

UNOFFICIAL NOTE OF THE 17 DECEMBER MEETING OF THE TECHNICAL ADAPTATION COMMITTEE (TAC) FOR THE EU DIRECTIVES ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE) AND THE RESTRICTION OF CERTAIN HAZARDOUS SUBSTANCES (RoHS)

Summary

The TAC discusses once again, but does not decide on, harmonised generic criteria to help interpretation of the scope of the WEEE and RoHS Directives. Member States agree to the UK's suggestion that it will manage and resource a short study to assess the options for how producers could demonstrate RoHS compliance in order to inform a future decision in the TAC.

Main points

WEEE implementation reporting

Member States agreed unanimously on a questionnaire for their future factual reports to the Commission on their implementation of the WEEE Directive.

Scope

There was further discussion of a paper, tabled at previous TAC Scope Sub-Group meetings, with some amendments and annotations proposed by Member States. The paper proposed a set of generic criteria which could be applied to interpretation of the scope of WEEE and RoHS to help in cases of products whose status might be unclear.

However, the TAC reached no agreement on these issues. The following points were made during discussion:

- One Member State said that limiting the scope of the WEEE and RoHS Directives would restrict its national environmental protection. It argued that the scope of RoHS should be wider than WEEE. The UK, as at previous meetings, said that RoHS could not have a wider scope, because it took its scope broadly from WEEE. That was what was in the Directive text. It was the TAC's job to interpret the scope of WEEE and RoHS, but it had no locus to redefine it.
- One Member State noted that there was an exemption in the text of the WEEE Directive for equipment for military applications, but this was not repeated in RoHS, so it suggested that military equipment ought to be covered by RoHS. A majority of Member States disagreed with this approach. The UK noted that Article 296 of the overarching EC Treaty provided strong legal warrant for exemption of equipment designed specifically for military purposes. The Commission officials said that there was text in the WEEE Directive exempting military equipment and that, as RoHS took its scope broadly from WEEE, it had not been deemed necessary in the negotiations to repeat this specific provision in RoHS. One Member State suggested that there had been intent during the negotiations to include military equipment in the scope of RoHS. The

Commission said that, in view of the disagreements here, it would consult its legal services on these issues. It noted that Member States were now working towards their national implementations of the two Directives.

- There was further discussion of how the exemption of large scale industrial tools from WEEE could be better specified, including that they should be “industrial” in application and permanently fixed.

The Commission asked for Member States’ views on several requests for clarification it had received from business on whether particular products were within the scope of WEEE and RoHS or not:

- Frequency converters: Member States agreed it would depend on the application. These appeared to be components, and hence were not within the scope, unless they were in products which were within the scope.
- Catering equipment: Member States felt that catering equipment in kitchens, restaurants, was within the scope. But if it was for preparation of foodstuffs on a industrial scale, and was fixed, it was not within the scope.
- Lifts: In general, Member States did not believe lifts could be within the scope. They did not easily fit into any of the categories.
- Oil and gas drilling electronics (logging instrumentation, measurement-while-drilling-instrumentation, logging instrumentation for production wells). There was a consensus that these sensors should be excluded in applications where permanently fixed – which seemed to be the third of the examples quoted.

The Commission intended to go back to those who had raised these questions in the light of Member States’ comments.

RoHS compliance

Member States considered the UK paper tabled at the previous TAC meeting, which proposed an approach to agreeing an EU-wide way forward on the ways producers could demonstrate compliance with the requirements of the RoHS Directive.

The paper proposed a short study to assess three potential approaches to compliance, based on (i) defining standards for compliance testing; (ii) using agreed reporting formats within supply chains to assist component and materials suppliers; and (iii) self declaration by producers.

Member States were invited to provide their views. A number were cautious about the approach of self-declaration by producers. They were concerned this should be adequately underpinned. Several referred to the importance of harmonising the compliance testing, others to the need for an adequate audit trail. One proposed a central European body to exchange information between Member States on RoHS compliance. The UK noted its preliminary view that self-declaration was probably the best way forward, but said that it had always acknowledged that this approach would need to be supported by the other two.

The UK emphasised its concern was to get the study underway, so it could report back in time for the April TAC. To this end, the UK offered to pay for the costs of the study. All other Member States and the Commission had agreed to this. [Since this meeting, the DTI has begun a tendering process. It hopes to appoint a contractor before the end of January.]

RoHS maximum concentration values

The Commission confirmed that it had put draft proposals for the wording of the RoHS maximum concentration limits to stakeholder consultation (ending on 9 January). It would assess the outcome of this consultation and then draw up a proposal for a decision, which would be sent to Member States one month before a forthcoming TAC.

WEEE marking

The Commission reported that a contract had been signed with CENELEC for a mandate to prepare a European standard for the marking requirements of the WEEE Directive. CENELEC would first meet on 19 January to take forward its work on this mandate.

The Commission invited Member States to comment on how they were proposing to implement the WEEE Directive's marking provisions. Most said they were still considering. The UK referred to its intention to frame a marking obligation in the light of the CENELEC standard and to the need for a coherent approach pulling together the Directive's various marking requirements.

DTI

16 January 2004