ORGALIME

Position Paper

Brussels, 16 June 2014

Concrete suggestions to improve the "vision for the internal market for industrial products"

Position paper referring to the Communication *COM(2014) 25 /2*

INTRODUCTION

Orgalime welcomes the European Commission's Communication titled "*A vision for the internal market for industrial products*"[1]. The Communication and its accompanying documents include several ambitious suggestions that could substantially improve the implementation of product related legislation and its enforcement. We are pleased to comment hereafter on the Communication and to also suggest ways to turn the Communication's proposals into effective actions.

While we comment on many of the points of the Communication quoting the relevant section with their number, we also wish to comment at the outset in more depth on the issue of market surveillance and its financing which we consider as a core issue and an issue which is central to the effective functioning of the internal market for products.

We also wish to stress to the Commission that if the success of the internal market was built through harmonisation of product legislation, we have seen and are still seeing more and more legislation introducing minimum harmonisation which, due to gold plating by Member States inevitably undermines the internal market and therefore the advantages that the establishment of the internal market brought to our manufacturing industry in the EU.

MARKET SURVEILLANCE

We comment hereafter (section 5.1) on the issue of market surveillance.

However, we regret that the Communication only briefly touches upon the **issue of financing market surveillance and border controls**, even though the accompanying document clearly states that "*market surveillance is the weakest part of the implementation regime, which in turns leads to high levels of non-compliance, low levels of product withdrawals and a need to strengthen the traceability of products*".

We consider that the Commission should put pressure on all Member States to increase funding and staffing of their market surveillance authorities that we see as the main bottleneck to improving their effectiveness and efficiency.

[1] On 22 January, the European Commission released a Communication titled "A vision for the internal market for industrial products" (COM(2014) 25 /2) together with two other Communications on industrial policy and the 2030 EU framework for climate and energy policies.

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Furthermore, it should be noted that certain Member States bear a larger responsibility and a bigger burden than others to ensure market surveillance and border controls due to their geographical location (for example large entry ports into the EU territory such as Hamburg or Rotterdam). Other Member States are also not in a position to improve their equipment and train their staff, partly due to the consequences of the economic crisis.

Therefore, there is a need for pooling and redistributing the funding for market surveillance at EU level, in order to reduce enforcement gaps across the EU territory, limit the forum shopping of rogue traders and ensure both a satisfactory level of protection of consumers and other EU interests, and guarantee a level playing field among market operators.

We call on the Commission to incorporate a European funding mechanism of national market surveillance authorities. In our view, such a system, which would be independent from national funding priorities, is paramount to pragmatically turn the benefits of harmonised internal market legislation into a reality for companies, workers, consumers and citizens at large.

IMPROVING THE ARCHITECTURE OF UNION HARMONISATION LEGISLATION

4.1. Regulations rather than directives should be the preferred instrument for implementing Union harmonisation legislation. This would eliminate differences in the timing of national legislation entering into force across the Union, and reduce the risk of divergent transposition, interpretation and application. The feasibility of this approach should however be confirmed on a case-by-case assessment taking into account the objectives of better regulation as well as the principle of subsidiarity.

Orgalime considers it important to avoid any gold-plating or diverging interpretations of the internal market legislation. Thereby, prioritising Regulations over Directives in accordance with an efficient impact assessment is a step forward.

However, it is not enough. For example additional or contradictory requirements could be added from:

- Other sources of national legislation that are not repealed by the Regulation's or Directive's implementation[2].
- Diverging implementation practices.
- Lack of mutual recognition of certificates and test results.

Therefore, the Commission should ensure that:

- Member States refrain from establishing or retaining any legislation that sets more comprehensive requirements than the ones prescribed in harmonised legislation, especially when it comes to installation, use and maintenance. Harmonised legislation is the result of compromise and agreement among Member States and as such, it should be respected by all Member States.
- Member States do not use the implementation of harmonised legislation as a way to introduce national regulatory requirements that actually fall outside the legislation's aim.
- Market surveillance authorities cooperate and accept each other's' certificates and test results.
- Relevant authorities in Member States receive adequate guidelines on transposing Directives and implementing harmonised legislation.

[2] For example, pursuant to APSAD rule R81, which in France is de facto and by far the most commonly accepted technical specification for the installation of intrusion systems, only NF-A2P approved products "or equivalent" can be installed. (For more information, you can contact the Association of European Manufacturers, Installers and Service Providers of the Electronic Fire Safety and Security Industry who is currently discussing with the Commission how to implement an EU Wide Certification scheme that approves products to be accepted by APSAD Rule R81.)

