

Position Paper

Brussels, 17 February 2010

COMMENTS AND RECOMMENDATIONS ON DRAFT REPORT OF RAPPORTEUR JILL EVANS ON THE PROPOSAL FOR A RECAST RoHS DIRECTIVE 2002/95/EC 2008/0240(COD)

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 11.1 million people in the EU and in 2008 accounted for some €1,885 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.

EXECUTIVE SUMMARY

In view of the further proceedings in the European Parliament, Orgalime submits its comments and proposals on the **draft report of Rapporteur Jill Evans** concerning the recast proposal for Directive 2002/95/EC on the Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment (**RoHS**) with the request for your support:

European manufacturers of EEE fully support the objectives of the existing RoHS directive and have been driving its efficient implementation and will be continuing to do so.

While Orgalime supports the Rapporteur's proposals for granting grace periods to clear supply chains if an exemption expires definitely, as well as the proposals for adding the criterion of a life cycle perspective when assessing applications for exemptions, for further improving the alignment of the RoHS Directive with the New Legislative Framework and for the deletion of the product list in annex II, producers of Electrical and Electronic Equipment (EEE) are seriously concerned with the following elements of the draft report for the following reasons:

1. SCOPE

Orgalime can at this stage not support the proposal to include all EEE in the scope ("open scope"), since the impacts of such a far reaching modification have not been subject to a **representative, thorough impact assessment at EU level**. This, however, is a fundamental principle of Better Regulation. Moreover, even the recently published Danish impact assessment concedes that it covers selective aspects only and that *"the introduction of a general scope, where RoHS covers all EEE, may have quite far reaching consequences and there may be the need for general exclusions for some product groups. We feel that especially in the area of industrial and professional goods severe and, we presume, undesired effects could occur, including more particularly negative implications at the level of product reliability or safety.*

***We therefore request you to reject amendments 68 and 14, 15, 16, 17, 26 and 27.
Amendments 36 and 69 should be supported.***

2. NEW SUBSTANCE RESTRICTIONS

Orgalime does not per se object to new substance restrictions. However, such new restrictions need to be scientifically evaluated beforehand and ensure that the shift to alternatives provides better performance in environmental and technical terms. New restrictions would also need to fully tie in with the new European wide EU chemicals regime REACH.

The **Rapporteur's proposal to immediately restrict further 7 (groups of) substances used in EEE**, however, lacks any scientific evidence and justification. Moreover, while the Rapporteur's report claims that the Öko-Institut study would recommend such restrictions, the Öko-Institut study specifically underlined that ***"there can be no robust recommendation as to the need to restrict the use of substances according to the present state of knowledge"***.

We are particularly surprised with the proposal to restrict PVC based on the Rapporteur's report's claim of PVC *"creating problems for waste treatment"*: this conflicts with the **Commission's study findings and the Commission's Green Paper on PVC**, which states the following: *"At the current levels of chlorine in municipal waste, there does not seem to be a direct quantitative relationship between chlorine content and dioxin formation,"* and *"It is most likely that the main incineration parameters, such as the temperature and the oxygen concentration, have a major influence on the dioxin formation"* instead.

Furthermore, in a **recent article published by Dr. Paul Goodman, ERA Technology**, it is confirmed that the alternatives available today for the proposed new substances for restriction would bear similar effects during incineration and can therefore not improve the present environment situation. If regulators are considering banning substances, it is in our view an essential condition that this should lead to better environmental results. Finally, this ERA article also concludes that the issue of formation of dioxins and furans during incineration is an issue that is addressed in the EU Waste Incineration Directive.

Orgalime therefore kindly asks you to reject amendments 4, 5, 6, 8, 31, 70 and 71.

3. RoHS EXEMPTIONS

Orgalime is concerned with the proposal to delete two fundamental criteria for the evaluation of applications for RoHS exemptions: namely, the **socio economic criterion, and the criterion of the availability and reliability of a substitute**. These are accepted criteria under the REACH Regulation and 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.

We are equally concerned with the one size fits all **maximum 4 years validity period** for all exemptions, which does not reflect practical realities or technical possibilities. Timelines should be fixed for each exemption on a case by case basis, which would be a feasible process since the **Rapporteur proposes that the Commission presents each draft decision for an exemption individually** for the purpose of executing the EP's right of scrutiny on comitology decisions.

