

No.: EE-2016001

EuropElectro¹ – European Electrical and Electronics Industry's Position Paper on "P.R.China Standardization Law (Revised Draft)"

To Whom it may Concern,

On 22 March 2016, the Legislative Affairs Office the State Council solicited public comments on the "P.R.China Standardization Law (Revised Draft)" (Hereafter referred to as "revision draft").

As national basic law for standardization, "P.R.China Standardization Law" is of great significance for the exchanging and using of social production, scientific research, and maintaining the interests of groups.

Revising the standardization law is one of the important implementations of "Reform Scheme for Deepening the Standardization Work" (State Council No. 13 of 2015). We appreciate the four principles for standardization reform mentioned in the document:

1. Stick to combination of streaming administration and delegation power to the lower levels and combination of governance and power delegation
2. Stick to the principle of being synonymous with international standards and meeting the national conditions
3. Stick to unified management and division of responsibilities
4. Stick to administration by law and coordination of development

As a representative of the European electrical and electronic industry, we have always been active in supporting the promotion and implementation of standardization law. Now we fully understand and support the revision on the "P.R.China Standardization Law (Revised Draft)".

EuropElectro solicited opinions widely from European electronic and electrical companies regarding the revised draft. We hereby propose the following detailed and concrete proposals and comments from the manufactures point of view. We believe all these comments would make the implementation of the law more smoothly and efficiently.

We would be very appreciative if regulators take our positions into account when revising the law.

Best Regards,
EuropElectro Office

1. *EuropElectro helps to bring Europe and China closer together in technical legislation, standardization and certification for electrical and electronic products in order to facilitate the trade with these products in both directions. Through the cooperation with ORGALIME we are the voice of our member companies from all over Europe in China.*



A Work Party of ZVEI Frankfurt am Main: 德国电气电子行业协会

合作方:



Orgalime - The European Engineering Industries Association, Brussels
Orgalime - 欧洲工程行业协会, 布鲁塞尔

AHK /GIC- German Chamber of Commerce 德国工商大会, 北京

I. General Comments:

As the national basic law for standardization, "P.R China Standardization Law" is of great significance for the exchanging and using of social production, scientific research, and maintaining the interests of groups. We welcome and appreciate "encourage the active participation of international standardization activities, adoption and promotion of international standards" of Article 6 and "The standards are forbidden to use for undertaking the illegal activities such as industry barrier, district block or illicit competition" of Article 17.

We carefully read and analyzed each article of the revision draft, as well as the "Reform Scheme for Deepening the Standardization Work" (State Council No. 13 of 2015) and related documents. We totally agree with "Standardization reform should focus on making market play a decisive role in the allocation of resources" and "Standardization activities should not be provisions to certification, accreditation and market access".

Totally we proposed 17 comments regarding 12 Articles of the revision draft, focusing in four aspects – the self-declaration publicity system for enterprise products or service standards which will be carried out and replace current system that enterprise standards are used internally within the enterprise (item 2 of Article 6 of the effective law); 'consortia standard's relationship with other kinds of standards and its implementation; the relationship between the main responsible in this revision draft and that in "P.R.China Production Quality Law"; the potential effect the revision draft may have to new technology and innovation. Detailed comments and suggestions are attached in the following form.

1. Regarding the formulation of enterprises standards, self-declaration on product standards and related penalty rule (Article 14, Article 24 & Article 38 involved).

We pay high attention to whether the self-declaration publicity system includes importing products or not. Such as the 'products' appeared in item 2 of Article 14, item 2 of Article 24 and item 2 of Article 38 regarding the 'products' mentioned in Article 24.

- 1.1 We consider it not suitable to include "consortia standard" as legal basis for formulating enterprise standards, as stated in item 2 of Article 14. We propose to delete "consortia standard" in this item.
- 1.2 According to the item 2 of Article 6 in effective law, "...**enterprise standards, to be used in these enterprises**". But in the Article 24 of this revision draft, it states "**The self-declaration publicity system shall be adopted for the enterprise products or service standards.**"
- 1.3 In the item 3 of Article 24, it states "The products or services standards formulated and publicized by the enterprise shall include the functional indexes of products and services, the performance index of products and corresponding inspection methods." Meanwhile, it states in item 2 of this article, "The products standards executed by the enterprise shall be announced to public..." The requirement of declaring 'functional indexes of products and services, the performance index of products and corresponding inspection methods' goes beyond the scope of market admission of WTO/TBT.
- 1.4 As penalty rule of Article 38 is relating to Article 24, which is proposed to revise, we propose to revise this article as well. The detail proposal is as following form.

2. We have questions on "Consortia Standard" as below (Article 13 & 14 involved).
"Consortia Standards" are private standards driven by market and therefore the usage should be decided by market and users, referring to the Article 21 in the revision draft "...the copyright thereof is enjoyed by the competent administrative authority, social organization or enterprise engaging in the formulation of the standards" and "...consortia standards for the society to adopt on an optional basis" in Article 13. Due to its private character, consortia standard is not suitable to be used as legal basis for enterprise standards formulation by force.
 - 2.1 What are the similarities and differences between "enterprise alliance" and "social organization"? if the "enterprise alliance" is setup according to the related law and regulation, is the standard formulated by it deemed as consortia standard?
 - 2.2 Regarding the implementation of "Consortia Standards". As stated above, consortia standard is not suitable to be sued as legal basis for formulating enterprise standards by force, as required in item 2 of Article 24.
3. We suggest that it shall be fully harmonized and align with other legislations, laws or regulations, (e.g. product quality law). For instance, main responsible is called "enterprise" in this revision draft but "producer" in product quality law. Are these two terms the same meaning? If so, we suggest use uniform term.
4. We propose to delete Article 26 of this revision draft, i.e. "The development of new products, improvement of products or technical renovation by an enterprise shall conform to the standardization requirements", as this article may delay the new technology entering market and hurt innovation to be marketed.

We also suggest have enterprises (including FIE) , industry associations, consumers and many other different identities fully involved in the standardization work, so that they can devote their creativity and initiative to the continuous and healthy development of standardization.

Attachment:

"EE-2016001 -EuropElectros Position Paper on China Standardization Law (Revised Draft) - Attachment of Comments Form"

ORGALIME -Speaking for European engineering, Orgalime, represents 3 industrial branches (electrical & electronic, mechanical engineering and metal articles & metalworking) that manufacture over 28% of the total EU manufacturing output and has 37 member trade federations in 22 European countries. The industry accounted for some €1,666 billion in 2011. The industry not only represents more than one quarter of the output but also a third of the EU's manufacturing industries exports.

ZVEI –the German Electrical and Electronics Industry Association is one of the world's largest electrical and electronics industry associations. ZVEI represents, with 26 product divisions and 1600 member companies, the German electrical and electronics industry with €178 billion turnover in 2011 and accounts for more than 840,000 employees.