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4.2. Periodic reviews should be undertaken of Union harmonisation legislation for industrial products to ensure that the regulatory framework is consistent, and that there are no major gaps, inconsistencies, regulatory burden that could be reduced or duplication either in the legislation itself or between different pieces of Union harmonisation legislation for industrial products. Such reviews should take place regularly to ensure that legislation remains up to date, is sufficiently achieving its objectives and reflects industry developments and product innovation.

4.19. It is crucial that industry is not over-burdened with too frequent legislative changes, since there have been many changes in the past decade, with others due to come into effect in the near future. Regulatory action/measures should continue to be subject to public consultation and supported by impact assessments.

Orgalime welcomes this renewed call for better legislation, which should include only requirements that are understandable, affordable and simple to apply by all market operators, especially the smaller ones.

We believe that Europe is – and should remain – a stable legal environment for investment.

Future changes in legislation should take into account manufacturers' product investment cycles needed to recover investment in R&D and innovation.

Therefore, it is important that in the years to come EU policy makers refrain from introducing new legislation, which is not absolutely necessary to remedy failures in the functioning of the internal market and which is strongly supported by the manufacturing industry as it would serve to mainstream competitiveness into existing policies or legislation. Existing legislation should be transposed without additional changes at national level (no gold-plating) and enforced in full.

This can only be achieved, if impact assessments:

- consider the costs of implementing and enforcing legislation.
- are not limited to the Commission's proposals, but also to significant amendments introduced by the co-legislators. We believe that it is time that the European Parliament and the European Council should collaborate with and take due account of the Commission's impact assessment throughout the regulatory process.

4.3. A horizontal regulation based on Decision 768/2008/EC should be considered, setting out common definitions and other common elements that apply across Union harmonisation legislation. Such a regulation would bring additional coherence to Union harmonisation legislation.

Orgalime has reservations about turning Decision 768/2008 into a horizontal Regulation.

Regulation 765/2008 already sets obligatory common definitions and provisions for marketing harmonised products.

As regards other common elements described in Decision 768/2008 only (and not in Regulation EU 765/2008), discussions on the alignment of 9 Directives with this Decision showed that obligations for economic operators needed to be adapted to the product group or technology concerned in each product-specific Directive.

For example, the sampling and testing of products placed on the market is relevant for consumer products produced in large quantities, but is irrelevant for custom-made professional products such as equipment and protective systems for use in potentially explosive atmosphere.

Therefore, Decision 768/2008 should remain a legislative model intended for policy makers (recital 4 and article 2), giving them the flexibility to adjust product legislation requirements to suit the real market conditions and affected parties.

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4.4. Regular update of non-binding guidance on complying with Union harmonisation legislation such as "The 'Blue Guide' on the implementation of EU product rules" should be carried out. Where possible, the guidance should give insight into the rationale for particular requirements or standards.

Orgalime finds it useful that the Commission is publishing guidance specifying its interpretation of particular legislative requirements. We welcome plans for regular updates of the 'Blue Guide' with a view to clarifying new questions and issues as they arise. However, interpretations that are well-established and effective in practice should as far as possible be kept unchanged.

However, we do have concerns about the idea of providing guidance on standards. We feel it is important to maintain a distinction between legislation and standards and wish to remind the Commission that standards are first and foremost voluntary tools, which are used by companies to meet market needs.

Therefore, it should remain up to standardisation stakeholders to fine-tune their interpretation, so as to ensure that standards are both useful to companies and conformity assessment bodies.

On the contrary, Orgalime would welcome the **publication of the rationale behind the adoption of essential requirements'**. Ideally this should be placed in the legislation's recitals. Thereby, all legislation's users would have a better understanding of the way such legislation intends to serve public interests.

4.5. In a number of areas within professional products, the legislation applicable at the use phase (e.g. installations, maintenance) laid down at national level imposes additional barriers that reduce the benefits of harmonised legislation. While such aspects are outside the scope of Union harmonisation legislation for industrial products itself, the development and provisions of this legislation should take such aspects into consideration aiming to minimise any obstacles to the extent possible.

Orgalime supports the Commission's intentions to take into consideration the aspects of installation and maintenance services whenever product legislation is being drafted.

Currently, economic operators face problems when modifying, for maintenance purposes, products that are subject to multiple Directives and national legislation. In particular, it is not always clear to which extent an economic operator responsible for the product's modification would be considered as "manufacturer" and have to draw up a completely new Declaration of Conformity (DoC) and technical file[3].