Finally, the Commission has proposed that **applications which are exempted from RoHS should be exempted from REACH authorisation**. However, the Rapporteur proposes to delete this simplification. This deletion would result in double requirements on the same products and substances on producers of EEE who would be faced with a situation that a granted RoHS exemption could be outruled by a REACH authorisation decision and vice versa. This worsens the level of legal certainty for EEE producers in comparison to today's situation and is manifestly an unnecessary burden.

Orgalime therefore kindly asks you to reject amendments 10 (first sentence), 11, 38, 39 and 72.

Amendments 40, 42 (second up to last sentence) and 46 should be supported.

4. INSUFFICIENT ALIGNMENT OF RoHS WITH REGULATION 1907/2006 REACH

While the Rapporteur acknowledges in amendment 49 that REACH will equally establish restrictions on hazardous substances in EEE, we are concerned that relevant parts of the RoHS recast proposal are not made coherent with the REACH Regulation. In particular, the draft report claims that REACH would not address risks arising at the waste stage, and in particular the incineration process at the end of life stage. Apart from art. 3(37) and annex I of the REACH Regulation itself, we would like to particularly recall the existence of a specific chapter titling “Emissions from milling vehicles and electrical/electronic goods” and “other waste operations such as landfill, incineration and dismantling processes or the release from other waste treatment operations” in the ECHA guidance on information requirements and chemical safety assessments (see chapter “R.18: Estimation of exposure from waste life stage” and “R.18.5.2.3 Emissions from milling vehicles and electrical/electronic goods”, page 16f).

We therefore call upon the European Parliament to shape the RoHS recast proposal in a way that would strive for **coherence** between these two legislative instruments to focus on avoiding negative environmental and human health impacts related to the phase out of substances, rather than unnecessarily duplicating restriction processes of hazardous substances in EEE.

In particular, title VIII of the REACH Regulation provides for a **methodology for evaluating substances** prior to taking a decision on whether or not to restrict them, which has been established in co-decision: we propose to also apply these criteria under the RoHS directive. It is particularly important that - independently from the final procedure to apply for establishing restrictions (i.e.: co-decision or comitology) - the expertise from the various experts committees and bodies established in the REACH Regulation should be used. The methodology also allows for the specific value of RoHS to have a specific focus on the waste phase of EEE.

Orgalime therefore kindly asks you to reject amendments 7 and 34, first sentence. The second sentence of amendment 34 should be supported.

We provide hereafter our detailed comments and recommendations for which we kindly request your support:

Nr of Amdt	Ref.	Description	Orgalime comments	Orgalime voting Recommendation
1	Recital 3a (new)	To give priority to prevention in waste legislation	We support waste prevention as an objective. However, the Waste Framework Directive foresees possibilities to derogate from the waste hierarchy where justified.	Neutral
2	Recital 3b (new)	Reference to 1988 Council Resolution concerning the restriction of the use of cadmium	Cadmium is already restricted by the RoHS Directive and other EU legislation. The objective of restricting its use and find alternatives is therefore already implemented in the EEE sector.	Neutral

3	Recital 3c (new)	Reference to EP 1996 Resolution that asks COM to present legislative proposals on the priority waste stream of electrical and electronic equipment (EEE)	Amendment appears outdated to us, since the RoHS and WEEE Directives have been adopted since. Besides, the new Waste Framework Directive does not list EEE as a priority waste stream.	No
4	Recital 3d (new)	Reference to Regulation 850/2004 on persistent organic pollutants - thermal treatment or uncontrolled disposal of EEE containing halogenated flame retardants or PVC can contribute to formation of dioxins and furans	<p>The Rapporteur's justification for including PVC in the list of prohibited substances, i.e.: that PVC would "<i>create problems for waste treatment</i>", conflict with the Commission study findings and Commission Green Paper on PVC, which states the following:</p> <ul style="list-style-type: none"> • "<i>It has been suggested that the reduction of the chlorine content in the waste can contribute to the reduction of dioxin formation, even though the actual mechanism is not fully understood. The influence on the reduction is also expected to be a second or third order relationship. It is most likely that the main incineration parameters, such as the temperature and the oxygen concentration, have a major influence on the dioxin formation</i>". • The Green Paper states further that "at the current levels of chlorine in municipal waste, there does not seem to be a direct quantitative relationship between chlorine content and dioxin formation". <p>The Green Paper is based on the results of over ten in-depth studies, carried out in various parts of the world, and dealing with mechanical recycling, chemical recycling, landfill, incineration, and the economic implications of a diversion of PVC waste from incinerations</p> <p>Also, the PE Europe study demonstrates that any restriction on PVC would be scientifically unfounded (please see http://ec.europa.eu/enterprise/sectors/chemicals/files/sustdev/pvc-extended_summary_lca_en.pdf).</p> <p>Finally, with regards to the release of dioxins, the EU Waste Incineration Directive sets a stringent emission limit of 0.1 ng I-TEQ/m³.for waste incinerators <i>in</i> Europe. To combat undesired waste incineration practices <i>outside</i> Europe, stringent waste shipment rules can in our view be helpful.</p>	No To be seen together with amendments 5, 6, 8, 31, 70 and 71.

