

UNOFFICIAL NOTE OF MEETING OF TECHNICAL ADAPTATION COMMITTEE (TAC) SUB-GROUP TO DISCUSS SCOPE OF THE WEEE AND ROHS DIRECTIVES

Brussels – Friday 11 July 2003

Summary

1. A sub-group of the TAC met to discuss issues surrounding the scope of the WEEE and ROHS Directives. Most Member States are at an early stage of consideration of these issues. There was cautious agreement from most - but not all Member States - that generic criteria should be developed, in order to work towards guidelines for inclusion or exclusion of products, as defined under PRODCOM, whose status under the Directives is unclear. Member States will take forward this work at a further meeting in September. It is proposed to consult business on criteria which might be applied to decide exclusion/inclusion of large industrial machinery and toys.

General discussion

2. The Commission said that it had arranged the meeting to help towards agreement amongst Member States on the key issue of the scope of the WEEE and ROHS Directives. It was acting as a facilitator. It was for Member States to agree a way forward. It was important to establish what products were definitely outside the scope of the Directives.

3. There was discussion of the implications of excluding particular products from the scope of the WEEE Directive. Several Member States felt that, for environmental reasons, there should not be too many exclusions. Throughout the meeting, one Member State argued against any exclusions.

4. The UK emphasised that the ROHS Directive took its scope from the WEEE Directive, highlighting that ROHS was a single market directive. It was therefore important to agree the minimum requirements of scope. If this was not defined, businesses would not know if they could market their products at all. The UK pointed out that, even if particular products were excluded from the scope of the ROHS Directive, there was nothing to stop Member States including their recycling within their territories under the WEEE Directive.

5. There was discussion of a number of specific product areas and of possible criteria for deciding whether they should fall within the scope of the Directives.

Car radios

6. Several Member States raised the status of car radios. How should these be treated? The UK noted that car radios were one of many examples where an electrical/electronic product was installed into another product falling outside the scope of the Directive. Some felt that if sold as an accessory it ought to fall under the scope of WEEE/ROHS.

7. It was suggested that one way to decide WEEE/ROHS coverage or not might be to consider whether a product (the radio) was intended for separate or alternative uses. Another would be to consider if the product was routinely marketed separately from the car.

Toys

8. It was noted that the toy category in the WEEE Directive's annex 1B did not include a "catch all" provision drawing other, unspecified toys into the scope of the Directive. However, there appeared to be a strong case for including some other toys not specified in the list, like radio-controlled cars.

9. The UK proposed that a minimum electrical content might be used to decide whether other unspecified toys should fall within the scope of WEEE. Many had questioned whether toy products like "singing" greetings cards or teddy bears should be caught.

10. After some discussion, the principle of using a minimum electrical content, by weight, was agreed by a majority of Member States.

11. It was agreed that the TAC could instruct the Commission to consult business, with a view to establishing what a minimum electrical content (by weight) in toys could be.

Refrigerators in caravans

12. A couple of Member States wondered whether refrigerators or other products in motor caravans might be subject to WEEE/ROHS.

13. The UK commented that refrigerators in this application seemed clearly outside the scope of ROHS. This case highlighted a wider principle: that the principal purpose of a large product and whether it was electrical or electronic equipment should determine the status of other, smaller electrical/electronic products which had a role within it. Otherwise there was a risk of establishing a "catch all" precedent, drawing all applications of a particular product into the scope of the WEEE/ROHS Directives. There was recognition of the practical problems involved, but a general feeling that some specific products, such as fridges in caravans, should be covered.

Military Equipment

14. There was broad agreement that electrical and electronic equipment specifically for military applications should be excluded from both WEEE and ROHS. The WEEE Directive contained an exclusion for military equipment. ROHS did not, but the Commission confirmed that the original intention had been to exclude it from ROHS too.

Large industrial machinery

15. There was broad agreement amongst Member States that there should be criteria for deciding whether large-scale industrial machinery should be included

within the scope of the two Directives. However, one Member State strongly opposed this and argued that all large industrial machinery should be included.

16. The UK noted that large industrial machinery did not usually enter the municipal waste stream. It was dealt with, often recycled, at the end of its (relatively long) life span. The UK also referred to the economic costs of including such machinery and hence requiring its compliance with ROHS. This could force the redesign of equipment on a huge scale across industry. Another Member States agreed that this would raise implications for the international competitiveness of EU business.

17. It was agreed that criteria for deciding whether large industrial machinery was included or not could include (i) whether the equipment was permanently installed; (ii) whether it had fixed/built-in wiring; and (iii) possibly also whether it was installed by a professional. **It was agreed that Member States should consider further these criteria, consulting business, as appropriate.**

“Products which do not need electricity to function”

18. Some Member States raised the treatment of lawnmowers and water boilers, which were examples of products, which could be electric, or powered by alternative means. Several Member States raised concerns about product competition, e.g. between electric and gas-powered heating boilers if they were not treated in the same way.

19. The UK made clear that WEEE was a waste electrical equipment Directive, not a waste (e.g.) gas appliances Directive. As such, non-electrical products were clearly not covered. If there appeared a need to legislate to recycle it should be done on the basis of subsidiarity not compulsion.

Conclusions/next meeting

20. There had been discussion of several criteria which might be applied to decisions relating to whether or not to include some products in the scope of the WEEE/ROHS, where their status was unclear. These needed further work to define them. It was suggested that these criteria could be applied to products, as classified under PRODCOM codes, to decide whether these were caught or not.

21. It was proposed that the output of Member States’ discussions of the scope of WEEE/ROHS could perhaps be non-legislative guidance, which Member States could apply in their national implementations.

22. Member States would take forward these discussions in a further meeting of this TAC sub-group, to take place during September. The Commission would prepare a paper for this.

Your views

In view of our ongoing commitment to consultation, and although you may have responded on issues related to the scope of WEEE/ROHS to the Government's discussion paper on implementation, we should be interested to have any comments you have on these matters.

Please reply, no later than Friday 5 September, to Gordon Tarrant at

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