



JOINT STATEMENT ON RECAST OF RoHS DIRECTIVE

Brussels, 28 May 2010

In view of the upcoming European Parliament Environment committee vote on the draft report of Rapporteur Jill Evans on the proposal for a recast Directive 2002/95/EC on the Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS), the undersigned organisations would like to ask you for your support to ensure that the following key issues for our industry are taken into account in order to secure both, environmental objectives and the Better Regulation agenda of the EU Institutions:

- **Any major change to the existing Directive should require a thorough, representative impact assessment at EU level and scientific evidence. This is essential for two issues in particular:**

1.) **The open scope:** European manufacturers of electrical and electronic equipment and of machinery consider the proposed introduction of an open scope which would multiply the reach of the directive as particularly unjustified: the impacts of such far reaching modifications have not been subject to any impact assessment at EU level and therefore regulators cannot be in a position to assess the consequences of the proposal on Europe's largest manufacturing sector, nor its impact on investment and employment and not even the environmental benefits which would be derived from this change. In any case, the undersigned organisations believe that there would need to secure **scope exclusions** especially for fixed installations, large scale industrial tools, any means of transport or equipment which is part of another equipment not covered by RoHS.

2.) **New substance restrictions:** the undersigned organisations do not object to new substance restrictions per se; however, any new restrictions need to be scientifically evaluated and assessed on the basis of a comprehensive and consistent methodology before they are introduced. This has however not been the case for the new RoHS restrictions proposed by the Rapporteur. Also, it is essential to ensure that any shift to alternatives provides better performance in environmental, health and worker and consumer safety terms. This has not been demonstrated for the proposed new restrictions either.

Setting new restrictions without a proper assessment bears unforeseeable risks and negative consequences, especially at the level of product reliability and safety. In particular, combining the proposal for an open scope with the proposal for immediate new restrictions brings along specific risks to companies manufacturing long-lasting industrial, infrastructure and non-residential building technology.

Where it is technically feasible, companies are already taking a proactive approach today in shifting to what they see as reliable alternatives and they are communicating this to regulators. However, such individual approaches for specific applications are different from setting legally binding new restrictions for the vast variety of different product categories covered by the RoHS Directive.

Finally, the EP's own impact assessment, also in its revised form of May 2010, confirms that there is no evidence today that the phase outs proposed by your Rapporteur, i.e.: PVC and associated plasticisers or halogenated flame retardants, would outweigh the costs related to such bans and their environmental benefits.

- **A better exemptions mechanism is an indispensable prerequisite for providing legal certainty in time and making implementation work in practice**

Clear and consistent criteria are a must for a workable exemptions mechanism. These should include the socio economic criterion and the criterion of availability and reliability of substitutes. These are accepted criteria under the REACH Regulation and they are important, since phasing out a substance when either its environmental benefits will not outweigh the negative socio economic consequences, or when alternatives are not available or reliable is in our view not a sustainable way forward.

Introducing formats for applicants of exemptions and a better structured procedure with a timeline for the Commission to take a decision are positive steps. So are the proposals to grant grace periods if an exemption expires definitely and the one to consult stakeholders during the process.

Industry remains concerned with the proposed 4 years-maximum validity period for all exemptions (except for medical equipment and monitoring and control equipment) and prefers a case-by-case approach, which would allow setting appropriate duration periods for each exemption according to the specificity of products and product cycles.

- **A RoHS Directive which is complementary to REACH needs to be fully consistent with the EU's horizontal chemical management law to avoid double regulation and conflicting requirements**

The undersigned organisations are of the opinion that there should be a methodology that provides for clear criteria and procedures for identifying and evaluating substances before restricting substances in electrical and electronic equipment. This improves transparency and increases the quality of legislation.

Additional substance bans cannot be supported without proper and concise justification. An unambiguous methodology needs to be applied to perform a sound evaluation to justify future substance restrictions in EEE. REACH provides a fully harmonised framework for chemicals management across the EU and includes in its scope substances used by the electrical and electronic industries. In order to provide legal certainty it is vital that any additional substance restrictions introduced under RoHS follow REACH criteria and procedures: in particular, they should use all information produced within REACH's chemical risk assessment.

It is particularly vital to embed an assessment of all impacts of a substance occurring during the waste phase into a life cycle perspective. This would avoid unforeseen and potentially damaging environmental results. An isolated focus on the waste phase ignores the significant benefit that a substance can bring during other life cycle stages (e.g.: on energy efficiency during the use phase).

Furthermore, we deem it important to also include an assessment of alternatives to specific substances in such a methodology as a prerequisite for taking a sound decision.

Secondly, while we agree that **nanomaterials** should be investigated and where deemed necessary be subject to regulation, we believe that the RoHS Directive is not the appropriate framework to do so, since nanomaterials are used in a wide range of different applications far beyond the electrical and electronics equipment industry. Nanomaterials are covered by the REACH Regulation and many related activities are currently ongoing in the Commission with a view to the REACH review 2012.

