

Brussels, 23 February 2009

## For a horizontal alignment of sectoral product legislation with the New Legislative Framework

The European engineering industry welcomes Commission plans to align the relevant New Approach legislation through an 'omnibus' approach

### Introduction

In July 2008 the New Legislative Framework (NLF) was finally adopted in the form of Regulation (EC)765/2008<sup>1</sup> and Decision 2008/768/EC<sup>2</sup>. Orgalime welcomes Regulation 765/2008/EC which will come into force on 01/01/2010 in all Member States as a step forward to boost the role of market surveillance and custom controls and the obligations for Member States to carry them out.

Orgalime believes that most sectoral directives work satisfactorily and that there is no need for amendments to their technical content. Therefore, alignment of necessary elements with the NLF would be welcome as the general solution for product legislation in the engineering field. This should preferably be done simultaneously at horizontal level for New Approach directives applying to these products, e.g. such as the LVD ([2006/95/EC](#)), EMCD ([2004/108/EC](#)) and ATEX directive ([94/9/EC](#)).

During one of the first meetings of Member States to consider the alignment of a New Approach directive with the NLF, at the LVD Working Party meeting of 17 April 2008, some Member States raised the issue of "resuming" the work on the "LVD Update" in order to bring a number of horizontal features of the NLF into the Low Voltage Directive 2006/95/EC (LVD), including the new balance of obligations between economic operators, new requirements on CE-marking, conformity assessment and market surveillance. At the same time, changes to the technical content of this sectoral directive were suggested that would go far beyond the provisions of the NLF (for further considerations specifically on the LVD, please see the enclosed Annex).

### Orgalime position:

- Orgalime welcomes the New Legislative Framework and would support the logical alignment of New Approach directives with it.

*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 over 11 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.*

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- Sound experience in applying Regulation (EC) No 765/2008 at national level is needed. This should be built upon clear and harmonised guidance as provided for in Article 38 and an update of the “Blue Guide”<sup>3</sup>.
- Orgalime would favour a horizontal “omnibus” approach, in order to introduce changes to relevant sectoral legislation applying to products. Such an approach would represent the most effective solution for addressing the main elements required in terms of obligations of economic operators as laid down in Decision 768/2008/EC in order to improve the market surveillance of products in the engineering field. In addition, it would make the necessary adaptation to the new legal framework more cost-efficient.
- For sectoral legislation that proves to work satisfactorily as regards ensuring a high level of safety for products lawfully placed on the Internal Market, such as the LVD, Orgalime believes that there is no need for amendments to the technical content of such legislation.

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<sup>1</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 ([JOCE L218/30 of 13/08/2008](#)).

<sup>2</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC ([JOCE L218/82 of 13/08/2008](#)).

<sup>3</sup> Blue Guide: Guide to the implementation of directives based on the New Approach and the Global Approach: [http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999\\_1282\\_en.pdf](http://ec.europa.eu/enterprise/newapproach/legislation/guide/document/1999_1282_en.pdf)

## Annex

### **For a horizontal alignment of sectoral product legislation on the New Legislative Framework: additional Orgalime considerations on the LVD (2006/95/EC):**

- It is our understanding that when in June 1999 the LVD Working Party decided to start an update process of the LVD, the main reason was to improve the market surveillance framework and the traceability of products and manufacturers. All Member States were convinced that the conformity assessment procedures were not subject to discussion.
- Concerns about market surveillance and traceability of electrical products are largely answered by the NLF which now needs to be fully implemented. A horizontal alignment of the LVD with Decision 768/2008/EC would be welcome with due account taken of the following considerations:
  1. During the past 35 years the LVD has achieved its goal of ensuring the placing on the market and free circulation within the EU of safe electrical products. Despite the large number of electrical products placed every day on the Community market, injury statistics show no evidence that free circulation of LVD products poses a threat to the health and safety of users.
  2. Article 38 of the Regulation foresees the drafting of "technical guidelines" in consultation with stakeholders. We believe that these guidelines are essential for providing the necessary horizontal guidance for aligning sector-specific legislation with the model provided in Decision 768/2008/EC in order to cope with the increasing threats to fair competition within the internal EU market and lawful imports of electrical and other products.
  3. The New Legislative Framework does not change in any way the essential requirements of New Approach directives. Consequently, alignment of the LVD directive with Decision 768/2008/EC does not require changes to the essential requirements described in the technical Annex of this directive, which already cover all risks to users and their operational environment. Any substantial changes to the technical content of the LVD will cause a serious problem for manufacturers and standardisers. For many years our industry has invested considerable resources in drafting the many hundreds of standards that support these directives. In addition to being adopted as "EN", many of such standards have also been accepted as IEC standards, thereby reinforcing the competitive position of the EU's electro-technical industry on world markets. Therefore changes to the technical Annex will not only cause additional administrative procedures for manufacturers in order to adapt these requirements, but will also result in the setting up of a new standardisation programme at huge cost for industry and other stakeholders. This will also have unforeseeable consequences on international standardisation.

