

Eurometaux comments on the stakeholder consultation on the Study on Hazardous Substances in Electrical and Electronic Equipment, not regulated by the RoHS Directive

Brussels, 28 March 2008

To: Mr. Carl-Otto Gensch
Öko Institut
Postfach 50 02 40
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Dear Mr Gensch,

Eurometaux and its members are fully committed to ensuring the safe handling and use of non-ferrous metals produced and placed on the market for use in EEE. In addition, the non-ferrous sector is the main recycler of metals and is consequently well placed to assess the hazards/risks associated with the recycling process. With a view to the current consultation on Oko-institut's activities in respect of Substances in Electrical and Electronic Equipment not regulated by the RoHS Directive, we would like to raise a number of general comments, as well as a number of issues related to non-ferrous metals and their compounds:

- As indicated in our contribution of February 13 to DG Environment's consultation on policy options for the review of the RoHS Directive, **Eurometaux does not deem it appropriate to extend the scope of the RoHS Directive with any new substances** as outlined in the first option in the consultation. REACH will provide adequate information on the intrinsic properties¹ of substances, as well as a detailed evaluation of the risks related to the use of substances over their entire lifecycle, including the end-of life phase, with the goal of achieving a sustainable use of chemicals. To apply a parallel process based on RoHS would consequently not create any added value in respect of its aims to protect man and the environment, and would be counter to the EU principle of applying best management practices.
- If the Commission decides to go ahead and include substances of concern in the list of the RoHS Directive, Eurometaux would like to provide the following guidance:
 - Any extension of the scope of the RoHS Directive on the basis of limited or incomplete information would be counter-productive with regard to investments for the development of new technologies, due to the uncertainty brought into the market. Therefore, if new substances are included in RoHS, the inclusion should:
 - be based on a scientific- and risk-based approach; and
 - take into account the outcome of EU risk assessments; and
 - take into account the availability of the substance in amorphous (massive) materials. It is generally accepted in Directive 1999/45/EC, the UN and future GHS, that substances in massive alloys, plastics and elastomers do not present a danger to human health by

¹ It should be noted that almost all metals will have to register under REACH before Dec. 2010 for total volumes produced or imported > 1000t/y. In addition, hazard properties for the purpose of harmonized classification foreseen under REACH will have to be reported on all existing substances before Dec. 2010.

inhalation, ingestion or contact with the skin or to the aquatic environment in the form in which they are placed on the market; and

- take into account the critical evaluation of the available information that is supported by a cost / benefit analysis, which must include a risk assessment of the alternatives, energy and raw material utilization and conservation.
- To **avoid any overlapping** in legislation, we believe that substances whose use in electric and electronic equipment is already regulated in other legislation should not be included. This applies at least to Entries 18, 31, 34 and 37, which should be removed from the current list.
- The **scope of RoHS is and the scope of this study** should be limited to substances that may pose a risk during improper recycling or disposal, as RoHS is **waste-related** legislation, and consequently only substances that are still present in the end-of-life product should be considered for listing.
- Furthermore, we would like to highlight the **lack of transparency regarding the criteria** used for identifying the 46 “high priority” substances currently proposed by Öko-Institute, apart from a brief reference to **CMR, PBT, vPvB or Endocrine disrupting properties**. We would very much appreciate additional information regarding the criteria that were used to establish the present questionnaire. We note, for example, that some substances, like n° 18 metals, were listed for reasons of “**sensitisation properties**”, which we believe goes beyond the protective goals of the RoHS Directive.
- In respect of the use of the PBT and vPvB criteria, we would like to point out that it is generally recognised and accepted by the “Technical Committee on New and Existing Substances”, and confirmed in REACH, that the **criteria currently used for PBT and vPvB are not applicable to inorganic substances** (including metals and metal compounds). Consequently, there is no justification for including inorganics only on the basis of their R51/53, R50/53, R50 and R53.
- We **reject the inclusion of substances on the basis of EU Category 3 Carcinogen classification**, as this classification is opted for: :
 - When the available information is not sufficient to make a satisfactory assessment; or
 - A request for classification as a carcinogen is made on the basis of some relevant animal studies, which are, however, insufficient to classify the substance as a Category 3; or
 - As a temporarily classification awaiting the outcome of ongoing or requested CMR research (e.g. n° 18); or
 - Sometimes even as a precaution in cases where there is a total lack of information

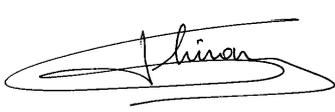
In view of the **high level of uncertainty regarding the basis** on which this classification is made, we do not believe this should be used as a basis for restricting the use of a substance, without any further assessment.

It should be taken into account that the **administration and implementation of the RoHS Directive** is already **very complex and difficult to manage**, as each substance on the list has sparked off a great deal of protest and applications for exemption, while the procedure for handling these exemptions (comitology) has proven to be ineffective. This is **creating a lot of uncertainty** about the application of the Directive and its exemptions. Consequently, the **certification of "RoHS conformity"** is becoming a **major problem for the electronics industry** - while it should also be borne in mind that several **other countries** (e.g. China) are **copying this approach and introducing their own lists of substances**, thereby adding to the confusion.

In view of the above arguments, as well as the time needed to finalise the revision of the RoHS Directive via co-decision procedure, and the entry into force of REACH, there is every justification for a thorough revision of the current list and an evaluation of the added value of extending the scope of the Directive. Additionally, before considering any extension of the list, priority should first be given to the proper administration of the initial list of substances and international harmonization.

Eurometaux has compiled detailed information on the 16 metals and metal compounds proposed by Öko-Institute, and is willing to provide any assistance that might be needed in the further process.

Yours sincerely,



Guy Thiran
Secretary-General

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