

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

Brussels, 19 April 2005

Summary

The TAC took a vote on the draft Commission Decision amending the RoHS Annex to include two further exemptions – deca BDE in polymeric applications and lead in lead-bronze bearing shells and bushes. Although more Member States voted in favour of accepting the Decision than against it, it did not attract the necessary qualified majority and will now be sent for consideration by the Environment Council and European Parliament.

The TAC discussed some further instances of “grey area” products; received a report back from its sub-group considering Annex II, the treatment annex of the WEEE Directive; and briefly considered the desirability of harmonising Member States’ approaches to producer registration data.

Under Any Other Business, the TAC discussed an approach proposed by the Commission for dealing with further RoHS exemption requests. There was also a brief discussion on the need for test reference materials for demonstrating RoHS compliance and an update on the timetable for the review of the inclusion of product categories 8 and 9 of the WEEE Directive within the scope of the RoHS Directive.

Main points

Formal vote on Commission draft Decision to amend the Annex of the RoHS Directive

Preceding the formal vote, there was a general discussion about the Commission’s draft Decision to include exemptions for ‘deca-BDE in polymeric applications’ and ‘lead in lead-bronze bearing shells and bushes’. Most of the comments were concerned with the proposal to exempt deca-BDE. Some Member States felt that there were continuing doubts about the environmental and human health impacts of this substance, which meant that any vote on its exemption from RoHS should - at least - be postponed until further data was available.

The Commission, with the support of the UK and some other Member States, argued that the EU Risk Assessment on deca-BDE had been closed last year with the conclusion that there was no evidence of any risks that needed to be managed by legislative restrictions. Member States had agreed to a programme of voluntary emission reductions and further monitoring. Data collected would be reviewed periodically and the Commission would respond immediately in the event of evidence suggesting that deca-BDE presented a proven risk. In the Commission’s view, the draft Decision had been given due consideration, following consultation with Member States, industry, other Directorates General and Legal Services. It was therefore minded to conduct the vote as planned.

The TAC took a vote but, although there was a majority of votes in favour of the Commission text, it did not gain an overall qualified majority and was therefore not accepted. The draft Decision will now be submitted for consideration by the Environment Council and European Parliament, a process that could take up to three months.

WEEE and RoHS - grey area products

The Commission tabled a list of recent approaches it had had asking for clarification of the scope of the WEEE and RoHS Directives in relation to particular products. There was little discussion and the Commission asked Member State to come back with any comments within four weeks. There was brief discussion of the scope of the WEEE Directive specifically in relation to medical devices, in particular in relation to whether “medicalised beds” should fall within it. A couple of Member States expressed concerns about the implications of interpreting such furniture items as falling within the scope.

WEEE - Annex II

The TAC received a report back on the progress of the “Annex II working subgroup”. There was discussion of its next steps.

This subgroup had met the previous week, on 15 April in The Hague. Nine Member States Governments had attended, alongside representatives of the WEEE Executive Forum and the European Electronic Recyclers Association, the Commission and consultants supporting the group.

The sub-group had agreed that it should take forward preparation of a guidance document to assist with interpretation of Annex III, the treatment requirements. Some felt the Annex reflected an outdated approach to treatment in technological terms. The group discussed whether the Annex’s reference to items being “removed” in treatment should be taken literally; or whether these meant that these items should be identifiable separately or as a separate stream post-treatment.

The group would discuss further at a next meeting, scheduled for 27 May. There had also been initial discussion in the group of how Annex II might be usefully amended. This would be continued at its next meeting. The legal position in relation to any possible amendment was unclear and being investigated.

There was agreement amongst Member State representatives in the TAC that Annex II presented practical difficulties. One Member States pressed the Commission to say whether an alternative approach to monitor treatment to that envisaged in Annex II would be permissible.

WEEE – harmonisation of producers

The Commission noted that it had received lobbying from some producer groups for a more harmonised approach from Member States to registration of producers, in particular the requirements in this context, including information on Article 8 and 9 provisions.

Member States representatives indicated in a *tour de table* their approaches to establishment of their national registers. These mostly fell into several broad categories: those Member States whose governments or enforcement agencies would handle the registration; those where public bodies would work in tandem with producer organisations; and those where producer-led bodies would register. Member States described their approaches to the Article 8 provisions. A number indicated that they saw collective schemes as providing producer guarantees.

A majority of Member States present said they could, in principle, support harmonisation of registration arrangements, and data exchange. However several said it was, in practice, too late for this.

Any Other Business

WEEE - marking standard

The Commission noted that it had raised concerns that CENELEC's proposed standard conflicted with the Directive. It had asked CENELEC to review their work and now awaited a reply. Several Member States emphasised the need for early guidance. Producers were pressing strongly for this.

Commission study on WEEE

The Commission noted that its contractors were conducting a project on approaches to WEEE both in Member States and in other European countries, assessing approaches, including on implementations of WEEE. TAC representatives could expect to be approached about this.

Inventory movement of ICT products

One Member State raised industry concerns regarding the need to allow international inventory movements of refurbished ICT products to replace faulty customer equipment. This was apparently restricted by the requirement under RoHS that non-compliant refurbished items of EEE must originally have been placed on the EU market before 1 July 2006.

The Commission said that it had received further representations from industry on this subject and that it had brought the matter to the attention of the Legal Services for advice. It was still awaiting that advice.

RoHS compliance issues

A representative from the EC Joint Research Centre's Institute for Reference Materials & Measurements (IRMM) stated that although reference materials existed for cadmium, mercury and lead, there was a need to develop reference materials for the brominated flame retardants. The Commission asked the TAC for views on whether funding should be made available for this work. The conclusion was that the development of these materials should be supported, as they would contribute to any potential RoHS testing regime.

Further requests for exemptions to the RoHS Directive

The Commission set out its proposals for a way in which further exemption requests might be handled and asked the TAC for its views.

Regarding the 19 exemption proposals remaining from the consultation earlier this year, the Commission said that it now intended to fund an independent technical study to examine these. All 19 proposals would be considered for full exemption, rather than an extension (or 'grace period') to the 'coming-into-force' date. The tender exercise to find technical consultants to carry out this work would be launched very soon. Although the Commission

planned to specify an accelerated schedule for this study, the best that could be hoped was that it would report its results by the end of this year.

The Commission had received a further 18 exemption requests beyond those included in the consultation, with more expected. The Commission proposed that, funds allowing, it would now seek to appoint a technical expert on an ongoing service contract who would assist the TAC by reviewing completed exemption checklists and any supporting technical information submitted by companies.

The TAC agreed with the Commission's proposed way forward on this issue.

Exemption request for the use of non-RoHS compliant parts from old EEE in the manufacture of new equipment

The Commission said that this was still being considered by their Legal Services.

Exemption request for lead crystal in the glass of chandeliers

The Commission had received further representations from industry on this subject. There was now an intention by industry to carry out a technical study, the results of which would be presented to the TAC.

Update on the timetable for the review of product categories 8 & 9 in relation to the RoHS Directive

The Commission announced that it had published an invitation to tender in the EU Official Journal in March. It was hoped that the contract for this work could be signed before the summer break. The study is expected to take between ten and twelve months to complete.

Next meeting

A date for the next TAC meeting had yet to be fixed.

DTI
28 April 2005