Finally, proposals to **assess the added value of RoHS during the ongoing REACH review process** are in our view helpful in striving for better legal consistency and legal certainty.

IN CONCLUSION:

1. The undersigned organisations kindly asks you refrain from:

- extending the scope and introducing new substance restrictions in the absence of an EU impact assessment and sufficient scientific evidence.
- deleting or weakening the socio economic criterion and the criterion of availability and reliability of substitutes for granting RoHS exemptions.
- establishing a RoHS methodology that would assess waste phase impacts isolatedly from a life cycle perspective and that would be inconsistent with REACH.
- tackling nanomaterials under RoHS instead of REACH.

2. The undersigned organisations kindly asks you to support proposals to:

- clarify RoHS scope exclusions.
- introduce formats, timelines and grace periods for RoHS exemptions case by case.
- establish a structured stakeholder consultation mechanism during the implementation of the recast directive.
- assess the added value of the RoHS Directive during the REACH review process and in the meantime align RoHS with REACH to the maximum extent.
- align RoHS with the New Legislative Framework, and in particular to make use of European Standardisation Committees to harmonise relevant standards for facilitating RoHS compliance.

Consequently, the following COMPROMISE AMENDMENTS should be SUPPORTED:

1a (until the notion “(af) ...to be sent into space”),

1.b, 1.d, 1.e, 1.f, 1.g, 1.i,

2.a (except 2.a.1.a. second and third indents, 2.a.2. first and second paragraphs, the term “deleted” in 2.a.3, 2.a.3.a and 2.a.4.a),

2.b, 2.d, 2.e, 2.g, 3.b, 3.c, 4.a, 4.c and 4.d.

Consequently, the following COMPROMISE AMENDMENTS should be REJECTED:

1.a (as of the notion “No later than...the Commission shall...” until end),

1.c, 1.h,

2.a.1.a. second and third indents, 2.a.2. first and second paragraphs, the term “deleted” in

2.a.3, 2.a.3.a and 2.a.4.a,

2.c, 2.f, 3.a, 4.b, 4.e, 5.a, 5.b, 5.c, 6.a and 6.b.

ORGALIME, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 10 million people in the EU and in 2009 accounted for some €1,427 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.

CECED represents the household appliance industry in Europe. CECED member companies produce large household appliances (including refrigerators & freezers, dishwashers, washing machines, dryers, ovens, hoods); small household appliances (covering a wide range of products from shavers to vacuum cleaners); and heating, ventilation, and air conditioning appliances.

Direct Members are Arçelik, Ariston Thermo Group, BSH (Bosch und Siemens Hausgeräte), Candy Group, De'Longhi, Electrolux AB, Fagor Group, Gorenje, Liebherr, Indesit Company, Miele, Philips, Groupe SEB and Whirlpool Europe. CECED's member associations are present in the following countries: Austria, Belgium, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

COCIR represents the Radiological, Electromedical and Healthcare IT industry in Europe and was founded as a non-profit trade association in 1959. Our 23 corporate members and 12 national trade associations play a driving role in developing the future of healthcare both in Europe and worldwide. COCIR also works with various organisations promoting harmonised international standards and fair regulatory control that respects the quality and effectiveness of medical devices and healthcare IT systems without compromising the safety of patients and users. We encourage the use of advanced technology to support healthcare delivery worldwide. COCIR's key objectives include promoting free worldwide trade of medical devices and maintaining the competitiveness of the European health sector.

CECIMO is the European Association for the Machine Tool Industries in Europe. Bring together 15 national Associations for Machine Tool Builders which represent approximately 1600 industrial enterprises in Europe*, over 80% of which are SMEs. CECIMO covers more than 97% of total Machine Tool production in Europe and more than 40% worldwide. It counts for over 150,000 employees and a turnover of €17 Billion in 2009. In 2009 74% of production in CECIMO countries (€12.5 billion) was sold to another country other than the country of production, more than half of which (€7 billion) was exported outside Europe.

CELMA is a Federation established for an unlimited period, representing 18 National Manufacturers Associations for Luminaires and Electrotechnical Components for Luminaires. CELMA members Associations are representing some 1000 companies in the Luminaires and Electrotechnical Components for Luminaires industries in 13 European countries. These 1000 producers, which include a majority of small and medium-sized companies, directly employ 107.000 people and generate more than 15 billion Euros annually.

ELC represents the leading eight European lamp manufacturers. These companies account for 95% of total European lamp production, employ more than 50.000 people in Europe, and generate more than 5 billion Euros turnover annually.

EFCEM is the European Federation of Catering Equipment Manufacturers and represents manufacturers of commercial kitchen equipment. Its 550 companies have a combined turnover of €3,600m and 8 national associations (France, Germany, Italy, Ireland, Spain, Sweden, Turkey & UK).