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Committee on the Environment, Public Health and Food Safety

2008/0240(COD)

19.3.2010

AMENDMENTS 197 - 339

Draft report
Jill Evans
(PE439.897v01-00)

Proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast)

Proposal for a directive
(COM(2008)0809 – C7-0471/2008 – 2008/0240(COD))

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United in diversity

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Amendment 197
Chris Davies

Proposal for a directive
Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Amendment

7. The Commission shall amend the list of prohibited substances in Annex IV if it is considered that the presence of a substance in WEEE poses a risk to human health or the environment that is due to its hazardous properties, that is not adequately controlled and that needs to be addressed on a Union-wide basis.

The evaluation of substances for future restrictions as well as exemptions under this Directive shall:

- be based on sound science,***
- include the impact of alternatives, and***
- take into account:***

(a) socio-economic considerations, and

(b) availability and reliability of alternatives.

The methodology for evaluating substance restrictions and exemptions shall take into consideration positive and negative impacts on human health and safety of substances and potential alternatives to them, related to:

- all relevant life phases including end-of-***

life scenarios of reuse, recycling and treatment of WEEE,

- uncontrolled or diffuse dispersion to the environment, and

- exposure of these substances to workers and the environment.

The addition of new substances to Annex IV shall be considered following the submission of a dossier by the Commission or a Member State and after the consultation of:

-the Committee established under 18 of Directive 2006/12/EC;

-the Risk Assessment Committee of the European Chemicals Agency established under Regulation 1907/2006;

- interested parties including economic operators, recyclers, treatment operators, environmental organisations and employee and consumer associations.

The dossier shall make reference to any chemical safety report or risk assessment submitted under Regulation (EC) No 1907/2006 and any relevant risk assessment submitted for the purposes of other Union Regulations or Directives.

Or. en

Justification

Future substance restrictions and exemptions under the RoHS Directive need to be based on a comprehensive evaluation especially taking into account latest scientific evidence. The amendment is intended to ensure that the criteria and procedure of the evaluation process are clear and unambiguous.

Amendment 198
Bogusław Sonik

Proposal for a directive
Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Amendment

7. The Commission shall, taking account of the precautionary principle, review and amend the list of prohibited substances in Annex IV if it is considered that a substance contained in EEE or the waste products from it is detrimental to the environmentally sound recovery and disposal of waste electrical and electronic equipment or has an adverse impact on human health or the environment during use and waste treatment of EEE. For this purposes the Commission shall adopt a methodology to review and amend Annex IV taking special account of whether the substance:

(a) could have a negative impact on the possibilities for preparing for the reuse of EEE or for recycling of materials from WEEE;

(b) could give rise to uncontrolled or diffuse dispersion to the environment of the substance or of hazardous residues or of degradation products during preparations for the reuse, recycling or other treatment of materials from WEEE;
(c) could result in unacceptable exposure of workers involved in the collection or treatment of WEEE.

Such a methodology shall take into account the need to ensure coherence with other legislation related to chemicals, in particular Regulation (EC) No 1907/2006 (REACH), and shall use the knowledge obtained from the application of such legislation and ECHA guidance and recommendations regarding the list of high-risk substances.

The addition of prohibited substances to Annex IV shall be considered following

the submission of a request by the Commission or a Member State. Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Or. pl

Justification

When drafting proposals to amend Annex IV, which is the most important annex in the directive, the Commission should follow detailed guidelines. The guidelines have been drafted in such a way as to ensure that, firstly, account is taken of shortcomings stemming from Regulation (EC) No 1907/2006 (REACH) as regards the evaluation of substances, with specific reference to WEEE, in connection with reuse, recycling and uncontrolled dispersion to the environment. When putting forward new substances for inclusion in the directive, the Commission should also base itself on the ECHA's recommendations concerning the list of high-risk substances.

