



ORGALIME

The Secretary General

Mr Lucien LUX
President EU Environment
Council

Ministry for Environment
18, Montée de la Pétrusse
L-2327 Luxembourg

Brussels, 13 June 2005

Proposal for a Council Decision amending directive 2002/95/EC ("RoHS" Directive) for the purposes of establishing maximum concentration values for certain hazardous substances in electrical and electronic equipment (COM (2004) 606 final)

President,

Directive 2002/95/EC on the restriction of certain hazardous substances in electrical and electronic equipment requires that electrical and electronic products put on the EU market after 1 July 2006 should not contain lead, mercury, cadmium, hexavalent chromium, PBB or PBDE. The directive also foresees that there should be maximum concentration values (MCVs) up to which the presence of these substances shall be tolerated.

On 23 September 2004, the Commission submitted its initial proposal for a Council decision amending directive 2002/95/EC on MCVs for decision to the Council. As the Council did not adopt this proposal within the given deadline of three months, the Commission was supposed to adopt the proposed text in the course of January 2005. However, we understand that the Commission, in order to properly respect the rights of the European Parliament under the Comitology procedure, sent the same draft decision to the Council once again on 7 April 2005. We equally understand at its meeting on 22 April 2005, the Council's Environment working group chose once again to await the expiry of the legal three months deadline without taking a decision.

Orgalime¹ is highly concerned about the lack of decision on this matter and continuous push back of deadlines. The considerable delay of the European institutions and Member States in providing unequivocal guidance on what maximum level of concentration values would be tolerated, is not only slowing down the process of the transposition of the directive and its long-term sustainability, but it is also inevitably jeopardising the electrical and electronics industry's timely preparations for the implementation of the legislation. We feel that this is not in the interests of either better regulation or of advancing the policy objectives decided by the institutions.

¹ *Orgalime speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic and metalworking industries of 24 European countries. These industries employ some 7 million people and account for 1235 billion euros of annual output, which is a quarter of the EU's output of manufactured products and a third of the manufactured exports of the European Union.*



Orgalime would therefore like to request the Council to decide on this matter of major importance to European electrical and electronic industries by adopting the Commission's proposal without delay.

In view of this, we would therefore like to reaffirm our support for the following levels of maximum concentration values as suggested in the re-submitted Commission proposal:

"For the purposes of Article 5(1)(a), a maximum concentration value of 0.1% by weight in homogeneous materials for lead, mercury, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE) and of 0.01% by weight in homogeneous materials for cadmium shall be tolerated."

While the Commission has published a "Frequently Asked Questions" document on 24 May 2005 which addresses some RoHS implementation issues, we believe that additional guidance will become necessary, in particular in the area of how to assess compliance with the RoHS directive. On the latter, Orgalime has recently issued a position paper, which we annex to this letter for your information and which was also made available at the workshop on RoHS compliance that brought together member states and industry representatives at the UK's DTI offices in London on 19 May 2005.

We kindly ask you to take our concerns into consideration in your further proceedings.

We would be happy to discuss this matter further with you and remain available for any further information that you might require.

Yours sincerely,

Adrian Harris

Cc.: Mr Christian Braun, Mr Georges Gehl