

Electrical and electronic equipment: restriction of the use of certain hazardous substances. Recast

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The Committee on the Environment, Public Health and Food Safety adopted the report by Jill EVANS (Greens/EFA, UK) on the proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances (RoHS) in electrical and electronic equipment (recast).

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission's proposal as follows:

Purpose and scope: according to Members, the Directive should contribute to protection of human health and the environment, as well as the environmentally sound recovery and disposal of waste electrical and electronic equipment. The RoHS Directive should apply to all electrical and electronic equipment (EEE, and not simply to certain categories. Hence, the need to include in it cables, consumables and accessories.

The Directive should apply to electrical and electronic equipment that falls into category 11 of Annex I (other electrical and electronic equipment that does not fall within the 10 existing categories) from 1 July 2014.

One amendment specifically excludes end-of-life vehicles and electronic components in these vehicles from the scope of the RoHS Directive.

In addition the Directive should not apply to:

- means of transport for persons or goods;
- large-scale fixed installations, except monitoring and control equipment;
- large-scale stationary industrial tools, except monitoring and control equipment;
- renewable energy generation technology intended to be used in a system that is designed, assembled, and installed for permanent use at a defined location to produce energy for public, commercial and residential applications;
- equipment which is manufactured in the Union or imported, and specifically designed for the purposes of research and development and not made available on the market for sale to the general public;
- non-road mobile machinery intended exclusively for professional use;
- equipment designed to be sent into space.

Notwithstanding the exclusion of certain EEEs from the Directive's scope, Member States would have to take all necessary measures to ensure that economic operators reduce the exposure of consumers, workers and the environment to substances listed in Annex IV, present in EEE materials and components to as low a level as is technically and practically possible.

By 31 December 2014 at the latest, the Commission should present to Parliament and Council a report examining the Directive's scope.

Reduction of emissions of persistent organic pollutants (POPs): the report stresses that the recast of the RoHS Directive needs to be put into the context of the EU's international obligations to reduce total

releases of dioxins and furans, with the goal of their continuing minimization and, where feasible, ultimate elimination. In this context, Members consider that the technical development of electrical and electronic equipment without heavy metals, brominated **flame retardants**, chlorinated flame retardants, PVC and its hazardous plasticisers should be taken into account.

Gradual elimination of PVC: the report refers to a study commissioned by the Commission on hazardous substances in electrical and electronic equipment highly recommended a phase-out of organobromines and organochlorines due to their potential to form polybrominated and polychlorinated dioxins and furans in waste treatment operations. It also recommends the labelling of beryllium metal and beryllium oxide and the voluntary phase-out combined with market surveillance of several other examined substances.

Priority risks: the report calls for consideration to be given as a matter of priority to the risks to human health and the environment arising from the use of substances listed in Annex XIV of Regulation (EC) No 1907/2006 with special attention to Hexabromocyclododecane (HBCDD), Bis (2-ethylhexyl) phthalate, Butyl benzyl phthalate (BBP) and Dibutylphthalate (DBP).

Adaptation to the REACH Regulation: underlining that the RoHS Directive supplements REACH, Members consider that a mechanism needs to be introduced to allow that restrictions or phase-outs under authorisation as adopted under REACH are carried over into RoHS. A detailed analysis of the added value of the RoHS should be undertaken on the occasion of the next reappraisal of Regulation (EC) No 1907/2006.

Development of renewable energies: according to Members, the Directive should not hinder the development of renewable energy technologies that present no danger to the environment and that are sustainable and economically viable, such as photovoltaic solar panels which should be excluded from the scope of this Directive.

Period of exemption: exemptions from the substitution requirement should be permitted if substitution is not possible from a scientific and technical point of view. Socio-economic considerations should be taken into account when deciding on the duration of an exemption. It should be possible to grant a **grace period** after expiry of an exemption in case more time is required to ensure adequate availability of substitutes, including for reasons of intellectual property restrictions.

Nanomaterials: to enable the Commission to assess the safety of nanomaterials in electrical and electronic equipment, economic operators should **notify the use of nanomaterials** in electrical and electronic equipment and provide all relevant data with regard to their safety for human health and the environment. The Commission should assess the information received and come forward with a legislative proposal for adequate risk management, if necessary. Producers should label electrical and electronic equipment that contains nanomaterials that can lead to exposure of consumers, in order to enable consumers to make an informed choice. Members also adopted an amendment that proposes the labelling of **nanosilver and carbon nanotubes**.

Comitology: the proposal provides that when there is an unacceptable risk to human health or the environment arising from the use of certain substances, and in particular those listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Regulation (EC) No 1907/2006. Those measures shall be adopted in accordance with the regulatory procedure with scrutiny.

Members consider that RoHS is a one-issue directive, i.e. it restricts hazardous substances in EEE. They feel that is not acceptable to delegate the power for decisions on the very essence of RoHS to comitology, let alone to a methodology in comitology which is yet to be defined, all the more that the legislator clearly mandated the Commission to make such proposals in co-decision.

To facilitate the adaptation of the Directive's provisions, the Commission should be able to adopt **delegated acts** in relation to the adaptation of Annexes V, VI, VI, Via and VIb for the adoption of a format for applications for exemptions, detailed rules for compliance with maximum concentration values, on sampling and inspection, the definition of nanomaterials, standards for the detection of nanomaterials, the application of the labelling of nanomaterials and adaptations to REACH.

Review: taking account of the precautionary principle and based on an impact assessment, the Commission shall review and amend, within four years of the entry into force of the Directive, and then at **regular intervals**, the list of prohibited substances in Annex IV if it is considered that a substance, or a group of similar substances in EEE or in the waste derived from it, is detrimental to the environmentally sound recovery or disposal of waste electrical and electronic equipment, or has an adverse impact on human health or the environment during use of EEE or treatment of waste EEE.

Particular attention shall be paid during that review to whether such substances or groups of substances to establish whether they could be **replaced by safer substitutes** or alternative technologies.

The Commission shall adopt measures to extend the scope of Annex IV, as appropriate, by means of delegated acts. A Member State or the European Parliament may request the Commission at any time to submit such a proposal.

Obligation of distributors: when making an EEE available on the market distributors act with due care in relation to the requirements applicable, in particular that the EEE bears the **CE marking**, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in the Directive.

The EC declaration of conformity shall be available in the respective official languages of each Member State in which the EEE is placed on the market or made available on the market.

Transparency: to reduce legal uncertainty and economic risks the exemptions mechanism should become more workable, clear and transparent. Members propose the creation of a Consultation Forum, similar to Directive 2009/125EC on Eco Design, to ensure a continuous and structured stakeholder consultation mechanism in the implementation process of the directive.