5	Recital 3c (new)	The phase-out of organobromines and organochlorines with priority on PVC would be recommended by the COM study	<p>The draft report proposes new substance restrictions for 7 substances/substance groups. The Rapporteur claims that the need for these new restrictions would be evidenced in the COM preparatory studies of the recast proposal carried out by the Öko-Institut. However, we cannot find evidence for this claim in the Commission's preparatory studies for the recast proposal carried out by the Öko-Institut. On the contrary, the Öko-Institut study itself concedes that <i>"there can be no robust recommendation as to the need to restrict the use of substances according to the present state of knowledge"</i>.</p> <p>Furthermore, in a recent article published by Dr. Paul Goodman, ERA Technology, it is confirmed that the alternatives available today for the proposed new substances for restriction would have similar effects during incineration and can therefore not at present improve the environment situation. If regulators are considering banning substances, it is in our view an essential condition that this should lead to better environmental results. This ERA article also concludes that the issue of formation of dioxins and furans during incineration is an issue that is addressed in the EU Waste Incineration Directive.</p>	<p>No</p> <p>To be seen together with amendments 4, 6, 8, 31, 70 and 71.</p>
6	Recital 4	Thermal treatment or disposal would be likely to pose risks to human health (formation of dioxins and furans during incineration of PVC and flame retardants) – Aims at proposing phase out of organobromines, organochlorines and PVC	See amendment 4 (COM study findings and Green Paper on PVC)	<p>No</p> <p>To be seen together with amendments 4, 5, 8, 31, 70 and 71.</p>
7	Recital 8	To state that RoHS Directive should complement Regulation (EC) No 1907/2006 (REACH)	Contrary to the opinion in the Rapporteur's report , the REACH Regulation itself and several subsequent guidance document explicitly state that REACH covers the waste phase. Also, all products in the scope of RoHS fall in the scope of REACH. Since RoHS and REACH apply on the same products and the same aspects in parallel, it is important that the RoHS recast fosters full coherence with the EU's encompassing chemicals law REACH which was enacted after the original RoHS directive.	<p>No</p>

8	Recital 11	EEE to be technically developed without heavy metals, brominated flame retardants, chlorinated flame retardants, PVC and its hazardous plasticizers	There has been no impact assessment to demonstrate the environmental benefit of a phase out of brominated flame retardants, chlorinated flame retardants, PVC and its hazardous plasticizers, nor have the socio-economic consequences of the proposal nor the feasibility, suitability or safety of alternatives been assessed.	No To be seen together with amendments 4, 5, 6, 31, 70 and 71.
9	Recital 12	Proposal that COM should study the negative impacts of hazardous substances and the feasibility of their substitution.	Any study on hazardous substances should not only study the negative impacts of hazardous substances, but at the same time evaluate the positive aspects of the substance to human health and environment as well as the socio-economic effects and other possible consequences of substitution, i.e.: negative impacts on product performance or safety, or are alternatives indeed safer and better performing? Under REACH, substances will be thoroughly evaluated, and will include a risk assessment. We do not support a multiplication of studies on same subjects and same products.	No
10	Recital 13	To delete socio economic criterion and criterion of availability/reliability of substitutes for granting exemptions and to reduce the socio-economic criterion to the decision on the <u>duration</u> of exemptions– allow a grace period after expiry of an exemption	We support that socio-economic criteria should be taken into account for deciding on duration of exemptions, but also for the establishment of substance restrictions themselves (see amendment 39). We also support the Rapporteur’s proposal for a grace period after expiry of an exemption to allow for the proper testing and checking of alternative substances and technologies.	No to first sentence Yes to rest of amendment However, we reject amendment 39.
11	Recital 14	To limit exemptions in scope and time	The scope and time of an exemption should be determined on a case by case basis to allow for take into account the specific product characteristics, technical reliability and feasibility.	No
12	Recital 20	Proposes to empower COM to adopt amendments to new annex VI (= list of exemptions for new scope category 11) via comitology	Orgalime does not support the introduction of a new scope category 11 (“other electrical and electronic equipment not covered by any of the categories above”), since it means that all EEE would be covered by the directive in the future.	Yes

