

Unofficial note of the Technical Adaptation Committee on the WEEE & RoHS Directives

Brussels, 16 March 2005

Summary

The TAC took a second vote (and adopted again) the draft Commission Decision amending the list of exemptions in the Annex of the RoHS Directive that had been the subject of a previous vote in December.

The TAC discussed the outcome of an informal Working Group meeting for Member States that the Commission had hosted in Brussels on 11 February. Participants at this meeting had discussed RoHS compliance issues; further requests for exemptions to the RoHS Directive; the WEEE Directive marking requirements; and Annex II of the WEEE Directive.

The TAC also discussed the response to the Commission's latest stakeholder consultation exercise on RoHS exemptions and a number of other issues under the Any Other Business item.

Main points

Second vote on the Commission's draft Decision to amend the annex of the RoHS Directive

The Environment Committee of the European Parliament had questioned the procedures that the Commission had followed after the TAC had voted to accept a draft Decision to amend the list of exemptions in the Annex to the RoHS Directive.

The Commission had decided to rescind the vote taken in December and re-present its draft Decision at this meeting of the TAC. As in December, Member States voted to adopt these proposals by an overwhelming majority. The European Parliament will now be sent copies of both the draft Decision and the results of the TAC vote for scrutiny before final adoption.

Subject to a successful conclusion of that process, as before the adopted changes for the Annex are: -

- (i) the first indent of paragraph seven will refer to "lead based alloys containing 85 % by weight or more lead";
- (ii) the second and third indents of the same paragraph will be combined to "lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signalling, transmission as well as network management for telecommunications";
- (iii) paragraph 8 will be replaced by "cadmium and its compounds in electrical contacts and cadmium plating except for applications banned under Directive

91/338/EEC amending Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations”; and

- (iv) there will be new exempted applications for “lead used in compliant pin connector systems”, “lead as a coating material for the thermal conduction module c-ring”, “lead and cadmium in optical and filter glass”, “lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80% and less than 85% by weight” and “lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit Flip Chip packages”.

Feedback and follow up from the February informal TAC Working Group Meeting

RoHS compliance issues, the ways in which the TAC might handle further requests for exemptions to the RoHS Directive, the WEEE Directive marking requirements and Annex II of the WEEE Directive were discussed at an informal Working Group meeting that the Commission had hosted on 11 February: -

RoHS Compliance Issues

The UK had made a presentation at the Working Group meeting on a potential EU-compliance approach for the RoHS Directive. This was based on the study¹ that ERA Technology had undertaken for the UK Government at the beginning of 2004, which suggested that a compliance regime comparable to that utilised for the EC “New Approach” Directives would be both pragmatic and cost-effective. The foundation of such a system would be that of producer ‘self-declaration’, supported in the medium to longer term by the development of non-mandatory standards for compliance testing and non-mandatory standards on supply chain reporting formats. A network of information exchanges between Member State enforcement bodies would underpin the system.

Most Member States supported this approach and the Commission underlined the fact that a harmonised approach across Europe was absolutely essential due to the Article 95 (Single Market) basis of the RoHS Directive.

A presentation on Certified Reference Materials (CRMs) was given by a representative of the EC Joint Research Centre’s Institute for Reference Materials & Measurements (IRMM). This informed the TAC about the feasibility of employing CRMs in a compliance approach.

The UK announced that it would be taking the compliance approach work forward by hosting a workshop in London in May for all TAC members and representatives of their proposed enforcement bodies.

¹ The ERA report can be downloaded from http://www.dti.gov.uk/sustainability/weee/index.htm#Consultation_supporting_documents

Further Requests for Exemptions to the RoHS Directive

A discussion had taken place at the Working Group meeting on the ways in which the TAC might handle further requests for exemptions to the RoHS Directive.

As it would not be feasible for the Commission to continually fund independent technical studies on the viability of new exemption requests, it was generally agreed that the onus on proving the case for any additional exemptions should lay with those that propose them. The Commission had circulated a revised and expanded version of the checklist that had been drafted in the latter half of 2004. Member States had been asked for their comments on this new checklist and the Commission would finalise it for circulation to all TAC members after the Easter break.

The WEEE Directive Marking Requirements

The Commission gave an update on the CENELEC standard for the WEEE marking requirements. There were still some outstanding issues to be resolved in respect of those instances where producers chose to place the wheeled bin symbol on the packaging, instructions & warranty of the product and used the underline to denote that the product was placed on the market after 13 August 2005 (the date marking). The Commission is pursuing the issue with CENELEC and will report on progress at the next TAC.

One member State asked if other member States required the markings to appear on all products or household products only. Two member States said that they were required in their implementing legislation on household products only, but the majority will require the marking for all products.

Annex II of the WEEE Directive

A member State announced plans for a number of informal TAC workshops to be held over the coming months on the treatment requirements of the Directive. It was suggested that member States could discuss guidance on interpretation of the requirements, proposals for amendments or additions to the Annex and procedures for amending the Annex.

The response to the Commission's latest stakeholder consultation exercise on RoHS exemptions

The Commission's latest stakeholder consultation exercise on twenty-two potential additions to the list of exemptions to the RoHS Directive had been concluded on 11 February. The response had been disappointing.

The Commission had received a total of 95 responses – 25 of these addressed other issues and 18 were marked as 'confidential' and could not, therefore, be circulated to the TAC for further consideration. This meant that only 52 responses could be taken into account by the TAC when making an initial decision on whether the applications for additional exemptions might be approved or rejected.

Unfortunately even an evaluation of these 52 responses was inconclusive, so the TAC agreed that the Commission should write again to those that submitted these applications for further evidence of their need.

Any Other Business

A number of other issues were discussed: -

Latest Progress of the Commission's Guidance Document

The Commission was currently finalising its WEEE/RoHS Guidance Document and would circulate this to Member States as soon as it had been cleared by its linguistic services.

This Document would not be legally binding, but it would outline the views of the Commission's Services on a number of important issues related to the transposition of both the WEEE and RoHS Directives such as the legal base of the two Directives, their scope and guidance on key definitions.

The draft Decision establishing the RoHS Directive's Maximum Concentration Values

The draft Decision establishing the RoHS Directive's maximum concentration values (MCVs) had been the subject of a similar procedural scrutiny by the European Parliament that had had an impact on the draft Decision to amend the Annex of exempted applications.

As a result, the Commission would now proceed with the resubmission of the MCV draft Decision to both the Environment Council and the European Parliament. This process would take a further three to four months. The Commission did, however, inform Member States that it felt they could rely on the guidance on MCVs that would be included in the Document mentioned above when finalising their domestic legislation.

Study on Marking of Small Products

The Commission informed the TAC that the call for tender for the revision of the RoHS Directive with respect to the investigations for the inclusion of the WEEE Directive's categories 8 (Medical Devices) and 9 (Monitoring & Control Instruments) would be published later that week.²

Next Meeting

The Commission announced that the provisional date for the next meeting of the TAC would be 19 April. This date would be confirmed nearer the time.³

² This call for tender was published on 17 March and can be downloaded from <http://ted.publications.eu.int/official>

³ The next TAC meeting has now been confirmed as 19 April 2005.

DTI
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