



Brussels, 13/04/2022

Minutes

Meeting of the Expert Group for RoHS 2 adaptation and enforcement

Sub-group for RoHS Delegated Acts¹

Brussels, 06/04/2022

A. Nature of the meeting

The meeting is non-public and reserved to members of the Expert Group from Member States. Industry stakeholders can be invited on an ad-hoc basis to provide background presentations regarding requests for exemptions under the [RoHS Directive](#). In this specific meeting, no industry stakeholders participated; consultants carrying out studies on behalf of the Commission participated with regard to the relevant agenda items.

B. List of points discussed

The agenda points included the following topics:

2. Adoption of the Agenda

The draft agenda sent around prior to the meeting had to be changed. The originally proposed agenda item 4. “Introduction New AdCo Chair” had been removed. As requested by one Member State expert, the Commission had added the agenda item 5.1 “Update court case T-113/20”.

There being no further comments the agenda so amended was adopted.

The Chair informed experts about the adoption of the minutes from the last meeting on 11 October 2021, published on the Commission’s expert group website.

3. RoHS Review

The Commission informed about the state of play of the review process for the RoHS Directive, further to information already provided at the previous meeting. Identified challenges were described, a revised timeline was presented and the Member States experts were given the opportunity to address noteworthy points for the review.

The relevance of contributions from the Member State experts in the process was highlighted. Input had already received and is welcome during the process, including next to the consultations carried out under the dedicated study. The contributions will be shared with the expert group and with the consultants in charge of the support study for the impact assessment.

¹ Published in the Register of Commission Expert Groups and Other Similar Entities, [code number E02810](#).

In the following the current timeline for the review was presented. As compared to the original planning, Q4 2022, due to the current resource constraints and in order to meet the expectations on quality, the Commission proposal is now planned for Q2 2023. The study to support the impact assessment, which had been initiated in March 2021, will be extended until that time.

The Commission informed the experts that work is still in progress on the Commission Staff Working document on the evaluation of the RoHS Directive. The Call for Evidence² (formerly called 'Inception Impact Assessment') had been open for feedback from 14 February 2022 to 14 March 2022 and stakeholders could share their views. The Commission received 115 contributions on the Call for Evidence. The Open Public Consultation was launched on 10 March 2022 and will run until mid-June. A questionnaire at the core of the consultation allows collecting views on prioritized points of the review. While the questionnaire has two parts, for the public without specialised knowledge and for specialists, both are open for everyone.

A targeted consultation will follow, inter alia comprising interviews with relevant stakeholders. As part of the targeted consultation, Member States will be consulted separately from the public with a survey, which will be sent in the next weeks. A corresponding expert meeting to discuss points for the review pre-identified of most interest for the Member States is planned for the 29 June 2022. A date for the technical workshop is to be confirmed, before or after the summer break. One Member State expert stated that they would prefer a workshop scheduled after the summer.

The impact assessment support study is planned to be completed by November 2022. The Commission briefly explained the further steps after the study until the legislative proposal.

In the following, Member State experts were invited to share their thoughts and concern about the review process. The Commission named as an example the choice of legal instrument of the RoHS provisions (Directive versus Regulation). No comments were made on the content of the review process.

4. RoHS Exemption Requests – Presentation and Discussion

4.2 Cadmium Quantum Dot Applications in display lighting

This point was brought forward as the previous agenda item had required less time than expected, and seeing availability of the consultants to support the following items. The Commission reminded the experts that this exemption request and the respective conclusions of the technical assessment report carried out by the consultants had already been discussed at the expert meeting of February 2021. The Commission had meanwhile further assessed the results of the report and further consulted involved stakeholders. This has led to conclude that it is appropriate to seek further comments from Member States before initiating the final decision-making process. The Commission in the following gave an overview about the exemption, its background and the technical conclusions from the report. It highlighted that the assessment relied mostly on the third indent of Article 5(1) (a) according to which an

² https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13137-Review-Restriction-of-the-use-of-hazardous-substances-in-electronics_en

exemption is possible where *“the total negative environmental, health and consumer safety impacts caused by substitution are likely to outweigh the total environmental, health and consumer benefits thereof”*, and that here a thorough evaluation between the respective impacts was necessary, considering the overall objective of the RoHS Directive, and more specifically the elimination of cadmium as also referred to in its Recital 5.

