

Unofficial Note of the Technical Adaptation Committee on the WEEE and the RoHS Directives

Meeting held in Brussels on 10 April 2008

A. Summary

In the main, an information update meeting giving Member States news of the latest developments in regard to the reviews of both Directives, plus news of a new RoHS exemptions package and reports of the latest meeting of the RoHS Informal Network of Enforcement Authorities & a workshop for Member States on the RoHS exemptions process. Some other AoB.

B. Detail

RoHS Directive 2002/95/EC

1. Information Update

1.1. The Review

The Commission gave an update on the outcome of the second stakeholder consultation on the review of the RoHS Directive. The Commission had published the consultation responses and provided a summary of each issue: -

(i) The inclusion of medical and monitoring equipment (categories 8 and 9) within the scope. Most stakeholders had accepted the general principle of including medical devices and monitoring & control equipment into the scope of the Directive at some future point but had differing views on the timetable for doing so and the way to handle potential new exemption requests.

(ii) Divergent views on the issue of additional substances being restricted by the Directive had been received.

(iii) There was general support for the desirability of separating the scope of the WEEE and RoHS Directives from each other. A range of ideas were expressed on the ways in which this could be achieved and some views on how to deal with the provision of spare parts.

(iv) There was general agreement on the need for greater clarity on the definitions within the Directive but acceptance that further work is needed on some issues - for example was there a need to define "homogenous material".

(v) Stakeholders agreed that a review of the exemptions procedure was needed, but different views on what approaches might be taken were expressed. Some stakeholders favoured the submission of a substitution plan at the time of the exemption request, others were opposed to this idea. The Commission asked if additional criteria should be taken into account when considering whether to approve exemptions, an economic criterion was one example.

The stakeholder consultation was now closed and, following internal discussions and clearance, the Commission expected to be in a position to publish formal proposals in the autumn for negotiation under the co-decision procedure.

Member States expressed differing views on whether the RoHS Directive should be aligned with the outcome of the review of the “New Approach”. One Member State argued that the objectives of the “New Approach” and RoHS were very different. The “New Approach” was based on compliance standards for health and safety issues that were not adequate for more general environmental protection issues. Another Member State argued that the New Approach principles should be applied for the sake of consistency across the Community.

Two Member States expressed concerned that exemptions and derogations agreed under the RoHS Directive could potentially distort the internal market and the free movement of goods.

1.2 Exemptions

The Commission presented its draft Decision on seven new exemptions and a proposal to remove one exemption. Following a short discussion, the Commission agreed to accept written comments from Member States until 9 May. A vote would then be undertaken under the written procedures.

1.3 Status of contracts

The study being undertaken by the Oko Institut on additional substances would be finalised by the end of June, following the holding of a stakeholder workshop in May.

A contract to collect information for the Commission’s Impact Assessment on the Review proposals would also be finalised by the end of June.

1.4 Second Member State Informal Workshop

Denmark gave a presentation on the outcome of the second workshop looking at the exemption process and the scope of the Directive, which it had hosted and had taken place in Copenhagen at the end of February. One Member State concluded that significant progress had been made, but no easy solutions had yet been found for the way forward on a review of the exemption process.

Another Member State strongly supported the need for time limits to be placed on all agreed exemptions.

1.5 Latest Meeting of the Informal Network of Enforcement Authorities

Sweden gave a presentation on the outcome of the latest meeting of the RoHS Enforcement Authorities Informal Network that it had hosted in Stockholm in March. Ten Member States had been represented at the meeting, which had considered draft terms of reference for the Network (although these had not been agreed). Those present had also discussed some 'grey area' products examples and the latest experience of enforcement issues.

It was announced that the next meeting of the Network would be held in the autumn.

One Member State reported that the inspections it had undertaken in 2007 had shown good producer awareness of the RoHS requirements but had also identified the need for more general company procedures to be put into place by producers to ensure compliance.

2. Other RoHS Issues

2.1 RoHS and the Persistent Organic Pollutants (POPs) Regulation

One Member State had asked for clarification of the relationship between RoHS and the POPs Regulation. RoHS restricted the use of polybrominated biphenyls (PBBs) in products above a very tight concentration limit. There was a similar severe restriction in the POPs Regulation, but without a specific limit value and with an exemption or derogation for contamination from trace elements.

The Commission had sought advice from its legal services and they had advised that there could be a potential conflict between RoHS and the POPs Regulation. It agreed that the text of a new RoHS Directive should include a reference to the POPs Regulation to overcome this ambiguity or lack of clarity.

WEEE Directive 2002/96/EC

3. Information Update

3.1 WEEE Registration

A presentation was given by a representative of the European WEEE Register Network (EWRN). This was well received by Member States.

In discussion, the presenter stressed that the EWRN was not aligned to any particular stakeholder group nor was it a producer representative body, as this point had not been fully understood by a number of stakeholders.

One Member State emphasised the importance of the need to clarify the distinction between what constituted household waste and what constituted non-household waste.

Another Member State felt that the concerns expressed by producers about the need to register in 27 different Member States were unfounded.

3.2 The Review

The Commission spoke briefly about the studies that had been undertaken to help the development of the Review of the WEEE Directive, these included studies by the United Nations University, Okopol, Arcadis (formerly known as Ecolas) and AEA Technology.

The Commission announced that it was intending to publish a stakeholder consultation paper the following day on the issues to be included within the Review of the WEEE Directive. Stakeholder responses would be invited by 5 June 2008. Once the responses had been analysed, proposals would be presented for negotiation by the Council and the Parliament in the autumn.

One Member State asked if the TAC would have a formal role in the consideration of the proposals to be made by the Commission. The Commission responded that the proposals would be considered under the co-decision process, so Member States would negotiate them in meetings of the Council Working Group rather than in those of the TAC.

3.3 Reporting Obligations

The Commission reminded all Member States of their obligations under Article 12 of the Directive on reporting targets and invited Eurostat to give a presentation on the format and system to be used in the submission of data. Eurostat will be acting as a single entry point for all Member States in this process.

3.4 Update on the work on Waste (EEE) Shipments

The Commission reported that work had been carried out with regard to the issue of exporting E-waste to Africa.

One Member State asked about reports that had stated that one million Euros had been set aside to investigate the issue of WEEE being sent to Africa. Another Member State expressed concerns that Euronet and Impel seemed to be duplicating work on this issue. The Commission responded by saying that

this was not the case and that a substantial debate had taken place with the secretariat of the waste shipments group to set up an international group on e-waste. Further discussions would take place in Bali later in the year.

4. Any other business

The issue of whether lawn mowers with the capacity to be powered by either a petrol or electric engine should fall within the scope of the RoHS Directive was raised, but there was no conclusive discussion.

There was a consensus amongst the Member States present at the TAC that household scales should fall within category 2 of Annex 1 and scales for industrial use within category 9.

The Commission announced to Member States the judgment of the European Court of Justice (ECJ) in regard to the RoHS exemption for Deca BDE in polymeric applications. The ECJ had decided that the Commission Decision that brought this exemption into force should be quashed on 30 June and that all new equipment placed on the market on or after 1 July 2008 must comply with the 0.1% limit in respect of Deca BDE.

5. Date of Next Meeting

No date for a next meeting of the TAC was announced, but it is expected to be held in September.