system.

We consequently firmly oppose a possible introduction of Annex VI in the Regulation.

## 2. Avoid duplication of regulations- No to amendments 49 and 101

The proposed Regulation also covers aspects of construction products’ design, which are already regulated by other European Directives (Low Voltage Directive, Machinery Directive, Ecodesign Directive, REACH and RoHS). 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, 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) voted at IMCO level, which introduce the obligation to insert information about hazardous substances into the declaration of performance, which is already covered at present by REACH requirements.

### Orgalime proposal

To avoid confusion between the requirements of CE marking for this Regulation and that of other European legislation, we request therefore:

- to delete amendments nr. 49 and nr.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><b>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</b></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 electric installation <b>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.</b></p>
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#### *Proposal 3: Content of declaration of performance: Article 5 and ANNEX III a (Ref. doc. IMCO Report A6-0068/2009)*

<ul style="list-style-type: none"> <li>• Delete IMCO amendment 49 related to Article 5 - paragraph 2 - point c c</li> <li>• Delete IMCO amendment 101 related to Annex III a Hazardous substances to be declared</li> </ul>
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in the Declaration of performances.

### **3. 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.

### **Conclusions**

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 hope that both the institutions will now see fit to take up some the 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.