Amendment 199 **Sergio Berlato**

Proposal for a directive **Article 4 - paragraph 7**

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from ***the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006.*** Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from ***a substance during the recycling, recovery or disposal of electrical and electronic equipment, the Commission may, taking due account of the opinion of the Committee for Risk Assessment of the European Chemicals Agency (ECHA), review the list of prohibited substances in Annex IV on the basis of a methodology including the following criteria:***

(a) evidence that existing measures are not sufficient to adequately control the

risk posed by the substance when present in waste electrical and electronic equipment;

(b) information on the risks to human health and the environment related to the manufacture, use and disposal of alternatives;

(c) a comparative assessment of the substance and the proposed alternatives;

(d) a justification that action is required on a Union-wide basis and that a restriction is the most appropriate measure taking into account its effectiveness, practicality and monitorability; and

(e) the extent to which the risk posed by a substance in waste electrical and electronic equipment is outweighed by the benefits it brings to consumer safety.

The Commission shall use the same methodology, mutatis mutandis, to remove a substance from the list of prohibited substances in Annex IV.

Before amending Annex IV, the Commission shall consult, inter alia, producers of substances used in electrical and electronic equipment, producers of electrical and electronic equipment, recyclers of such equipment, waste treatment plant operators, environmental organisations and consumer associations. The Commission shall make publicly available on its website all proposals and justifications therefor and shall allow all interested parties an opportunity to comment. The Commission shall take account of the views received, which it shall also forward to the Committee referred to in Article 18.

Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Justification

With this amendment the legislator provides clear political guidance for the Commission to develop a methodology for the review of Annex IV. The methodology should be based on risk and take into account scientific evidence for both the substances included in Annex IV and their alternatives.

Amendment 200

Holger Kraemer, Anja Weisgerber

Proposal for a directive

Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from **the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006.** Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from **a substance during the recycling, recovery or disposal of waste electrical electronic equipment, the Commission may, taking account of the opinion of the Committee for Risk Assessment and the Committee for Socio-Economic Analysis of the European Chemicals Agency, review the list of prohibited substances in Annex IV on the basis of a methodology containing all of the following criteria:**

- 1. Evidence that existing measures are not sufficient to adequately control the risk posed by the substance when present in waste electrical and electronic equipment;**
- 2. Information on the risks to human health and the environment related to the manufacture, use, and disposal of alternatives;**
- 3. A comparative assessment of the substance and the proposed alternative(s);**
- 4. A justification that action is required on a Union-wide basis and that a restriction is the most appropriate**

measure taking into account its effectiveness, practicality and monitorability; and

5. The extent to which the risk posed by a substance in waste electrical and electronic equipment is outweighed by the benefits it brings to consumer safety.

The Commission shall use the same methodology mutatis mutandis to remove a substance from the list of prohibited substances in Annex IV. Before Annex IV is amended, the Commission shall consult inter alia producers of substances used in electrical and electronic equipment, producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations. The Commission shall make publicly available on its website all proposals and justifications therefor and allow all interested parties an opportunity to comment. The Commission shall take account of the views received, which it shall also forward to the Committee referred to in Article 18.

Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Or. en

Justification

With this amendment the legislator provides clear political guidance for the Commission to develop a methodology for the review of Annex IV. The methodology should be based on risk and take into account scientific evidence for both the substance proposed for inclusion in Annex IV as well as its alternatives.

Amendment 201
Christofer Fjellner

Proposal for a directive
Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using *a* methodology ***based on the process set out*** in Articles 69 to 72 of Regulation (EC) No 1907/2006. ***Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).***

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using ***the*** methodology ***established*** in Articles 69 to 72 of Regulation (EC) No 1907/2006.

In particular, the methodology of evaluating substances for the purpose of this Directive shall be based on sound science, representative and reliable data and any relevant chemical safety report or risk assessment submitted under Regulation (EC) No 1907/2006. That methodology shall, inter alia, include an impact assessment of alternatives, and take into account:

(a) socio-economic impacts,

(b) the availability and reliability of alternatives,

(c) the positive and negative impacts on human health and safety of substances and potential alternatives to them, related to:

- all relevant life-cycle phases, including end-of-life scenarios of reuse, recycling and treatment of WEEE,

- uncontrolled or diffuse dispersion to the

environment, and

- exposure to these substances of workers and the environment.