			<p>The consequences and impacts of such a far-reaching modification have, however, not been subject to an impact assessment.</p> <p>However, for applications of any new product category to be added to the scope, it should be possible to apply for an exemption.</p>	
13	Art. 1	To state in art. 1 on subject matter of the Directive that it aims at contributing at the protection of the environment	We agree with this proposal. However, at the same time, consumers should also still be able to benefit from the advantages of the internal market and industry's competitiveness/innovation should be promoted. These aspects should be added to article 1, too.	Yes
14	Art. 2 – § 1	Cables, consumables and accessories shall be included in the scope of RoHS	<p>The RoHS Directive regulates electrical and electronic equipment, which we support.</p> <p>Including consumables and accessories in its scope, however, would mean that products that are of non-electric/electrical nature, (e.g.: printer papers, vacuum cleaner bags, water filters in coffee machines) would fall under its scope too. The RoHS Directive should apply to electrical and electronic equipment falling under the categories set out in Annex I and as specified in Annex II of the COM proposal.</p> <p>Regarding cables, we would like to stress that cables that form part of the EEE itself are already covered by the directive.</p> <p>Industrial cables, however, should remain outside the scope, since they represent products handled by professionals and as such will not end up in the municipal waste stream or in dustbins.</p>	<p>No</p> <p>To be seen together with amendments 68 and 15, 16, 17, 26 and 27.</p>
15	Art. 2 – § 1 a (new)	To apply the RoHS Directive on the new scope category 11 as of 1.07.2014	Any extension of the scope, in particular such a substantial one, must be subject to a prior and thorough impact assessment at EU level with stakeholder consultation as required by the Better Regulation principles applicable to all EU laws and EU institutions.	<p>No</p> <p>To be seen together with amendments 68 and 14, 16, 17, 26 and 27.</p>

16	Art. 2 – § 3 – point b	To include the electrical and electronic equipment that is part of stationary installations or transport equipment in the RoHS scope (to replace the existing exemption clause for “EEE included in another type of equipment that is not covered by RoHS”)	The amendment creates overlaps with other EU laws, especially the End of Life Vehicles Directive and its substance restrictions. The amendment introduces far reaching modifications in comparison to today’s RoHS scope, by also including EEE used in industrial plants, and therefore manufacturing and industrial applications in its scope. However, industrial applications often have particular safety and reliability requirements. A one size fits all ban is inappropriate and can lead to significant negative consequences. A thorough impact assessment at EU level with stakeholder consultation would have to be carried out beforehand.	No To be seen together with amendments 68 and 14, 15, 17, 26 and 27.
17	Art. 2 – § 3 – point b	To include equipment not intended to be placed on the market as a single functional or commercial unit in the scope of RoHS	Same comment as for amendment 16. RoHS applies at the level of a finished product. Amendment would in result in labelling and other requirements on each individual component.	No To be seen together with amendments 68 and 14, 15, 16, 17, 26 and 27.
18	Art. 3 – point b	Introduce definition of “manufacturer”	The amendment aligns the definition with the New Legislative Framework, which we support.	Yes
19	Art. 3 – point d a (new)	Introduce definition of “economic operators”	The amendment aligns the definition with the New Legislative Framework, which we support.	Yes
20	Art. 3 – point g a (new)	Introduce definition of “technical specification”	The amendment aligns the definition with the New Legislative Framework, which we support.	Yes
21	Art. 3 – point k a (new)	Introduce definition of “recall”	The amendment aligns the definition with the New Legislative Framework, which we support.	Yes
22	Art. 3 – point k b (new)	Introduce definition of “withdrawal”	The amendment aligns the definition with the New Legislative Framework, which we support.	Yes

