

**Unofficial note  
of the Technical Adaptation Committee on the WEEE and RoHS Directives  
Brussels, 15 February 2006**

## **OVERVIEW**

1. [Presentation by Öko-Institut on Review of RoHS Exemptions](#)

The Commission had engaged these independent consultants to review the outstanding exemption requests that it had received since the completion of the first stakeholder consultation exercise in February last year. They are reporting to the Commission on a monthly basis, with a final report due in July 2006.

2. [Vote on proposal for new exemptions](#)

The Commission proposed the adoption of six new exemptions but – following discussions with Member States – withdrew one of these. A Qualified Majority Vote was reached on the remaining five.

3. [Categories 8 \(Medical Devices\) & 9 \(Monitoring & Control Equipment\) Review](#)

ERA Technology is conducting a study into whether or not categories 8 & 9 of the WEEE Directive could be brought into the scope of RoHS. It was announced that a stakeholder meeting will be held in Brussels on 26 April 2006 to allow Member States and industry associations to consider the interim report and input into the final report, due July 2006.

If the Commission decides to propose inclusion of categories 8 & 9 it would not expect to put proposals to the Council and Parliament before the end of next year, so we would not expect to see any new measures come into force before 2010 at the earliest.

4. [Guidance document for EU RoHS enforcement bodies](#)

The UK gave a presentation on the establishment and launch of an informal network of EU RoHS enforcement bodies. The UK had hosted the first meeting on 27 January 2006 with one of the aims of that meeting being to discuss a draft guidance document for enforcement bodies.

Member States gave widespread support for such a document, which would set out broad principles by which their enforcement bodies would operate. The objective would be to secure a common enforcement approach across the EU.

The proposed approach is one of risk based market surveillance and seeking documentation before proceeding to testing if necessary. Once the document is agreed it will be published and made publicly available to all stakeholders.

5. [Presentation of research study on WEEE implementation](#)

AEA Technology presented a report to the TAC on the implementation of the WEEE Directive across the EU.

6. [Presentation from NL-VROM \(Dutch Environment Ministry\) on the Outcome of Work on Annex II of WEEE](#)

The TAC member from the Netherlands presented the outcome of workshops that his Ministry and the Norwegian Ministry of Environment had hosted on a possible revision of Annex II to the WEEE Directive.

7. [Exchange of views on National Producer Register for WEEE](#)

A general discussion and exchange of views of the possibility for a EU-wide register of producers placing equipment on the market.

8. [Grey area products](#)

A limited discussion on a new Commission table of grey area products.

9. [Exchange of Views on the term "Fixed Installations"](#)

One Member State had submitted a paper on this issue. A general discussion was held.

10. [Information Update on WEEE marking](#)

11. [Date of next meeting](#)

Provisionally June 2006.

12. [Any other business](#)

The Commission will be issuing a call for tender for a contract to study the overall transposition and implementation of the WEEE Directive across the EU, as required by Article 17.5.

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## **DETAIL**

The Commission opened the meeting by welcoming representatives from both Bulgaria and Romania, who were joining the TAC as observers for the first time.

### **1. Presentation by Öko-Institut on Review of RoHS Exemptions**

As specified in Article 5.2, the Commission is required to undertake stakeholder consultations on any requests to amend the list of exempted applications of the restricted substances in the Annex to the Directive. The Commission has, however, also engaged independent consultants to review these requests. The grounds for the granting of such exemptions are as set out in Article 5.1.b of the RoHS Directive, ie it must be due to technical feasibility rather than cost.

The Commission had engaged the Öko-Institut to review the 50 or so exemption requests that it has received since the completion of the first stakeholder consultation exercise in February last year. The Institut reported on some of the challenges faced: the broad range, overlap in scope and some very complex technical issues.

The Öko-Institut is reporting on a monthly basis to the Commission, which then decides whether to put specific exemption proposals to the TAC for vote. A final report is due in July 2006 and this will be published on the Commission's website once it has been formally accepted.

A general discussion followed. Some Member States expressed concern about the number of exemptions that are being proposed as they feel these detract from the original aims and objectives of the Directive and undermine enforcement.

## **2. Vote on proposals for new exemptions**

The Commission had circulated proposals for six new exemptions and these were discussed at length. In the light of these discussions, the Commission decided to withdraw one of the six proposals and asked Member States to vote on the remaining five. This vote was carried under the Qualified Majority Voting system.

DG Environment will now clear the TAC vote with colleagues in other parts of the Commission before final adoption and publication in the Official Journal.

Subject to a successful conclusion of that process, the adopted changes for the Annex will be: -

“16. Lead in linear incandescent lamps with silicate coated tubes.

17. Lead halide as radiant agent in High Intensity Discharge (HID) lamps used for professional reprography applications.

18. Lead as activator in the fluorescent powder (1% lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi<sub>2</sub>O<sub>5</sub>:Pb) as well as when used as speciality lamps for diazo-printing reprography, lithography, insect traps, photochemical and curing processes containing phosphors such as SMS ((Sr,Ba)<sub>2</sub>MgSi<sub>2</sub>O<sub>7</sub>:Pb).

19. Lead with PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact Energy Saving Lamps (ESL).

20. Lead oxide in glass used for bonding front and rear substrates of flat fluorescent lamps used for Liquid Crystal Displays (LCD).

Once these are made official the UK will update the UK RoHS Regulations accordingly.

## **3. Categories 8 (Medical Devices) & 9 (Monitoring & Control Equipment) Review**

Article 6 of the RoHS Directive places an obligation on the European Commission to present proposals for the inclusion of WEEE categories 8 & 9 within the scope of the RoHS Directive. ERA Technology had been appointed to conduct an independent technical study. Its interim report is due at the end of March and will be circulated to TAC members.