To contribute to a high level of protection of human health and the environment, the methodology shall be consistent with other legislation related to chemicals, in particular Regulation (EC) 1907/2006 (REACH) and the knowledge obtained from the application of such legislation.

Or. en

Justification

To avoid negative environment and human health impacts, it is important to assess the consequences of phase outs beforehand. The REACH Regulation provides for a methodology for restricting substances, which should also apply for the RoHS directive. The amendment highlights particular aspects that need to be evaluated prior to the decision to amend Annex IV of the RoHS directive. It also accounts for the specific value of RoHS to have extra focus of the waste phase of EEE. It must be ensured that alternatives do not create unforeseen negative impacts.

Amendment 202 **Oreste Rossi**

Proposal for a directive **Article 4 - paragraph 7**

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. ***Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in***

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. ***The evaluation of substances for future restrictions as well as exemptions under this Directive shall:***

Article 18(2).

- *be based on sound science,*
- *include an impact of alternatives, and*
- *take into account:*

(a) socio-economic considerations

(b) availability and reliability of alternatives.

The methodology for evaluating substance restrictions and exemptions shall in particular take into consideration positive and negative impacts on human health and safety of substances and potential alternatives to them, related to:

- *all relevant life phases including end-of-life scenarios of reuse, recycling and treatment of WEEE*
- *uncontrolled or diffuse dispersion to the environment*
- *exposure to these substances of workers and the environment.*

Such a methodology shall ensure to the largest possible extent coherence with other legislation related to chemicals, in particular Regulation (EC) No 1907/2006 (REACH) and the knowledge obtained from the application of such legislation. In particular, reference shall be made to any relevant chemical safety report or risk assessment submitted.

Or. en

Justification

Criteria applied in this evaluation process must be as precise and unambiguous as possible in order to ensure that additional substance restrictions in the future will be properly justified.

Amendment 203
Julie Girling

Proposal for a directive
Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006.

Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006.

The evaluation of substances for future restrictions as well as exemptions under this Directive shall

- ***be based on sound science,***
- ***include an impact of alternatives,***
- ***take into account:***
 - (a) socio-economic considerations,***
 - (b) availability and reliability of alternatives.***

The methodology for evaluating substance restrictions and exemptions shall in particular take into consideration positive and negative impacts on human health and safety of substances and potential alternatives to them, related to:

- ***all relevant life phases including end-of-life scenarios of reuse, recycling and treatment of WEEE,***
- ***uncontrolled or diffuse dispersion to the environment,***
- ***exposure to these substances of workers and the environment.***

Such a methodology shall ensure to the largest possible extent coherence with other legislation related to chemicals, in particular Regulation (EC) No 1907/2006 (REACH) and the knowledge obtained from the application of such legislation.

In particular, reference shall be made to any relevant chemical safety report or risk assessment submitted.

Or. en

Justification

Future substance restrictions and exemptions under the RoHS Directive need to be based on scientific evaluation. Criteria to be applied in this evaluation process must be as precise and unambiguous as possible in order to ensure the additional substance restrictions in the future will be properly justified. It must be ensured that alternative do not create unforeseen negative impacts.

Amendment 204

Françoise Grossetête, Catherine Soullie

Proposal for a directive

Article 4 - paragraph 7

Text proposed by the Commission

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed ***using a methodology based on*** the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. ***Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).***

Amendment

7. When there is an unacceptable risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed ***in accordance with*** the process set out in Articles 69 to 73 of Regulation (EC) No 1907/2006.

It is vital that the evaluation of these substances is based on representative and reliable scientific data measuring their existing and conceivable positive and negatives impacts. The methodology must, among other things, include an impact assessment of the alternatives (availability and feasibility) and take into account environmental and scientific aspects as

well as economic and social aspects throughout the product's life cycle. In order to contribute to a high level of protection of human health and of the environment, this methodology is coherent with Regulation (EC) No 1907/2006.

Those measures designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Or. fr

Justification

To avoid damaging effects on the environment and human health relating to the banning of certain substances, it is important to evaluate in advance the consequences of such a measure. The REACH Directive sets out a procedure for limiting the use of certain chemical substances that is relevant and that must also apply to the RoHS Directive.