One expert asked about an estimation how many LED lamps would be affected by a proposed narrowed scope by the colour rendering index (CRI), as per the consultants report. The Commission referred to a statement in the report, which read that *“the general lighting market is mainly split between CRI 80 and 90, with around 70% CRI 80 and 10-15% CRI 90 LED’s.”* Two Member State experts stated that in their opinion the negative impacts outweigh the benefits of the proposed exemption, and referred to previously expressed positions. The consultant who had prepared the technical report clarified some technical questions and also pointed out that most likely further developments had taken place in this area more recently but that recent developments could not be included in the report.

There being no further comment Chair stressed that it was important for the decision-making to get an as accurate as possible picture of the Member States experts views and invited for any further comments following the explanations given by the Commission on the points for consideration.

4.1 Presentation Pack 24

The consultants from Oeko-Institut presented the technical conclusions for the exemption requests 5(b), 18(b), 18(b)-I, 24, 29, 32 and 34 of Annex III and exemption 34 of Annex IV of the RoHS Directive, bundled in Pack 24.

Regarding the exemption 5(b), one Member State expert noted that information would be useful to see estimations about the emissions of the hazardous substances and how much lead is recycled. It was asked if such glass waste falling under the exemption would be classified as dangerous. During the discussion, it was acknowledged that this is a valid point and that the classification is more related to the Waste Framework Directive.

One Member State expert stated not to support to broaden the scope of the present exemption. Some experts were concerned about the material cycle of lead-containing glass of fluorescent tubes as well as of LED retrofit lamps. It was discussed that a renewal of an exemption based on a claimed closed-loop system should be based on a comprehensive set of data and the question raised how such requirement could be established and work efficiently for future evaluations. The Commission stated that it will examine this issue in more detail during the review process.

One Member State expert does not agree that the criteria are fulfilled. The role of import of lead-containing glass from fluorescent lamps was addressed and it was questioned if imported articles based on recycled material origin from waste management infrastructures, under different conditions compared to the European market, can be considered here. One expert expressed interest of possible consequences of not granting an exemption for recycled glass from fluorescent lamps and the possible disposal routes outside of Europe. The Commission

reminded that the RoHS provisions apply to all relevant products placed on the EU market and that this question of products becoming waste outside the EU is relevant also for other product legislation.

The evaluations of exemptions 18(b), 18(b)-I of Annex III and 34 of Annex IV were presented. All exemptions concern the same technical principle for different final applications. One expert suggested limiting the proposed validity period for certain categories. It was clarified in the discussion that the proposed wording has so far not been challenged by any stakeholder. .

The evaluation of exemption 24 of Annex III were presented without any further comments.

The technical evaluation for the exemption 29 of Annex III was presented. In the discussion, it was clarified that specific lighting and decoration applications can fall under the scope of the RoHS Directive. One Member State expert suggested consider continuing the evaluation until more evidence is collected. Two experts questioned the necessity of some technical applications under this exemption and suggested to narrow down the scope to technical necessary applications. The consultants mentioned that specific waste streams under the exemption has not been monitored. Another expert suggested setting other validity periods for short-life applications.

The evaluation of exemption 32 of Annex III was presented. A general question arose regarding the proportionality of the amount of hazardous substances in different exemptions. The Commission commented that the aspect of proportionality will be picked up in the review, considering different measurements.