Furthermore, we believe it is necessary to define the liability of rental companies and service providers that make professional products available to untrained consumers.

Moreover, we expect resolute steps from the Commission to ensure that the mutual recognition of education and training certificates/authorisations would become the rule throughout the internal market[4]. For example, extra training certificates should not be required –as it is today the case– for the same installation service from professionals who were trained in another Member State without obvious health or safety benefits.

Finally, nationally regulated professions and specialisations should be significantly reduced. Analyses shows a rather low degree of overlap from one country to the other, proving that most of the existing restrictions are not based on health and safety concerns, but on the different ways labour markets have developed among Member States. Therefore, it would be possible to

[3] For more information, please contact the Committee of European Manufacturers of Petroleum Measuring and Distributing Equipment on problems caused by the lack of harmonised provisions on the maintenance of equipment subject to obligatory third-party certification, such as petrol dispensers for gas stations

[4] These comments are relevant also for chapter 5.2. "'*Horizontal' legislation on products"*

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minimise the number of regulated professions and specialisations without compromising the health and safety standards of European citizens.

STRENGTHENING THE EFFECTIVENESS OF THE REGULATORY FRAMEWORK

4.6. The Commission should give further consideration to ways of strengthening the participation of SMEs and civil society stakeholders (e.g. consumer associations and associations of professional users) in the preparation of initiatives for EU legislative action and in standardisation processes. One possibility would be to ensure that SME-focused industry associations are better represented in working groups on specific Union harmonisation legislation for industrial products, with support provided for their participation costs where possible.

5.1 A **platform of enforcement authorities** facilitating their work and mutual cooperation will be of added value.

Stakeholder participation in the preparation of initiatives for EU legislative action and platform of enforcement authorities

Orgalime supports the establishment of a European Market Surveillance Forum for ensuring co-ordination and enhanced co-operation of all market surveillance authorities at European level (see more in our position in relation to the Commission's proposal for a Market Surveillance Regulation (COM(2013)75)). It would be particularly useful to bridge the gaps in understanding, enable the sharing of best practices and avoid the duplication of work among authorities for a cost-efficient enforcement of various policy objectives that all apply to the same product categories.

Moreover, we suggest setting up an Advisory Board composed of relevant EU stakeholders (esp. manufacturers and importers). This would provide input to the European Market Surveillance Forum, along the lines of the European Accreditation Advisory Board (EAAB). Such a forum would allow for a more effective consultation of all interested partners for the preparation and implementation of internal market legislation for products.

To improve the participation of SMEs in the preparation and implementation of legislation, we call for a detailed mapping of their needs and expectations. There are huge varieties of SMEs, from small self-employed or one staff member companies, mostly in the service, trade or craft sectors, to medium sized companies. Depending on the business sector and size, SMEs have very different needs and expectations. It is crucial to take this real-life complexity into account.

Thereby, SMEs' participation in stakeholders' forums would be tailored to their real needs and more efficient than privileging the general recommendations of horizontal SME-focused industry associations only. Otherwise, we risk inducing an unnecessary imbalance among stakeholders through their existing and legitimate trade bodies that are already representing the interests of their small businesses at national and EU level.

Stakeholder participation in the standardisation process

Orgalime considers that EU policy makers should only establish the legal framework of European standardisation and not interfere either in the way standards are developed or on the daily governance of European Standardisation Organisations (ESOs).

Regulation 1025/2012 provides the legal framework for the participation of certain societal stakeholders in the standardisation process. This Regulation should not be revised in the short-term. On the contrary, it should be implemented and adequate time should be allowed to identify its merits and drawbacks before being revised.

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Furthermore, we consider that mapping SMEs' needs and expectations from standardisation would also be beneficial for improving their influence to the standardisation process.

4.7. National Standardisation Organisations (NSOs) should be encouraged to make abstracts of harmonised standards available free of charge on their websites. Manufacturers, particularly SMEs, may not necessarily know in advance precisely which standards they require. Making abstracts freely available would reduce time and costs incurred in purchasing inappropriate standards

Orgalime supports the Commission's proposal, which is in line with Regulation 1025/2012 (Article 6).

We would suggest to the Commission to encourage and financially support ESOs to draft the standards' abstracts at European level, so that NSOs would only translate them. Thereby, cost and inconsistencies among drafts would be minimised.

4.8. There should be a faster transition towards "e-market surveillance" in which economic operators make compliance information available online as far as possible. More sensitive technical documentation and data requested by market surveillance authorities could be transferred electronically via secure data transmission. This would promote more efficient ways of ensuring transparency and two-way provision of compliance information and data between market surveillance authorities and businesses.