Amendment 205

Åsa Westlund

Proposal for a directive

Article 4 - paragraph 7

Text proposed by the Commission

7. When there is ***an unacceptable*** risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Amendment

7. When there is a risk to human health or the environment, arising from the use of substances, and in particular the substances listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Justification

The term 'unacceptable risk to human health or the environment' is a term which indicates the outcome of an assessment rather than the point of departure for such an assessment.

Amendment 206
Frédérique Ries

Proposal for a directive
Article 4 - paragraph 7 - subparagraph 1a (new)

Text proposed by the Commission

Amendment

Further to new recommendations for the inclusion of substances in Annex XIV to Regulation (EC) No 1907/2006, the Commission shall propose the addition of those substances to Annex III.

Justification

The priority review under Annex III should be clearly linked to specific criteria based on the candidate listing and recommendation for inclusion of a substance in Annex XIV to Regulation 1907/2006.

Amendment 207
Christofer Fjellner

Proposal for a directive
Article 4 - paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Before Annex IV is amended, interested parties shall be consulted, in particular producers of electrical and electronic equipment, including SMEs, producers of substances used in electrical and electronic equipment, and environmental and consumer protection organisations.

A Consultation Forum shall be established for that purpose. The Commission shall make publicly available on its website all proposals and justifications therefor and allow all interested parties to comment on them. The Commission shall publish all comments received and take them into account in its proceedings.

Or. en

Justification

Before substance restrictions are established, it is important to gather all information, data and comments available. A transparent preparatory process is also necessary due to Better Regulation principles. A Consultation Forum already exists under Directive 2009/125 EC on Eco Design, which covers the products that also fall in the RoHS scope, and can serve as a model for the consultation process under RoHS. The Commission states in recital 9 that Eco Design requirements can also be covered by the RoHS Directive. The Eco Design Directive foresees a stakeholder consultation mechanism, but RoHS does not yet do so.

Amendment 208

Bogusław Sonik

Proposal for a directive

Article 4 - paragraph 7a (new)

Text proposed by the Commission

Amendment

7a. The Commission shall lay down detailed rules governing sampling, the inspection of electronic equipment and the demonstration of compliance with the maximum concentration values referred to in Article 4(2), taking particular account of SME capacities.

Or. pl

Justification

The RoHS Directive makes no reference to any rules, which makes it extremely difficult for manufacturers to meet the requirements laid down by the market surveillance authorities in other Member States. This generates high costs. If the Commission laid down rules for the Member States on how to ensure compliance with the directive, it would help to avoid unwarranted costs and the need for mutual recognition of test findings by surveillance

authorities.

Amendment 209
Bogusław Sonik

Proposal for a directive
Article 4 - paragraph 7b (new)

Text proposed by the Commission

Amendment

7b. The Commission shall lay down a standard defining a model materials declaration for EEE materials, components and parts. That declaration shall contain details of the concentration of regulated substances in EEE, the identity of the person issuing the declaration, exemptions applying to EEE components or parts and other fields defined by the Commission.

Or. pl

Justification

The cost of producing technical documentation and certifying performance of RoHS compliance testing is extremely high for SMEs. Under no circumstances must reporting requirements be allowed to place too much of a burden on SMEs in times of crisis. A substitute document is therefore being proposed, in order to provide SMEs with a presumption of compliance with the directive. It is important for the surveillance authorities of the Member States to consider that document as technical documentation.

Amendment 210
Jill Evans

Proposal for a directive
Article 5 - paragraph 1 - introductory part

Text proposed by the Commission

Amendment

1. The Commission shall, for the purposes of adapting the annexes to scientific and technical progress, adopt the following measures:

1. In order to allow the Annexes V, VI and VIa to be adapted to scientific and technical progress, the Commission shall adopt, by means of delegated acts in accordance with Article 18, measures

that:

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

The Commission should only be delegated power to decide about certain annexes - those that cover exemptions (Annexes V, VI and VIa).