23	Art. 3 – point 1	Modify definition of “homogeneous material”	<p>The amendment improves the COM proposal to some extent. However, we feel that the following definition would provide for more legal certainty for the many different products covered by RoHS:</p> <p>“Homogeneous material” shall mean either a material of uniform composition throughout, or a material that cannot be mechanically disjointed into different materials meaning that the materials cannot be separated by mechanical actions, such as unscrewing, cutting, crushing, grinding or abrasive processes.”</p> <p>Without a mandate for European standardisation bodies, however, any definition of homogeneous material will not be practicable. Therefore, we propose an amendment to art.6.2 of the COM proposal:</p> <p style="text-align: center;">“Article 6</p> <p>The Commission shall:</p> <ul style="list-style-type: none"> - <i>mandate European standardisation bodies without delay to develop harmonised standards for RoHS compliance for the product categories listed in annex I. The maximum concentration values according to article 4.2 and annex IV and the definition of homogeneous material of article 3.1 shall serve as the common base for further specification in standardisation, especially on sample preparation.</i> 	Neutral
24	Art. 3 – point 1 a (new)	Introduce definition of “disjoint mechanically”	Same comment as for amendment 23.	Neutral
25	Art. 3 – point p	Modify definition of “industrial monitoring and control instruments”	The replacement of the term “professional”, which is a standing expression, by “industrial” may cause confusion.	No
26	Art. 3 – point p a (new)	Introduce definition of “consumable”	<p>The RoHS Directive regulates electrical and electronic equipment, which we support.</p> <p>Including consumables and accessories in its scope, however, would mean that products that are of non-electric/electrical nature, (e.g.: printer papers, vacuum cleaner bags, water filters in coffee machines) would fall under its scope too.</p>	<p>No</p> <p>To be seen together with amendments 68 and 14, 15, 16, 17 and 27.</p>

			The RoHS Directive should apply to electrical and electronic equipment falling under the categories set out in Annex I and as specified in Annex II of the COM proposal.	
27	Art. 3 – point p b (new)	Introduce definition of “accessory”	Same as for amendment 26.	No To be seen together with amendments 68 and 14, 15, 16, 17 and 26.
28	Art. 4 – § 1	To rule that, in addition to electric/electronic spare parts, EEE for updating of functionalities or upgrading of capacity does not contain substances in Annex IV, Part A	The use of certain substances in EEE for updating of functionalities or upgrading of capacity can bear significant environmental benefits from a life cycle perspective, e.g.: improve energy efficiency performance or reduce waste arising. There should not therefore be any general ban.	No
29	Art. 4 – § 1 a (new)	To rule that, in addition to electric/electronic spare parts, EEE for updating of functionalities or upgrading of capacity does not contain substances in Annex IV, Part B	Same comment as for amendment 28.	No
30	Art. 4 – § 4 – introductory part	To change the heading of art.4.3 on exemptions for spare parts to spare parts, updating of functionalities or upgrading of capacity	We support the modification.	Yes
31	Art. 4 – § 5 a (new)	To apply new substance restrictions on halogenated substances and materials for categories 1,2,3,4,5,6,7,10 as of 3.5 years after entry into force of recast RoHS Directive	There has been no impact assessment to demonstrate the environmental benefit of a phase out of halogenated substances, nor have the socio-economic consequences of the proposal nor the feasibility, suitability or safety of alternatives been assessed.	No To be seen together with amendments 4, 5, 6, 8, 70 and 71.

32	Art. 4 - § 5 b (new)	To introduce the possibility of exemptions for spare parts placed on the market before new restrictions apply or for EEE which benefits from an exemption and was placed on the market before expiry of that exemption	There has been no impact assessment to demonstrate the environmental benefit of the proposed new restrictions, nor have the socio-economic consequences of the proposal nor the feasibility, suitability or safety of alternatives been assessed.	Neutral
33	Art. 4 - § 6	To introduce a new annex Via for exemptions for the new category 11	<p>In the absence of a thorough and representative impact assessment at EU level with stakeholder consultation as required by the Better Regulation principles, Orgalime cannot support the introduction of the new scope category 11 that would result in including any EEE under the scope of RoHS.</p> <p>However, for applications of any new product category to be added to the scope it should be possible to apply for an exemption.</p>	Yes
34	Art. 4 - § 7	To delete art. 4.7 of COM proposal which proposes establishment of a RoHS methodology through comitology	<p>Orgalime supports that there should be clear criteria and procedures for identifying and evaluating substances before restricting substances in EEE. This improves transparency and increases the quality of legislation.</p> <p>A concise and encompassing methodology already exists under the EU's harmonised chemicals law, the REACH Regulation (title VIII). This methodology has been developed in co-decision. The REACH Regulation itself and several subsequent guidance documents explicitly state that REACH covers the waste phase. Also, all products in the scope of RoHS fall in the scope of REACH. Therefore, we believe that this existing methodology is also fit, besides of being readily available, for establishing RoHS restrictions.</p>	<p>Yes for the last sentence of the amendment</p> <p>No for the first sentence</p>
35	Art. 5 - § 1	To replace the term "annexes" by "annexes V, VI, Via" for the adaptation to scientific and technical progress	COM wording of "annexes" includes modification proposed by the Rapporteur.	No
36	Art. 5 - § 1 - point a	To delete the possibility to amend annex II (=list of products that fall under scope categories of annex I) via comitology	We agree with the proposal. What products should fall in the scope or not, represents a political decision.	Yes