Following the presentation of the evaluation of exemption 34 of Annex III, information regarding the applicant was briefly clarified. In this context, the consultants also pointed out their observations regarding the difficulty of collecting additional data in cooperation with some applicants, which had already been raised based on the experience of some of the last reviews.

4.3 Hexavalent chromium in gas absorption heat pumps

The consultant presented the technical evaluation for the exemption request for hexavalent chromium in gas absorption heat pumps. One Member State expert stated that it would be useful to know if other manufacturers can achieve a hexavalent chromium concentration below 0.7%, particular in view of an increasing amount of heat pumps entering the market.

Besides the discussed exemptions, one Member State stated that there are many questions regarding exemption 7(c)-I of Annex III. The concern is that it is not feasible to provide a list of applications where lead is essential and cannot be substituted.

4.4. Update on ongoing studies

The update for ongoing exemption studies under the RoHS Directive was kept short due to the advanced time of the meeting. The Commission said to share the slides with the relevant information and links.

Relevant points were highlighted, like the publication of the twelve delegated directives concerning exemptions 1(a-e), 1(f), 1(g), 2(a) (1)-(5), 2(b)(3), 2(b)(4), 3(a)-(c), 4(a), 4(b),

4(c), 4(e) and 4(f) of Annex III for the use of mercury in fluorescent lamps on 24 February 2022³. Under the Pack 17, three exemptions regarding phthalates in medical devices have been published on 15 November 2021.⁴

5. AOB

5.1 Court Case T-113/20

The Commission explained briefly the background of the case, which is about a substance ban under the Commission Regulation (EU) 2019/2021 of 1 October 2019 for halogenated flame retardants in enclosure and stand of electronic displays.

On 16 March 2022 the judgement of the General Court (Eighth Chamber) had been received⁵. The Commission briefly explained the main points of the judgement from its point of view, which in particular concluded on the justification of the Act and that the Commission was competent to adopt the ban under the respective Regulation based on the Ecodesign Directive.

C. Closing

Experts were asked to provide additional comments within **four weeks (until 4 May 2022)** in writing on the information regarding the agenda items 4.2. and 4.3.. Comments regarding other points are also invited.

The Commission shared with the experts the presentations made by the consultants and the Commission. The technical and scientific assessment reports had been shared beforehand and are publicly available.

The next Member State meeting is planned for the 29 June 2022. A number of Member States experts would still prefer an online meeting or at least a ‘hybrid’ meeting.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2022:043:TOC>

⁴ Commission Delegated Directive (EU) 2021/1980; Commission Delegated Directive (EU) 2021/1979; Commission Delegated Directive (EU) 2021/1978

⁵ <https://curia.europa.eu/juris/document/document.jsf?text=&docid=256004&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=108280>

D. List of participants

Commission DG Environment, 3 participants from unit ENV.B.3, ‘from Waste to Resources’

Member State Experts

Austria	Federal Ministry Climate Action, Environment, Energy, Mobility, Innovation and Technology
Bulgaria	Department of Environment
Cyprus	Department of Environment
Denmark	Danish Environmental Protection Agency
Estonia	Ministry of Environment
Finland	Finnish Safety and Chemicals Agency; Ministry of Environment
France	Ministry of Ecological Transition
Germany	Federal Ministry for Environment, Nature Conservation, Nuclear Safety and Consumer Protection
Italy	Ministry for Environment, Land and Sea Protection; Institute for Environmental Protection and Research
Ireland	Department of Communications, Climate Action and Environment
Malta	Malta Competition and Consumer Affairs Authority
Netherlands	Ministry of Infrastructure and Water Management
Poland	Ministry of Economic Development, Technology and Labour
Portugal	Portuguese Environment Agency
Romania	Ministry of Environment, Water and Forests
Slovakia	Ministry of Environment
Spain	Ministry for Ecological Transition and Demographic Challenge
Sweden	Swedish Chemicals Agency

EEA countries

Norway Norwegian Environment Agency

Consultants Oeko Institute; Fraunhofer Institut