Amendment 211

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 1 - introductory part

Text proposed by the Commission

1. The Commission shall, for the purposes of adapting the annexes to scientific and technical progress, adopt the following measures:

Amendment

1. The Commission shall, for the purposes of adapting the annexes to scientific and technical progress **and with reference to the criteria laid down in Article 4(7), in particular environmentally sound recovery and disposal of waste electrical and electronic equipment**, adopt the following measures:

Or. pl

Justification

This amendment clarifies the Commission's responsibilities with regard to the adaptation of the annexes to scientific and technical progress. The Commission must take decisions in full knowledge of the facts and with due precaution, in particular in connection with the exemptions procedure, in order to avoid any clashes with the REACH legislation and to maintain the ambitious environmental targets that have been set.

Amendment 212
Bogusław Sonik

Proposal for a directive
Article 5 - paragraph 1 - point a

Text proposed by the Commission

Amendment

(a) any necessary amendments to Annex II. *deleted*

Or. pl

Justification

This amendment seeks to give the directive a more coherent structure. This point has been fully incorporated into the proposed new version of Article 5.1.

Amendment 213
Oreste Rossi

Proposal for a directive
Article 5 - paragraph 1 - point aa (new)

Text proposed by the Commission

Amendment

(aa) set the level of the tolerated maximum concentration value for each substance listed in Annex IV;

Or. en

Justification

As with the existing RoHS Directive, Maximum Concentration Values (MCVs) need to be set for each new restricted substance.

Amendment 214
Bogusław Sonik

Proposal for a directive
Article 5 - paragraph 1 - point b - introductory part

Text proposed by the Commission

Amendment

(b) Include materials and components of EEE in **Annexes V and VI** where either of the following conditions is fulfilled:

(b) Include **type-A** materials and components of EEE in **Annex V** where either of the following conditions is fulfilled:

Or. pl

Justification

The main aim of this amendment is to distinguish between exemptions on the basis of their type. Type-A exemptions cover cases in which a substitute exists but cannot be used owing to production-related technical constraints. Type-B exemptions cover scientific problems and the lack of substitutes with the same physicochemical properties that can perform the same function. This amendment acknowledges the fact that, with a view to meeting the directive's requirements, changes to production techniques are easier to make than changes requiring research into new materials.

Amendment 215
Kathleen Van Brempt, Judith A. Merkies

Proposal for a directive
Article 5 - paragraph 1 - point b - second indent

Text proposed by the Commission

Amendment

– the availability and reliability of substitutes is not ensured,

– the availability and reliability of substitutes is not ensured. ***The Commission shall be cautious with respect to monopoly situations or intellectual property restrictions being a potential underlying reason for insufficient availability of substitutes. Such situations shall be referred to in the respective evaluation study of applications for exemption, and recommendations should be presented for addressing the situation with a view to wider distribution of a substitute.***

Justification

Intellectual property right restrictions and monopolistic situations with regards to substitutes or new design options may have an influence on the considerations on availability as part of the exemption process. Should an exemption be granted based on insufficient availability linked to such intellectual property right restrictions or monopolistic situations, this should be clearly highlighted in the corresponding assessment. Recommendations for changing this situation, in view of providing incentives for the dissemination of innovations, should be made.

Amendment 216

Åsa Westlund

Proposal for a directive

Article 5 - paragraph 1 - point b - 3rd indent

Text proposed by the Commission

- 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;

Amendment

- the negative environmental health consumer safety or socio-economic impacts caused by substitution are likely to outweigh the environmental, health or consumer safety thereof.

Or. sv

Amendment 217

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 1 - point b - indent 1

Text proposed by the Commission

- their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to in Article 4(1) is *scientifically or* technically impracticable;

Amendment

- their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to in Article 4(1) is technically *difficult or* impracticable;

Or. pl

Justification

The main aim of this amendment is to distinguish between exemptions on the basis of their type. Type-A exemptions cover cases in which a substitute exists but cannot be used to production-related technical constraints. Type-B exemptions cover scientific problems and the lack of substitutes with the same physicochemical properties that can perform the same function. This amendment acknowledges the fact that, with a view to meeting the directive's requirements, changes to production techniques are easier to make than changes requiring research into new materials.

