

3 November 2009

## DEFINITION OF SOCIO-ECONOMIC CRITERIA

The undersigned associations welcome the proposed expansion of the current RoHS Article 5 (1) (b) and c) criteria for determining whether the restricted substances should be permitted in any particular specific applications to allow for socio-economic aspects to be taken into account. The undersigned associations understand that several members of the Council and European Parliament have some concerns regarding the socio-economic criteria due to the lack of clear definition.

As long recognized by industry and described in the Commission's Impact Assessment, preparatory studies and extensive Industry contributions during the consultation process, business/commercial realities of manufacturers and potential associated impacts on customers, consumers and the society as a whole are currently under-represented in the RoHS exemptions mechanism. They should become an integral part of and be considered by decision-makers during the assessment process, so as to avoid adverse socio-economic impacts which might outweigh the environmental, health or consumer safety benefits caused by substitution. Each of the three pillars of the EU's Impact Assessment model (environmental, economic and social) must become an inherent part of the RoHS exemptions review process. By looking into detail at all environmental, economic and social impacts, the current mechanism will better align with the goals of Better Regulation, and its underlying Lisbon and Sustainable Development strategies.

To allow harmonisation with existing European legislation dealing with substance restriction on the Community market, we propose the below definition and amendments to the exemption mechanism in line with the socio-economic analysis procedure developed under REACH Regulation (EC) No 1907/2006.



<p>- the availability and reliability of substitutes is not ensured,</p> <p>- the negative environmental health consumer safety or socio-economic impacts caused by substitution are likely to outweigh the environmental, health or consumer safety and/or socio-economic benefits thereof;</p> <p>(c) delete materials and components of EEE from Annexes V and VI where the conditions set out in point (b) are no longer fulfilled.</p> <p>[...]</p>	<p>- the availability and reliability of substitutes is not ensured,</p> <p>- the negative environmental health consumer safety or socio-economic impacts caused by substitution are likely to outweigh the environmental, health or consumer safety and/or socio-economic benefits hereof;</p> <p>- <b><i>the substitution would have a negative impact on competition due to a limited availability of substitutes, intellectual property restrictions on substitutes, or otherwise as determined by the Commission.</i></b></p> <p>(c) delete materials and components of EEE from Annexes V and VI where the conditions set out in point (b) are no longer fulfilled</p> <p>[...]</p>
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## 2- JUSTIFICATION

The undersigned associations support the alignment of RoHS exemption mechanism with REACH restriction and authorisation mechanisms.

REACH socio-economic analysis is a tool to evaluate what costs and benefits an action will create for society by comparing what will happen if this action is implemented as compared to the situation where the action is not implemented. Under the REACH restriction process, a socio-economic analysis can be part of an Annex XV dossier for restriction of a substance, and interested parties will be invited to submit a socio-economic analysis or input to one in response to a proposed restriction.

Annex XVI of REACH Regulation on socio-economic analysis and the guidance document developed by ECHA on the same issue define socio-economic impacts to be considered under the restriction procedure. In addition to environmental and safety concerns, those documents list 3 impact categories:

1. economic impacts (i.e. costs for industry and consumers);
2. social impacts (i.e. consequences on employment within the European Union and Member States);
3. competition and trade impacts.

Appendix G 'Initial Checklists – Identification of impacts' of REACH guidance document identifies potential changes between the proposed restriction and the current scenario. Such criteria should be taken into account by decision-makers to grant or withdraw an exemption, in parallel to human health and environmental impacts of the substance. The addition of socio-economic criteria should avoid inconsistency leading to the restriction of one substance under RoHS Directive but not under REACH Regulation.

For these reasons, the undersigned association propose to define socio-economic criteria with references to reliability of substitutes and intellectual property restrictions on substitutes.

## ABOUT DIGITALEUROPE

DIGITALEUROPE, the organisation formerly known as EICTA, is the voice of the European digital technology industry, which includes large and small companies in the Information and Communications Technology and Consumer Electronics Industry sectors. It is composed of 62 major multinational companies and 42 national associations from 29 European countries. In all, DIGITALEUROPE represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

## ABOUT EECA-ESIA

The Mission of the European Semiconductor Industry Association (EECA-ESIA) is to represent, promote and defend the vital interests of the European-based semiconductor industry and to ensure its competitiveness in the global market. The semiconductor industry provides the key enabling technologies at the forefront of the development of the Information Society. In Europe, the sector supports over 115,000 direct jobs and up to 500,000 induced jobs. With membership covering companies, national sector associations and research institutes, ESIA is the voice of the semiconductor industry in Europe.

## ABOUT JBCE

The Japan Business Council in Europe was established in 1999 as the representative organisation of Japanese companies operating in the European Union. Our membership consists of more than 60 leading multinational corporations that are active across a wide range of sectors, including electronics, automotive, and chemical manufacturing.

The key goal of JBCE is to contribute to EU public policy in a positive and constructive way. In doing this, we can draw upon the expertise and experience of our member companies.

## ABOUT TECHAMERICA EUROPE

TechAmerica Europe (formerly AeA Europe) represents leading European high-tech operations with US parentage. Collectively we invest Euro 100 bn in Europe and employ approximately 500,000 Europeans. TechAmerica Europe Member companies are active throughout the high-technology spectrum, from software, semiconductors and computers to Internet technology, advanced electronics and telecommunications systems and services. Our parent company, the TechAmerica (formerly AeA and ITAA), is the oldest and largest high-tech association in the US.