4.9. In order to facilitate the transition towards a paperless future for market surveillance, market surveillance authorities (and, where appropriate, customs authorities) should be equipped with scanning equipment or smart phone readers that would link through to the compliance section of the economic operators' website or to a dedicated standalone website. This is subject to resources being identified and requires joint investment by industry and market surveillance authorities.

Orgalime welcomes the Commission's intention to establish "e-market surveillance" and ensure a safe and credible framework for the transfer of sensitive data.

Market surveillance authorities are best positioned to be forerunners of "e-market surveillance" as they can deploy new practices and systems on a large scale. As long as authorities implement "e-market surveillance", economic operators would soon follow them at their own pace. However, economic operators should not be obliged to adapt to "e-market surveillance" faster than they can.

Before e-market surveillance could become standard practice, it requires that Member States adapt their legal framework to recognise the provision of documents of evidence via electronic means, and market operators to obtain an adequate understanding and affordable means or equipment to meet with ease the relevant procedures.

Consequently, we believe that much funding and attention should be devoted, not only to setting up new e-compliance/e-market surveillance systems, but also to achieving a change in mind-set among market surveillance authorities and companies. Otherwise, it would be difficult for authorities and companies to shift away from traditional "paper-based" practices to communication only via electronic means.

In our view, e-market surveillance should only be considered as a facilitation service for providing documentary evidence. E-market surveillance could in no way replace physical checks and on-the-spot controls of products placed on the market or imported at the borders of the EU.

Finally, e-market surveillance should not remove the authorities' obligation to submit a reasoned request in order to acquire parts of a technical file which are deemed necessary for their controls.

Should the Commission consider the option of obliging manufacturers to systematically upload their technical file on a database prior to placing a product on the market, we caution that this would entail huge costs:

- First, for complex products, the final provision of a technical file is divided among the manufacturers of the different parts of the product. Therefore, it would be very burdensome to collate and upload it. In medium and large companies, it is equally divided among various services that are responsible for compliance with the variety of applicable legislation.
- Second, it would raise confidentiality issues that could lead to huge electronic security and insurance costs for authorities to protect manufacturers' intellectual property against piracy and mishandling, while this is today under manufacturers' responsibility and control.

4.10. Businesses should be given greater flexibility on meeting traceability requirements in order to promote greater use of e-labelling.

Orgalime regrets the fact that the Radio Equipment Directive and Directives aligned with the New Legislative Framework missed the opportunity to promote e-labelling. We hope that soon the legal framework, both at European and national level, will give manufacturers the choice to use e-labelling without requiring the revision of these Directives.[5]

Moreover, we consider that a **postal address** does not efficiently serve the idea of "*a single point of contact to which the manufacturer can easily be contacted by consumers and market surveillance authorities*", which is requested by all Directives aligned to the New Legislative Framework.

Therefore, we insist on allowing the use of a website address as an alternative to a postal address. This would have tangible benefits such as:

- consumers and market surveillance authorities would be able to communicate easily with manufacturers, instead of receiving information about a postal address that they would in the normal course of business rarely, if ever, use.
- manufacturers would be in a position to update their contact details in case they move premises.

To avoid misuse by rogue traders, Orgalime suggests that website addresses would have to meet very strict conditions for the product to be considered compliant:

- The website should be functioning and give access to all the required information as legally required.
- Any user should be able to find within minimum clicks the following information in a language easily understood by end-users and market surveillance authorities:
  - Physical address of the contact point.
  - A phone number which is reachable during working hours where technical, administrative or commercial information can be addressed.
  - A contact form which allows the customer or the authority to communicate with the economic operator.

4.11. When a currently non-harmonised product group becomes part of a harmonised product group, consideration should be given as to whether it is possible to integrate new product

[5] These comments are also relevant for the chapter 5.3. "*Innovation and the digital future*" and 5.6 "*business friendly approach to product rules"*

groups in existing pieces of Union harmonisation legislation for industrial products, rather than proposing new legislation. A good example in this regard was agricultural machinery for spreading pesticides, which was incorporated into the Machinery Directive.

Orgalime believes that adding new products under harmonisation legislation could have a positive impact on the internal market, as national rules will cease to apply.

However, we consider that expanding a Directive's scope to new product groups should only take place if it would bring solid benefits. There is no point in expanding a Directive just to avoid creating a new one for the harmonisation of a new product group.

