



Brussels, 4 December 2001

**Joint Association Position Paper  
concerning the EP's Second Reading  
on the proposal for a directive  
of the European Parliament and of the Council on the  
restriction of the use of certain hazardous substances in electrical and electronic equipment  
(RoHS)**

**COM(2000) 347 – C5-0415/2000 – 2000/0159(COD)**

**Key concerns on RoHS**

**I. Article 4 (1): Phase out date of hazardous substances**

The Council's proposed phase-out date "By January 1, 2007 at the latest" allows Member States to phase-out substances before 2007. This could severely distort the single market and free circulation of electric and electronic goods between entry into force of the directive and 2007. Article 4 (1) should be re-worded to make clear that the phase-out applies *as from* a given date, and not *prior to* it.

- **An amendment should be tabled restoring the Commission's original wording, viz. "With effect from [phase-out date], Member States shall ensure that new electrical and electronic equipment put on the market does not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and/or polybrominated diphenylether (PBDE)."**

The proposed phase-out dates of 2006 (from Parliament First Reading) or 2007 (from Council Common Position) are too early. It will be virtually impossible for the vast majority of electronics manufacturers that are small and medium-sized companies to achieve a full phase-out by either of these dates for all products included in the scope of RoHS. We originally suggested 2010 as a realistic date with which all manufacturers would be able to comply. We recognize that it will be difficult to reach overall agreement on 2010, and would therefore ask you to stick to the phase-out date in the Commission proposal: 2008.

- **Parliament Amendments 10 & 22 (first reading) to be amended as follows: replace 2006 with 2008.**

**II. Article 2: Scope / Spare parts, repair & consumables**

We fully support the Parliament's **Amendments 9 and 23** which exempt "spare parts and consumables for, and for the repair of, equipment placed on the market before January 1, 2006". We also support **Parliament's Amendment 7 to Recital 11(a) (new)**, which notes that since "product re-use, refurbishment and extension of lifetime are beneficial, spare parts need to be



available.” Access to spare parts and consumables is extremely important, both to preserve customers' investments and to promote the continued use of products and avoid unnecessary disposal before the end of their useful lives.

- **First-reading amendments 9, 23 and 7 should be re-tabled at second reading.**

### **III. Articles 5, 6 & 7: Adaptation to scientific and technical progress**

We agree with Parliament's **Amendment 10** (EP first reading) to Article 4(2), i.e. "*Paragraph 1 shall not apply to the applications of lead, mercury, cadmium and hexavalent chromium listed in the Annex. The European Parliament and the Council shall decide, as soon as the necessary scientific data and the findings of risk analyses are available, and without prejudice to the powers of the Commission, on the prohibition of other hazardous substances and the substitution thereof by more environment-friendly alternatives which ensure at least the same level of protection for consumers.* This is in line with the Council's wording of Article 6 on review of the substance ban. The Commission would be required to present proposals to add new substances to the substance ban on the basis of new scientific data, and this would then be presented to Parliament and Council for approval. Such decisions have a far-reaching impact and should therefore not only be left to technical committees in a comitology process.

- **First-reading Amendment No. 10 should be re-tabled.**

We oppose amendment 11 (EP first reading) to Article 5(1) which would give technical experts the mandate to ban new substances and exclude the Parliament from this decision-making process, i.e., we oppose the wording "*Any amendments which are necessary in order to add substances to Article 4(1) or adapt the Annex to scientific and technical progress for the following purposes shall be adopted in accordance with the procedure referred to in Article 7(2)*".

- **First-reading Amendment No. 11 should not be re-tabled.**

### **IV. Annex – Exemptions**

#### **Applications to be added to the Annex**

We strongly urge Parliament to maintain Amendment 21 (EP first reading) to the Annex of exemptions to ROHS, which covered:

- “Lead contained in high melting temperature type solder”
- “Lead in glass in electronic components”
- “Lead in piezoelectric devices”
- “Lead in servers, storage and storage array systems, voice and data transmission and networking equipment”.



While the Council text does cover all four of these exemptions to some degree, the wording is not exactly as in the Parliament's first reading. On at least the first three items, the EP first-

reading wordings are to be preferred to the Council text. With respect to the fourth item, "lead in servers, storage and storage array systems, voice and data transmission and networking equipment", we can accept the Council's approach. This approach limits the scope of the exemption by breaking the item into two parts: "lead in servers, storage and storage array systems" and "lead in solders for network infrastructure equipment for switching, signaling transmission as well as network management for telecommunication".