37	Art. 5 – § 1 – point b	To adapt Annexes V, VI and VIa to scientific and technical progress also for the new category 11 and specified by application	In the absence of a thorough and representative impact assessment at EU level, with stakeholder consultation as required by the Better Regulation principles, Orgalime cannot support the introduction of the new scope category 11 that would result in including any EEE under the scope of RoHS. We do support that for any category in the scope, it must be possible to foresee exemptions on a case by case basis.	Yes
38	Art. 5 – § 1 – point b – indent 2	To delete the criterion of “ensurance of availability and reliability of substitutes” from the criteria for granting exemptions	The availability and reliability of a substitute is a prerequisite for successful substance phase out. Otherwise, product safety or product performance is at risk and the competitiveness of European industries would be hampered.	No
39	Art. 5 – § 1 – point b – indent 3	To modify the third criterion for granting exemptions by adding a life-cycle assessment of impacts while deleting the socio-economic analysis	The proposal to introduce a life cycle perspective into the list of criteria for granting exemptions is helpful to avoid arbitrary environmental effects. However, deleting the analysis of socio-economic impacts is not in line with the REACH Regulation and risks arbitrary results.	No However, we could support the second part of amendment 10.
40	Art. 5 – § 1 – subpara graph 2	To adopt amendments to the list of exemptions via comitology individually	Tackling each exemption request individually can help in adopting decisions more rapidly.	Yes
41	Art. 5 – § 1 – subpara graph 2 a (new)	All Economic operators shall take all necessary measures to reduce exposure of consumers, workers and the environment to Annex IV substances	Orgalime generally agrees that all economic operators should take all necessary measures to reduce exposure from substances that are exempted from the restriction. However, we question the practical relevance and enforcement of the amendment.	No
42	Art. 5 – § 2	Decisions on exemptions shall be valid for up to 4 years, to be decided on a case by case basis, their duration shall take into account socio-economic impacts. COM shall decide on applications within 6 months and grace periods shall be granted in certain cases	We fully support that decisions on exemptions shall be taken on a case by case basis, shall consider socio-economic impacts, allow for grace periods and that a deadline for taking a decision should apply for the Commission. However, we do not agree with the maximum validity period of 4 years.	Yes for second up to last sentence No for first sentence

43	Art. 5 – § 3	To consult economic operators before Annexes amendments and make consultations publicly available	The amendment increases transparency. However, we do not support the reference to annexes V, VI, VI that relate to the proposed enlarged scope (cat. 11)	Yes
44	Art. 5 – § 4	To not exempt materials or components included in Annexes V, VI and VIa from authorisation requirements under REACH	A deletion of this paragraph would mean that EEE producers have to seek REACH authorisations and RoHS exemptions in parallel, since REACH and RoHS cover the same products and aspects. This creates unnecessary duplication of administration and legal uncertainty since producers of EEE who would be faced with a situation that a granted RoHS exemption could be outruled by a REACH authorisation decision and vice versa.	No
45	Art. 6 – § 1 – introductory part	To set a deadline for COM to adopt detailed rules for RoHS compliance	Since all relevant legislative requirements (i.e.: on substance restrictions, their maximum concentration values and their reference level of homogenous material) are directly established in the RoHS Directive, we believe that European standardisation bodies should be mandated to develop harmonised standards for RoHS compliance instead of the Commission providing technical details. See proposal for a modified article 6 under amendment 23.	No
46	Art. 6 – § 1 – indent 1	To request verifiable and comprehensive documentation and information when asking for exemptions from a life cycle perspective	Any such documentation and information should always be comprehensive and provide the necessary justification.	Yes
47	Art. 6 – § 1 – indent 2	To introduce a de minimis volume for maximum concentration values and specific rules for surface coatings and to introduce verification procedures for the ChI and Br substances on the basis of international standards	Since all relevant legislative requirements (i.e.: on substance restrictions, their maximum concentration values and their reference level of homogenous material) are directly established in the RoHS Directive, we believe that European standardisation bodies should be mandated to develop harmonised standards for RoHS compliance instead of the Commission providing technical details.	No
48	Art. 6 a (new)	To introduce a review clause and provide specific elements for the review	We would agree with the introduction of a general review clause, however, we do not support all elements listed for the review.	No