Therefore, integrating new product areas in existing legislation should be chosen only after a thorough impact assessment and an extensive stakeholder consultation have been completed proving that at least the following conditions are met:

- There is convergence of scope.
- The new product category would be relevant to the manufacturers of the products regulated so far by this Directive.
- The Directive's structure is not becoming more complex.
- Conformity assessment procedures do not become more complex for manufacturers.
- No unnecessary administrative burden is added.
- The need to adapt standards and guidelines is minimal and the cost is taken into account in the impact assessment.[6]

STRENGTHENING THE IMPLEMENTATION REGIME FOR UNION HARMONISATION LEGISLATION

4.12. The mechanisms to facilitate cooperation and the exchange of information between market surveillance authorities and the Commission such as RAPEX and ICSMS should continue to be supported. EU coordination and support actions relating to market surveillance through the 'Product Safety and Market Surveillance Package' are critical and should be maintained in coordination with market surveillance authorities aiming for the most efficient use of resources.

Orgalime fully supports the idea to keep both RAPEX and ICSMS and to improve the exchange of information among market surveillance authorities.

However, Orgalime considers that RAPEX should be reserved for reporting cases of serious risk (Article 22.2 of 765/2008). All other cases should be dealt with through the ICSMS tool. Otherwise, RAPEX would be flooded by notifications for formal non-compliance, which would be difficult for users to assess.

4.13. The use of accreditation should be further strengthened through a consistent approach in the regulated area in line with Regulation (EC) No 765/2008

Orgalime supports the specific actions described in the accompanying document "Evaluation of the Internal Market Legislation for Industrial Products", such as:

[6] These comments are also relevant to chapter 5.4 "*the blurring distinction between products and their connected services (installation, maintenance, etc.)"*

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- Considering the possibility of making the accreditation of notified bodies mandatory, with priority given to internal market legislation for high-risk product categories.
- Requiring compulsory accreditation for non-European testing houses granted notified body status.

Moreover, we consider that all accreditation bodies should sign mutual recognition agreements to reduce the re-testing of products in different Member States.

However, Orgalime finds it clearly counterproductive to extend the operation of notified bodies to all pieces of internal market legislation. This would, moreover, again serve to undermine the competitiveness of companies by raising their costs.

Certainly, a well-functioning accreditation system will improve trust among MSAs. You can find more concrete suggestions in line with Orgalime's position on cross-border accreditation.

4.14. Synergies should be fully exploited between different structures in the implementation regime of the Union harmonisation legislation for industrial products. Greater synergies are needed between SOLVIT which solves general problems relating to the non-functioning of the internal market, and the Enterprise Europe Network helping SME to benefit from opportunities in the internal market and Product Contact Points, which have more specialised knowledge about non-harmonised product legislation. For instance, there could be referrals of cases between SOLVIT, Enterprise Europe Network and Product Contact Points. The possibility of using the Internal Market Information System for linking up national Product Contact Points should also be investigated. Staff working at the different structures could be made better aware of coordination mechanisms and contact points for industry that specialise in issues relating to the internal market in industrial products.

4.15. The role of the Product Contact Points set up by the Mutual Recognition Regulation should be expanded to harmonised products to provide a first point of contact for firms. Many firms don't know who to turn to and there is a low level of knowledge among some smaller firms and micro enterprises about internal market legislation, and even whether harmonised or non-harmonised legislation applies to their product. This would both strengthen the visibility of Product Contact Points and provide SMEs with a clear information source.

4.17. A single reference source on changes made to Union harmonisation legislation for industrial products and updates to standards and when these come into force should be available for firms. Such information would save time and resources for industry, particularly SMEs. Businesses signing up to the service could then receive email updates outlining upcoming changes and informing them when these will take place. Moving from a legislative-based to a product-based approach to informing economic operators about applicable Union harmonisation legislation for industrial products and voluntary standards would however be a technically demanding and resource-intensive exercise. It would also require strong cooperation and support of industry associations and European standardisation organisations, some of which already do relevant work in this area.

Orgalime supports the Commission's pragmatic suggestions that have the potential to improve companies' access to information.

Moreover, we suggest that different supportive structures be merged into a single point at national level. For example, this would include SOLVIT and Enterprise Europe Network, contact points for mutual recognition or intellectual property issues.

This has been partially achieved in Denmark, where it brought tangible results in terms of communication with the public and providing companies with comprehensive advice.