A stakeholder workshop will be held in Brussels on 26 April 2006, to which Member States and industry associations will be invited. There will be a presentation of the interim report and a question and answer session. Input from stakeholders will be included in the final report, due July 2006.

The Commission's timetable for this work would be to bring forward any proposals for the inclusion of categories 8 & 9 towards the end of 2006. They would then carry out an Extended Impact Assessment, (similar to the UK's system of Regulatory Impact Assessments), before beginning the co-decision procedure. This means that any proposals would not be presented to the Council and Parliament much before the beginning of 2008 and we would not, on this timetable, expect to see any measure come into force before 2010.

#### **4. Guidance document for EU RoHS enforcement bodies**

Given that RoHS is a Single Market (Article 95 legal basis) Directive, it should be implemented in the same way across all Member States. Article 4 places obligations on Member States but does not specify either how they should carry out those obligations or how industry might demonstrate compliance.

In order to clarify these issues the UK commissioned a report into compliance approaches from ERA Technology, published April 2004 and available from the DTI website. It also hosted a TAC workshop in July 2004 to establish the key definitions supporting the maximum concentration values of the six restricted substances. In May 2005 the UK hosted a Member State and industry workshop looking at compliance approaches.

One of the recommendations of the April 2004 report and subsequent discussions in the TAC was the creation of an informal network of Member States to facilitate information sharing. There was wide support for such a network and it met for the first time in London on 27 January 2006.

One of the key aims of the January meeting was to discuss a guidance document for enforcement bodies. This would be purely advisory, ie not legally binding. It would outline the principles to support RoHS enforcement, the documentation that 'producers' should keep, how enforcement bodies might use such documentation to check for RoHS compliance and how sample preparation and analytical testing could be employed (*if necessary*).

The European Commission, 14 Member States and Norway were represented at the meeting of 27 January 2006 and expressed support for such a document. Members of the TAC (from countries which had not been able to attend in January) also lent their support. The Commission emphasised that any such document would never be legally-binding but gave its general support for such an approach.

TAC members were invited to submit their comments on the guidance document, which will be reissued, with the aim to agree it in the Spring. Once agreed, this document will be made publicly available to enable industry to see the proposed common approach, with the caveat that it will not be mandatory for enforcement bodies to follow.

Belgium has offered to host the next meeting of the informal network in Brussels, with help from two other Member States.

## **5. Presentation of research study on WEEE implementation**

AEA Technology presented a report to the TAC on the implementation of the WEEE Directive in the 25 Member States to date.

One of the key findings of the report was recognition of the fact that many Member States were facing serious problems with the implementation of this Directive even though most had now transposed its requirements into domestic legislation.

## **6. Presentation from NL-VROM (Dutch Environment Ministry) on the Outcome of Work on Annex II of WEEE**

Annex II of the WEEE Directive sets down the treatment requirements that apply to separately collected WEEE. The Dutch and Norwegian Governments had hosted informal Member State workshops in 2005 looking both at the creation of an unofficial guidance document and the development of a proposal for the amendment of Annex II. One crucial part of this guidance would be to clarify the term “have to be removed”.

Several Member States asked if RoHS exemptions would be reflected in the new Annex II of WEEE and whether or not this could be done through the TAC. The Commission said that it would consider this point.

## **7. Exchange of views on National Producer Register for WEEE**

Issues over the need for a pan-European approach were discussed: in particular, how this might address the problems posed by distance sales and products which are put on the market in one Member State but end up as waste in another.

Some Member States supported the call for an EU-wide register, but others said this would be difficult now that they had started down the route of a national register. Some suggested that a structure that offered good information sharing could provide a solution.

The Commission said that it welcomed ideas but was seeking formal proposals from Member State colleagues.

## **8. Grey area products**

The Commission had circulated a new table of inquiries concerning grey area products and asked for Member State views.

In view of time constraints, there was only limited discussion on this item and the Commission asked Member States to submit written comments within two weeks of the meeting.

## **9. Exchange of views on the term “Fixed Installations”**

One Member State had circulated a paper outlining its concerns over the use of the term “fixed installations” within the Commission’s Frequently Asked Questions guidance document on the WEEE and the RoHS Directives.

It was suggested that there are two distinct (and opposing) positions held in relation to this term. The first proposes that the term is only relevant when applied to the category 6 exemption for large-scale stationary industrial tools. The second is that the term is an overall derogation from the requirements of both Directives as part of the interpretation of Article 2.1 of the WEEE Directive, (ie. equipment that is part of a ‘fixed installation’ would not be covered by either Directive if it is part of a larger system or network within a building).

The Commission’s Frequently Asked Questions document suggests that the second position is to be taken here and this view was supported by the UK. A number of other Member States, however, thought that the first position was correct and asked the Commission to clarify its view in a revised version of its FAQ document. One Member State also noted that the European trade association Orgalime had, in its view, misinterpreted the term in a Practical Guide to Understanding the Scope of WEEE and RoHS published in January 2006.

## **10. Information Update**

The Commission informed the TAC that the CENELEC standard EN50419 on marking of WEEE with the crossed out wheeled bin symbol had now been amended to reflect their concerns and adopted in all Member States.

## **11. Date of Next Meeting**

The Commission announced that it had provisionally set a date of June 2006 for the next meeting of the TAC.

## **12. Any Other Business**

The Commission announced that it would be issuing a call for tender for a contract to study the overall transposition and implementation of the WEEE Directive across the EU, as required by Article 17.5. The Commission asked Member States for their co-operation in this initiative and for details of their experience with their own domestic legislation. One Member State asked the Commission for sight of the Terms of Reference for this tender, which the Commission said would be published alongside the call for tender.

**DTI**

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