			I.e.: worker protection is not a subject the RoHS Directive should tread into. Also, the issue of transformation products is already regulated: once through the waste incineration directive and secondly through the REACH Regulation (see ECHA guidance on information requirements and chemical safety assessments, chapter “R.18: Estimation of exposure from waste life stage”, which includes a section “R.18.5.2.3 on Emissions from milling vehicles and <u>electrical/electronic good</u> ” and “other waste operations” such as landfill, <u>incineration and dismantling processes or the release from other waste treatment operations</u> ” (see page 16f).	
49	Art. 6 b (new)	To introduce an obligation that REACH restrictions or non-authorisations on EEE shall also be added in the RoHS annex	This amendment unnecessarily duplicates law. We are pleased to hear that the Rapporteur now acknowledges that REACH equally establishes restrictions on the same products covered by RoHS.	No
50	Art. 7 – introductory part (new)	To add the introductory lines of “The Member States shall ensure that” to the wording taken from the New Legislative Framework regarding “Obligations of manufacturers”	We agree with this addition.	Yes
51	Art. 7 – § 2	To support module A as the principle module for conformity assessment, unless specific legislation requires at least as strict procedures as set out in that module.	Orgalime supports the application of module A as a rule.	Yes
52	Art. 7 – § 5	To delete product safety aspects and move the specific risks involved by the use of hazardous substances to environment and recovery/disposal	This paragraph of the NLF is particularly targeted to users of a products and therefore, to protect their health and safety.	No
53	Art. 7 – § 7	To strengthen the focus of human health, environment and environmentally sound recovery and disposal during conformity assessment	“Lex specialis” on particular product groups, such as medical devices, prevails over “lex generalis”.	Neutral

54	Art. 7 – paragraph 8	To make this directive reference for conformity assessment	Amendment improves clarity.	Yes
55	Art. 8 – § 1	Editorial change to the wording of the possibility for the manufacturer to appoint an authorised representative by written mandate	We prefer the initial wording for the sake of legal consistency, considering that the initial proposal is a copy/paste from the New Legislative Framework, which we support.	No
56	Art. 8 – § 2 – point a	To clarify that the starting point of the ten-years timeline for keeping the declaration of conformity for authorised representatives of the manufacturers would be the moment of “making the product available” on the market	We support the introduction of a starting point, however, this starting point should be the moment of “placing the product on the market”, since this is a specific moment in time that only occurs once. In contrast, a product can be “made available” several times, which would then cause confusion as of when a product would indeed have to be compliant with the requirements of RoHS.	No
57	Art. 9 – § 3	To allow indication of importer’s name, trade mark etc. on other places according to requirements in other legislation than RoHS	“Lex specialis” on particular product groups, such as medical devices, prevails over “lex generalis”.	Neutral
58	Art. 9 – § 5	To move from focus from safety to environment and environmentally sound recovery and disposal	This paragraph of the NLF is particularly targeted to users of a products and therefore, to protect their health and safety.	No
59	Art. 9 – § 7	To clarify that the starting point of the ten-years timeline for keeping the declaration of conformity for importers would be the moment of “making the product available” on the market	As for amendment 56, we support the introduction of a starting point, however, this starting point should be the moment of “placing the product on the market”, since this is a specific moment in time that only occurs once. In contrast, a product can be “made available” several times, which would then cause confusion as of when a product would indeed have to be compliant with the requirements.	No
60	Art. 10 – § 2 – 1 st subparagraph	To correct a numbering error in the Commission proposal	We support this editorial change.	Yes
61	Art. 11	To add the introduction of “Member States shall ensure that” to the wording taken from the New Legislative Framework regarding “Obligations of distributors”	We agree with this addition.	Yes