REDUCING ADMINISTRATIVE BURDENS FOR BUSINESSES

4.16. As all products need to meet the legal requirements concerning safety, health and other public interests, there is only limited scope for SME exemptions. As all products need to meet the legal requirements concerning safety, health and other public interests, there is only limited scope for SME exemptions from the legal provisions in Union harmonisation legislation for industrial products. Nevertheless, the SME Test should always be applied to ensure that administrative requirements do not impose disproportionate burdens on SMEs while ensuring that the legislation achieves its objectives

Orgalime supports "SME Tests" as part of the impact assessment of new legislation on industrial products. This evaluation should be part not only of the Commission's impact assessment, but also of the impact assessment of any amendments added to the Commission's proposal by co-legislators.

Orgalime also supports the principle that conformity assessment procedures, especially where these involve a third-party conformity assessment body, should be carried out in a proportionate manner, taking into account the size and the nature of the organisation concerned and other relevant criteria, and that this principle should be properly implemented.

Nevertheless, there should not be any exemptions for SMEs to the technical requirements or the assessment method specified for products or simplified conformity assessment for SMEs. Proportionality of conformity assessment does not imply simplified conformity assessment procedures or lighter certification/testing. Proportionality does not affect the technical requirements or the assessment method specified for products, but rather seeks to relate the administrative conditions and the overall scale of a conformity assessment procedure to the size and individual situation of an undertaking.

To conclude on this issue, we believe conformity assessment procedures should be designed to be simple and proportionate for all.

(For more information see our relevant position paper with NORMAPME.)

4.18. Business should be allowed to continue to choose between producing a single declaration of conformity and a different declaration of conformity for each piece of applicable Union harmonisation legislation for products

Orgalime welcomes this suggestion, which is in line with the result of the alignment exercise of 9 Directives with the New Legislative Framework, where a horizontal solution was provided: manufacturers are allowed to publish a single DoC in the form of a dossier.

This would allow those responsible for the different aspects of the product to sign for their area of responsibility.

We also appreciate the Blue Guide's clarification that "manufacturers are free to add a number identifying the EU Declaration of Conformity itself in line with EN ISO/IEC 17050-2".

Nevertheless, the form of the DoC is not the only source of administrative burden. Unnecessary burden is also caused by translation requirements or the obligation for the DoC to accompany the products (for example Radio Equipment Directive). These issues should be tackled in the context of the exercise for achieving "paperless market surveillance".

4.20. The Commission should promote international convergence in legislation and technical standards for industrial products, since this could help to lower compliance costs for industry, thereby strengthening industrial competitiveness. The Trade and Investment Partnership (TTIP) being negotiated between the EU and the US is an important step in the right direction and further cooperation with regulators and standards bodies in other third countries that are key European export markets should be explored, especially in countries which often base standards either on European or international ISO and IEC standards

Orgalime supports international convergence in legislation and technical standards, however such convergence should not be promoted at any cost. DG Enterprise should ensure that the internal market equilibrium is not undermined by trade agreements with non-EU countries.

In particular, internal market product legislation has established an appropriate balance between protecting public interests -such as health, safety and the environment- and offering economic operators a substantial degree of flexibility and transparency thanks to the self-declaration of conformity principle and the Union-wide acceptance of standards. These should not be sacrificed for the sake of concluding bilateral trade agreements.

We refer you to our specific comments on TTIP in the following position paper.[7]

A VISION FOR THE FUTURE

5.1. A WELL FUNCTIONING INTERNAL MARKET FOR PRODUCTS NEEDS STRONG ENFORCEMENT MECHANISMS

5.1. Therefore, the Commission will consider elaborating a legislative proposal on how to streamline and harmonise economic sanctions of an administrative or civil nature for non-compliance with Union harmonisation legislation to ensure equal treatment of all businesses throughout the internal market for industrial products. A Platform of enforcement authorities facilitating their work and mutual cooperation will be of added value.

Orgalime believes that the different levels of penalties among Member States should not create "*forum shopping*" possibilities for rogue traders to place their non-compliant products on the internal market.

Sanctions and penalties should be related to the revenue derived from placing non-compliant products on the market, along with the seriousness, the duration and, where applicable, the intentional character of the infringement. Additionally, penalties should take into account whether the relevant economic operator has previously committed a similar infringement.

On the contrary, sanctions should not be connected to the size of the undertaking.

To improve the introduction of sanctions, guidance and exchange of information should be established in order to create a broader understanding of what could be considered as (dissuasive) minimum and a (proportionate) maximum level of sanctions.

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[7] These comments are also relevant to chapter 5.7. "*The global market*"