- **We would request that the EP table a second-reading amendment along the following lines:**
  - **Lead in high-melting temperature type solders [deletion of words "i.e. tin-lead solder alloys containing more than 85% lead"]**
  - **Lead in glass in electronic components**
  - **Lead in piezoelectric devices**
  - **Lead in solders for servers, storage and storage array systems [deletion of time limit]**
  - **Lead in solders for network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunications**

Moreover, the time limit on the exemption for lead in solders for servers, storage and storage arrays systems laid down in the Council text should be deleted. These two exemptions, "lead in servers, storage and storage array systems", and "lead in solders for network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunication", are crucial for the information technology and electronics industry across the world. Despite various initiatives towards lead-free solutions, there is still no lead-free technology available that ensures the same reliability that leaded technology does in these products which require better than 99.9% reliability (or 8 hours of unplanned downtime per year) due to the enormous human and financial consequences of equipment failures. Substitute technologies that have been demonstrated acceptable in some consumer products do not represent viable substitutes in high-end IT equipment. While it is expected that new lead free technologies developed for less demanding, more failure-tolerant products such as consumer electronics may eventually qualify for use in these high-complexity systems, this can only be accomplished after extensive analysis, laboratory development, and field testing of the reliability of new technologies. Any phase-out date set by this directive needs to take into account technological progress. No date should be laid down in the Annex. Instead, the setting of any deadlines must be left to the comitology procedure as provided for in Articles 5 and 7(2) of the RoHS proposal.

- **A new amendment should be tabled deleting the time limit in the Council text. This means deleting the words "exemption granted until 2010".**

**Thresholds for high melting temperature-type solder.**



The Council common position includes wording setting a threshold below which lead in high-melting temperature solders would not be exempted. We encourage the European Parliament to leave the setting of thresholds for high melting temperature type solders to the comitology procedure.

- **A new amendment deleting the Council's reference to "tin-lead solder alloys containing more than 85% lead" should be tabled.**

### **Mercury in straight fluorescent lamps**

We support the text submitted by the Commission and agreed by the Parliament in first reading, which set an upper limit of 10 mg for mercury in straight fluorescent lamps, as opposed to the Council's text, which subdivided this limit into 10 mg (halophosphate), 5 mg (triphosphate with normal lifetime) and 8 mg (triphosphate with long lifetime).

Item 2 of the exemption list, in the text submitted by the Commission and the Parliament, provided for an upper limit of 10 mg in relation to mercury in straight fluorescent lamps. The item has been subdivided in the Council's text into three categories of straight fluorescent lamp: "halophosphate", with an upper limit of 10 mg mercury per lamp; "triphosphate with normal lifetime", with an upper limit of 5 mg mercury per lamp; and "triphosphate with long lifetime", with an upper limit of 8 mg/mercury per lamp.

It is difficult to understand why this subdivision was needed and more specifically why a separate limit should be foreseen for triphosphate lamps with normal lifetime instead of the 8 mg applicable to the triphosphate lamps with long lifetimes. If a distinction is required and justified, however, we would strongly advise to avoid any inconsistency with the level of mercury which is allowed for triphosphate lamps with normal lifetime under the Eco-label scheme and which is fixed at 7.5 mg. by Commission Decision 1999/568/EC of 27 July 1999 establishing the ecological criteria for the award of the Community eco-label to lamps (O.J., 1999, L 216/18).

By virtue of that decision, lamps are awarded an eco-label when they comply with specific criteria enumerated in an annex to that decision. The criteria are aimed at promoting, *inter alia*, the reduction of environmental damage or risks related to the use of mercury, by reducing the mercury content of lamps and by extending their average life. The upper limit for double-ended light bulbs with an average life of less than 20,000 hours but greater than 10,000 hours (under which category fall the triphosphate lamps with normal lifetime) shall have an average mercury content lower than 7.5 mg.

We would therefore strongly recommend to either align the mercury limit for triphosphate lamps with normal lifetime to the limit which applies to triphosphate lamps with long lifetime, which would be 8 mg, or at least to increase the limit from 5 mg to 7.5 mg.

### **Lead in glass in light bulbs**



The Annex as originally submitted by the Commission contained the entry “lead in glass of cathode ray tubes, light bulbs and fluorescent tubes”. This wording was accepted by the Parliament, which made no amendments to the entry at first reading. The Council has amended the wording, deleting the reference to light bulbs. We support the reinsertion of the reference to light bulbs.

- **An amendment restoring the reference to “light bulbs”, as accepted by the Parliament at first reading, should be tabled at second reading.**

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