Amendment 218

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 1 - point b b (new)

Text proposed by the Commission

Amendment

(bb) Include type-B materials and components of EEE in Annex V where either of the following conditions is fulfilled:

- their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to in Article 4(1) is scientifically difficult or impracticable owing to the physicochemical properties of those elements or substances;***
- the availability and reliability of substitutes is not ensured.***

Or. pl

Justification

The amendment covering Article 5(1)(bb) forms part of the reorganisation of Annex V. Its main aim is to establish that some of the exemptions already granted are related not to technological changes but to the physical properties of the elements concerned. For it to be possible to use substitutes in such cases, substantial basic research is required in order to develop new materials and then bring them into production. (This amendment should be considered in conjunction with the amendments to Article 5(1)(bb), 5(1), 5(1)(cc), 5(2) and 5(2a) and Annexes V and VI.)

Amendment 219
Bogusław Sonik

Proposal for a directive
Article 5 - paragraph 1 - point c

Text proposed by the Commission

(c) delete materials and components of EEE from *Annexes V and VI* where the conditions set out in point (b) are no longer fulfilled.

Amendment

(c) delete **type-A** materials and components of EEE from *Annex V* **after a period of one year** where the conditions set out in point (b) are no longer fulfilled.

Or. pl

Justification

This amendment is intended to ensure that only type-A exemptions may be deleted from Annex V. For type-B exemptions to be deleted, they must first be converted into type-A exemptions. The one-year delay between the decision to delete an exemption from the annex and its implementation by all Member States is necessary in order to maintain production flows and avoid financial and inventory losses and the generation of unnecessary waste. (This amendment should be considered in conjunction with the amendments to Article 5(1)(bb), 5(1), 5(1)(cc), 5(2) and 5(2a) and Annexes V and VI.)

Amendment 220
Richard Seeber

Proposal for a directive
Article 5 - paragraph 1 - subparagraph 2

Text proposed by the Commission

Those measures, designed to amend *non essential* elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Amendment

Those measures, designed to amend non-essential elements of this Directive, shall be reviewed using a methodology based on the process set out in Articles 69 to 72 of Regulation (EC) No 1907/2006. Those measures, designed to amend *non-essential* elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Or. de

Justification

Article 4(7) already refers to the REACH instruments on the restriction of substances. However, under Article 69 of the REACH Regulation, these provide for a revision of existing restrictions as well. Consequently, REACH instruments should be taken over entirely, including as regards the provision under Article 5(1)(c). Under that provision, following a review of exemptions, it should also be possible to delete them.

Amendment 221

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 1 - point c a (new)

Text proposed by the Commission

Amendment

(ca) convert type-B exemptions into type-A exemption where the conditions set out in Article 5(1)(bb) are no longer fulfilled.

Or. pl

Justification

This amendment covers cases in which exemptions are transferred from the domain of basic research to that of general application. When a solution no longer requiring the presence of the regulated substance or element is developed, the conditions laid down in Article 5(1)(bb) are no longer fulfilled. On a proposal from the Commission, the exemption is converted in a type-A exemption linked to technological dissemination. (This amendment should be considered in conjunction with the amendments to Article 5(1)(bb), 5(1), 5(1)(cc), 5(2) and 5(2a) and Annexes V and VI.)

Amendment 222

Jill Evans

Proposal for a directive

Article 5 - paragraph 1 - subparagraph 2

Text proposed by the Commission

Amendment

Those measures ***designed to amend non essential elements of this directive*** shall be adopted ***in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).***

Those measures shall be adopted ***individually.***

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

The Commission currently put different proposals for exemptions into one package. Hereby, decisions about exemptions - which are in substance completely independent from each other – get linked to each other. To object to one exemption, Council or Parliament would have to object to all exemptions proposed. As this might be disproportionate, it could de facto compromise the control right by the legislator. Exemptions and their deletions should be decided upon individually based on their own merit.

