

Concerns from P. R. China on the EU Draft Eco-design Regulation on Electronic Displays (G/TBT/N/EU/609)

On Oct. 9, 2018, the EU notified the WTO of the draft EU eco-design regulation of electronic displays (notification number: G/TBT/N/EU/609). After the deadline of the exposure period, the EU revised this draft, and added the requirement of banning halogenated flame retardants" (Annex II D4 "The use of halogenated flame retardants is not allowed in the enclosure and stand of electronic displays. ").

We hold the opinion that adding the requirement of banning halogenated flame retardants in the revised draft lacks scientific basis, violates existing laws and regulations as well as policies of the EU, seriously influences the export of electronic products from other WTO members including China to the EU, constitutes a substantial technical barrier to trade. Apparently, it is a major revision that requires a second notification.

First, banning halogenated flame retardants lacks scientific basis. Scientifically speaking, the toxicological research and risk assessment of any chemical are based on a single chemical substance, instead of a type of chemical substances. Halogenated flame retardants include nearly 100 varieties of products under two categories, that is, brominated flame retardants (more than 70 varieties) and chlorinated flame retardants. They have completely different physical and chemical properties, and different ecological attributes. The majority of halogenated flame retardants have passed extremely rigorous risk assessment in North America and the EU, and been proven as green and environment-friendly. Only a few of them are proven to be hazardous to human body and the environment. Similarly, halogen-free flame retardants also have many different structures, and some of them have been demonstrated as toxic or highly toxic to the aquatic environment. For instance, many phosphate flame retardants are attached with H410, H413 and other toxic and hazardous labels under the CLP Regulation of the EU, and are unacceptable for major eco-labeling programs in Europe and North America. The requirement of banning halogenated flame retardants does not truly realize the goal of environmental protection as claimed by the EU. Instead, it poses great challenges to enterprises in terms of production and cost, so we hereby request EU to remove this requirement.

Second, the banning of halogenated flame retardants contradicts the regulations REACH and RoHS of the EU. The REACH regulation of the EU is regarded as the most rigorous regulation on the supervision of chemicals in the world, which does not discriminate against halogenated flame retardants. In fact, its list of banned substances contains both halogenated flame retardants and halogen-free flame retardants. The EU directive RoHS (full title: Restriction of Hazardous Substances in Electrical and

Electronic Equipment) is a special regulation dedicated to restricting the use of hazardous substances in electrical and electronic equipment. At present, among the ten hazardous substances restricted by RoHS, there are only two halogenated flame retardants, that is, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE). In 2011, in the revision to RoHS, some institutions and individuals proposed to include brominated flame retardants (halogenated flame retardants mainly covering brominated and chlorinated flame retardants) on the list of restricted substances of RoHS, but ultimately failed, mainly due to a lack of scientific basis. In addition, the European Commission also made it clear that any future revision to RoHS must be based on scientific and comprehensive risk assessment and be in agreement with the regulation REACH. Its purpose was to prevent RoHS from being used by some organizations as a fast track to restricting the use of chemical substances. In the draft regulation of the EU on the ecological design of electronic displays this time, introducing the requirement for “the banning of halogenated flame retardants” into the draft of the regulation on the ecological design of electronic displays is equivalent to opening a fast track to restricting the use of chemical substances, and is obviously contrary to the original intention of the establishment of Reach and RoHS; in addition, considering the lack of scientific evidence supporting its necessity, this revision has clearly deviated from the ultimate goals of the EU in establishing related regulations on electrical and electronic equipments and on the supervision of chemicals, and posed unnecessary barriers to trade.

Third, the banning of halogenated flame retardants adversely impacts the fair access of the electronic display products of other WTO members into the EU market, and constitutes a substantial technical barrier to trade.

On that account, China requests the EU to delete the new article of “banning halogenated flame retardants”, and to give a second notification of the final revised draft according to the principle of transparency under WTO, so that all WTO members can have access to related information or make additional comments.

2018年10月9日，欧盟向WTO通报了关于电子显示器生态设计法规草案（通报号G/TBT/N/EU/609）。评议期截止后，欧盟对该草案进行了修订，增加了禁用含卤阻燃剂的要求，即附录2中第D4条“电子显示器的外壳和支架不得使用含卤阻燃剂”。

我们认为，修订草案中增加了“禁用含卤阻燃剂”要求的条款，该要求缺乏科学依据，违背欧盟现有法规政策，将对包括中国在内的其他WTO成员的电子

产品对欧贸易产生严重影响，构成实质性技术壁垒，明显属于重大修订，应重新通报。

首先，禁用含卤阻燃剂没有科学依据。从科学角度来讲，任何化学品的毒理研究及风险评估都是基于单一化学物质而不是一类化学物质。含卤阻燃剂包括溴系和氯系阻燃剂共有近百种产品，仅溴系阻燃剂就有70多个品种，它们具有完全不同的物理和化学性能，不可能具有相同的生态属性。绝大多数含卤阻燃剂都已通过北美和欧盟极为严格的风险评估，被证明是绿色环保的；只有个别产品证明对人体和环境有较大风险。同样，无卤阻燃剂也有很多不同结构产品，其中有些结构已被证明对水生环境有毒或有巨毒，如许多磷酸酯类阻燃剂在欧盟CLP法规项下带有H410、H413等有毒有害标签，不被欧洲和北美主要的环保标签接受。所以，禁用含卤阻燃剂的要求并没有真正实现欧盟保护环境的目标，同时对企业造成了严重的生产和成本影响，因此我们提请欧盟取消该条款。

其次，禁用含卤阻燃剂与欧盟自己的法规REACH和RoHS相左。欧盟的REACH被誉为世界最严格的化学品监管法规，其中并没有对含卤阻燃剂的歧视，其禁用物质清单上既有含卤阻燃剂，也有无卤阻燃剂。欧盟RoHS的全称是《关于限制在电子电器设备中使用某些有害成分的指令》，它是专门限制有害物质在电子电器中使用的法规。在目前欧盟RoHS限制的10种有害物质中，只有多溴联苯和多溴二苯醚两种含卤阻燃剂。2011年，RoHS进行修订时，曾有个别机构和个人主张把溴系阻燃剂（含卤阻燃剂主要包括溴系和氯系阻燃剂）列入RoHS禁限目录，但最终未能实现，原因是没有科学依据。此外，欧盟委员会还明确表示，今后RoHS指令的修订要以科学和全面风险评估为依据，与REACH法规衔接。其目的就是不希望RoHS指令成为某些组织推动限制化学物质使用的快车道。此次欧盟电子显示器的生态设计法规草案中增加“禁用含卤阻燃剂”的要求实际上开通了限制化学物质使用的快车道，明显违背了Reach法规和RoHS指令的制定初

衷，同时仍然无法提供相应的科学依据来佐证其必要性，偏离了欧盟电子电器法规和化学品监管法规制定的最终目标，造成了不必要的贸易障碍。

第三，禁用含卤阻燃剂要求将对其他WTO成员的电子显示器产品公平进入欧盟市场产生不利影响，构成实质性技术壁垒。

为此，中方要求欧盟删除新增的“禁用含卤阻燃剂”要求条款，并依据WTO透明度原则将最终修改的法规草案重新通报，以便所有WTO成员了解或再次提出评议意见。