62	Art. 12	To add the introduction of “Member States shall ensure that” to the wording taken from the New Legislative Framework regarding “Economic operators”	We agree with this addition.	Yes
63	Art. 13 – § 2	To require that declarations of conformity shall be translated into the language of the Member State	Orgalime would prefer not to include this requirement in the RoHS Directive in order to avoid administrative burdens and translation costs.	No
64	Art. 15 – § 3	To delete the reference to “notified bodies” from art. 15.3	We support the amendment.	Yes
65	Art. 16 – 2 nd subparagraph	To make requirements on RoHS compliance more concrete	Amendment goes in the right direction, however, misses the aspect that finished products cannot be “tested” as a whole, but that homogeneous materials would be tested. Finished product can only be assessed. We therefore propose to add the case of assessment of finished products to the amendment, too.	No
66	Art. 16 a (new)	To introduce provision R.9 from the New Legislative Framework regarding the formal objection of a harmonised standard	We support the amendment.	Yes
67	Art. 20 – § 1	To introduce an 18 months transposition deadline of the Directive for Member States	No particular comment.	Neutral
68	Annex I	To extend the scope by introducing a new category 11 “Other electrical and electronic equipment not covered by any of the categories above”	Any extension of the scope must be subject to a prior and detailed impact assessment as required by the Better Regulation principles applicable to all EU laws. In the absence of such an assessment, we cannot support the proposal.	No
69	Annex II	To delete Annex II (=binding list of products that fall under the categories of annex I)	Orgalime supports the proposal to delete product lists from RoHS, since any list can never be complete or follow technological path in time. It could therefore not give the necessary legal certainty to companies.	Yes

70	Annex III	To include organobromines and organochlorines in the list of substances to be evaluated for restriction	<p>The draft report proposes new substance restrictions for 7 substances/substance groups. The Rapporteur claims that the need for these new restrictions would be evidenced in the COM preparatory studies of the recast proposal carried out by the Öko-Institut. However, we cannot find evidence for this claim in the Commission's preparatory studies for the recast proposal carried out by the Öko-Institut. On the contrary, the Öko-Institut study itself concedes that <i>"there can be no robust recommendation as to the need to restrict the use of substances according to the present state of knowledge"</i></p> <p>Furthermore, in a recent article published by Dr. Paul Goodman, ERA Technology, it is confirmed that the alternatives available today for the proposed new substances for restriction would have similar effects during incineration and can therefore not at present improve the environment situation. If regulators are considering banning substances, it is in our view an essential condition that this should lead to better environmental results. This ERA article also concludes that the issue of formation of dioxins and furans during incineration is an issue that is addressed in the EU Waste Incineration Directive.</p>	<p>No</p> <p>To be seen together with amendments 4, 5, 6, 8, 31 and 71.</p>
71	Annex IV	To introduce new restrictions of the following substances in EEE: brominated and chlorinated flame retardants, PVC, chlorinated plasticisers, DEHP and DBP	<p>In the absence of a thorough and representative impact assessment on the consequences of these new restrictions, Orgalime cannot support the proposal.</p> <p>See also comments on previous amendment</p>	<p>No</p> <p>To be seen together with amendments 4, 5, 6, 8, 31 and 70.</p>
72	Annex V - introductory § (new)	To determine a general expiry date for the exemptions listed in article 4(1)	<p>The necessary validity period of individual exemptions should be determined on a case-by-case basis. Otherwise, there is a risk that important issues, such as at the level of safety, product performance or customised equipment produced by SMEs are at stake.</p>	<p>No</p>
73	Annex VI - introd. § (new)	To determine a maximum four years validity period for exemptions listed in Annex VI	<p>Same as amendment 72.</p>	<p>No</p>

74	Annex VI ^a (new)	To determine a maximum four years validity period for exemptions listed in Annex Via(new)	Same as amendment 72.	No
75	Annex VII – point 6	To replace the term “specification” by “technical specifications” for conformity declaration	We agree with the suggestion, which aligns the text with the New Legislative Framework, which we support.	Yes
76	Annex VII – point 7	To delete the reference to “notified bodies” from annex VII.7	We agree with the suggestion.	Yes