Amendment 223

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall **have a maximum validity period of four years and may be renewed. The Commission shall decide in due time on any application for renewal that is submitted no later than 18 months before an exemption expires.**

Amendment

2. Type-B measures adopted in accordance with point b of paragraph 1 **shall be reviewed every four years. At the time of such reviews, the Commission shall, on the basis of the scientific and technical evidence, establish whether the conditions laid down in point (b) are no longer fulfilled. If those conditions are still fulfilled, the Commission shall renew the exemption until the time of the next review. Applications for new exemptions shall be submitted by companies or their representatives in accordance with Article 5a.**

Justification

W tej poprawce znajdują się ścisłe wymagania dla Komisji odnośnie do postępowania z wyjątkami typu „A” włączonymi do załącznika V, dla których obowiązuje 4-letni okres pomiędzy przeglądami.. Komisja tylko przeprowadzając przegląd wyjątku może przyjąć techniczne i naukowe dowody i stwierdzić, że wyjątek należy wykasować lub wznowić. Komisja jest również zobowiązana do przeglądu technicznego i naukowego wszystkich

wyjątków typu „A” z załącznika V. (poprawka powinna być brana pod uwagę łącznie z poprawką (art. 5.1bb; art. 5.1, art. 5.1cc art. 5.2; art. 5.2a oraz załącznikiem V i VI)

Amendment 224
Holger Kraemer

Proposal for a directive
Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall **have a maximum validity period of four years and may be renewed**. The Commission shall decide **in due time** on any application for renewal that is submitted no later than **18 months before an exemption expires**.

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall **specify the review date for the inclusion of any material and application of EEE in Annexes V and VI on a case-by-case basis. The process of specifying the validity period of an exemption shall in particular take into consideration appropriate periods required to place EEE containing alternatives on the market as well as the technical functionality and reliability of the equipment.**

An application for an exemption or renewal shall be submitted to the Commission no later than 30 months before an exemption expires.

The Commission shall decide on any application for **an exemption or its renewal** no later than **9 months after submission of the application**.

Where the Commission decides not to renew an exemption, it shall publish a justification and the comments received.

Or. en

Justification

The one size fits all approach proposed by the Commission by setting a maximum validity period of 4 years for all RoHS exemptions is unworkable. Considering innovation investment cycles for EEE with long term product road maps, the proposed time scales are unrealistic. A realistic and justified timeframe should be set on a case by case basis.

Amendment 225
Chris Davies

Proposal for a directive
Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 ***shall have a maximum validity period of four years and*** may be renewed. The Commission shall decide ***in due time*** on any application for renewal that is submitted ***no later than 18 months before an exemption expires.***

Amendment

2. Measures adopted in accordance with point b of paragraph 1 may be renewed ***on a case-by-case basis and shall be valid until the Commission decides to either renew or delete the exemption in the context of a time-limited review, provided an application for renewal is submitted no later than 18 months before an exemption expires.*** The Commission shall decide no later than ***six months*** before an exemption expires on any application for renewal that is submitted ***within the specified timeframes.***

The Commission shall decide within 12 months after receiving an application for exemption for products which are currently not included in the scope, whether or not the exemption is awarded or rejected.

(a) Whenever a decision is taken to include materials and components of EEE in Annexes V and VI, it shall specify:

– the specific materials and components of EEE to be included in Annexes V and VI;

– if applicable, the amendment(s) to numberings in Annexes V and VI;

– transitional arrangements:

– the date or dates at which the exemption(s) will either be renewed or deleted (hereinafter referred to as "the review date(s)");

The Commission shall acknowledge receipt of each application for exemptions and assign a number to the application, which is to be used for all correspondence regarding the application until the review

is deemed to be complete. Applications to include materials and components of EEE in Annexes V and VI shall contain the information defined in accordance with Article 6 following the regulatory procedure with scrutiny referred to in Article 18(2).

b) Whenever a decision is taken to delete materials and components of EEE from Annexes V and VI it shall specify for each exemption:

– the materials and components of EEE to be deleted from the Annexes V and VI and/or, where measures have the effect of limiting the scope of an existing exemption(s), the required amendments to materials and components of EEE in Annexes V and VI;

– if applicable, the amendments to numberings in Annexes V and VI;

– transitional arrangements:

– the date(s) at which materials and components of EEE in Annexes V and VI will be deleted.

