

# Joint Industry Position paper on Chinese substance restrictions ("China-RoHS")

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Many products of the electrical and electronic industry already fall under extensive regulations which include restrictions of hazardous substances. The ban of lead, mercury, cadmium, hexavalent chromium and the flame retardants PBB and PBDE according to Art. 4 of the Directive 2002/95/EC (RoHS) is part of many already existing European and national regulations on substances.

Recently additional substance restrictions are coming forth from different regions of the world e. g. China, USA (California), Korea, and other countries. The substance restrictions of the new legislation are generally similar to European RoHS but differ in many details or have yet to be finalised.

China is in the midst of an enormous opening process. In an extent never seen before customs have been lowered, investment barriers have been removed and the implementation of a stable market-economy has been promoted during the last decades. Nevertheless, in trading with and investing in China, European and other enterprises have met and still meet obstacles and restraints.

This results in a significant hindrance of international trade on global markets and of the required technology transferability. International trade and technology transfer are hereby essential key success factors in the electrical and electronic industry. Industry considers worldwide harmonized legislation and standardization as a very important precondition (*conditio sine qua non*) for the success of enterprises selling their products globally.

On 28. February 2006, the People's Republic of China promulgated its final version of Management Methods for Controlling Pollution Caused by Electronic Information Products Regulation, unofficially called "China-RoHS".

The implementation of China's approximate equivalent to the EU RoHS Directive will enter into effect for marking and information disclosure requirements on 1. March 2007. "China-RoHS" will be implemented via several standards and further regulatory measures, e.g. standards on 'Concentration Limits' of hazardous substances; on 'Marking' to indicate the presence of hazardous substances, an environmental protection use period, the packaging material content and on test procedures to support compulsory certification that "electronic information products" listed in a separate Catalogue are compliant with required substance restrictions. All these mentioned standards have not being finalised yet.

Also there are several key differences between "China-RoHS" and EU RoHS. These include:

- Labeling of **ALL** Electronic Information Products (includes products and parts/components, except part/components when used in manufacturing)
  - EIP Pollution Control Mark
  - Environmental Protection Use Period
  - Material Disclosure Table
- No formal recognition of EU exemptions which leads to **NO** differentiation between EU compliant products and non-EU compliant products when labeled to the standard and then sold in China.
- Product Catalog
  - Mandatory pre-market certification for products in the catalog
  - Certification only by China based authorized facilities
  - No provisions for the repair or upgrade "pre-catalog" products with non-compliant materials.

The affected European Industries are concerned that "China-RoHS" might well involve barriers to trade and ask the European Commission for support of the following key points:

- **Scope:** Harmonisation of the scope (products and substances covered as well as harmonised threshold levels for restricted substances and approved exemptions) of "China-RoHS" and EU RoHS. Inclusion in the "China-RoHS" catalog of **ONLY** those products which would **NOT** present a conflict with how industry is coping with the EU RoHS Directive and its approved exemptions. Industry

encourages a phased approach to Catalogue development that develops a predictable and transparent process incorporating technological feasibility and reliability. Industry encourages a three year phase in period for compliance with the substance restrictions.

- Electronic components and subassemblies (manufacturing and repair) shall only be covered as parts of a final product and therefore do not need to be separately labelled.
- **Put on the market:** Clarification of the term “put on the market” as used in “China-RoHS” and synchronization of European and Chinese definitions. We strongly recommend the first trade level as “put on the market”.
- **Presumption of Conformity:** As underlying principle the presumption that products comply with applicable regulations should prevail. In cases where confirmation of compliance is desired, a manufacturer’s self-declaration of conformity should be sufficient for compliance requirements. Any “China-RoHS” certification model should be based on this principle. In case testing is required, international testing standards shall be applied. Industry should be allowed to choose internationally accredited (e.g. by a member body of the international mutual recognition agreement of ILAC) laboratories of its own choice.
- **Marking:** International marking standards shall be used. Since several of the China RoHS labeling and information disclosure requirements are unique to China, and as such the proposed implementation dates are problematic for industry. Since certain companies do not currently possess the information necessary to implement the labeling and information disclosure requirements, industry requests a minimum 12 month implementation phase from the time all relevant labeling standards are complete until the effective date for labeling and information disclosure requirements. The labeling and information disclosure implementation transition is most problematic for electronic measuring instruments and medical equipment products.
- **Transition periods:** Grant of appropriate transition periods for requirements impacting product design of equipment with high requirements in terms of reliability and performance, e.g. medical devices, test and measurement equipment.
- Sufficient time (~ 12 months) allotted to industry to comply with the “China RoHS” legislation once the China RoHS standards and guidance documents are finalised.
- The addition of a provision for the repair or upgrade of “pre-catalog” products with non-compliant materials.
- **Timely and continuous information flow** on the development of “China-RoHS”: European Commission and Chinese government should cooperate closely and identify concrete contact persons and a process for information exchange, e.g. officially translated documents from China must be accessible for industry.

This position paper is supported by the following Industry Associations:

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<b>BDI</b>	Federation of German Industries, <a href="http://www.bdi-online.de">www.bdi-online.de</a>
<b>BITKOM</b>	German Association for Information Technology, Telecommunications and New Media e.V., <a href="http://www.bitkom.org">www.bitkom.org</a>
<b>EECA</b>	European Electronic Component Manufacturers Association, <a href="http://www.eeca.org">www.eeca.org</a>
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