Or. en

Justification

It is inappropriate to limit all exemptions to the same period of 4 years. A case-by-case approach makes more sense, but requires a transparent procedure that provides legal security and predictability. The Commission should be given a deadline for the consideration of new exemptions, in order to ensure greater legal certainty.

Amendment 226
Christofer Fjellner

Proposal for a directive
Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall **have a**

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall **specify the**

maximum validity period of four years and may be renewed. The Commission shall decide *in due time* on any application for renewal *that is submitted* no later than *18 months before an exemption expires.*

review date for the inclusion of any material and application of EEE in Annexes V and VI on a case-by-case basis.

The process of specifying the validity period of an exemption shall in particular take into consideration appropriate periods required to place EEE containing alternatives on the market as well as the technical functionality and reliability of the equipment.

An application for an exemption or renewal shall be submitted to the Commission no later than 30 months before an exemption expires.

The Commission shall decide on any application for *an exemption or its renewal* no later than *9 months after submission of the application.*

Where the Commission decides not to renew an exemption, it shall publish a justification and the comments received.

Or. en

Justification

The scope must be to promote innovation and to make more environmentally acceptable products. Products have very different product cycles, some have short and other have much longer. Therefore there must be flexibility in the time span for the time an exemption is given. This gives the possibility to give exemptions based upon what is realistic and possible - and not limiting the exemptions to four years.

Amendment 227 **Julie Girling**

Proposal for a directive **Article 5 - paragraph 2**

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall *have a maximum validity period of four years and may be renewed.* The Commission shall decide *in due time* on *any* application

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall *specify the validity date for the inclusion of any material and application of EEE in Annexes V and VI on a case-by-case*

for renewal *that is submitted* no later than **18 months** before *an* exemption *expires*.

basis.

The process to determine the validity date shall in particular take into consideration appropriate periods required to place EEE containing alternatives on the market as well as the technical functionality and reliability of the equipment.

Applications for renewal shall be made no later than 18 months before an exemption expires and the Commission shall decide on an application for renewal no later than 6 months before the expiry date of the existing exemption. In cases where the exemption is not renewed, there shall be a minimum period of 18 months before the exemption is withdrawn in order to allow the economic operator time to adapt.

Or. en

Justification

The "one size fits all" approach proposed by the Commission by setting a maximum validity period of 4 years for all RoHS exemptions is unworkable. It is also important to clearly set a deadline for the Commission to decide on a possible renewal of the exemption. If the exemption is not granted, the proposed period of 18 months will allow the producer to adapt to the situation.

Amendment 228

Åsa Westlund

Proposal for a directive

Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall have a **maximum** validity period **of** four years and may be renewed. The Commission shall decide **in due time** on any application for renewal that is submitted no later than 18 months before an exemption expires.

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall have a validity period **of up to** four years, **decided on a case-by-case basis, for categories 1, 2, 3, 4, 5, 6, 7, 10 and 11 of Annex I and a maximum validity period of up to 8 years, decided on a case-by-case basis, for categories 8 and 9 of Annex I.** Exemptions may be renewed. The

Commission shall decide *no later than six months before an exemption expires* on any application for renewal that is submitted no later than 18 months before an exemption expires. *Where the Commission considers that more than the time until expiry of the exemption is necessary for regulatory certification procedures or to ensure adequate availability of substitutes, it shall grant a grace period after expiry of the exemption. The duration of the grace period shall be decided on a case-by-case basis and shall not exceed 18 months from the time of expiry of the exemption.*

Those measures, designed to amend non-essential elements of this Directive, shall be adopted according to Article 290 TFEU.

Or. en

Amendment 229
Oreste Rossi

Proposal for a directive
Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall *have a maximum validity period of four years and may be renewed*. The Commission shall decide *in due time* on any application for renewal *that is* submitted no later than **18** months before an exemption expires.

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall *specify the validity date for the inclusion of any material and application of EEE in Annexes V and VI on a case-by-case basis. The process to determine a validity date shall in particular take into consideration appropriate periods required to place EEE containing alternatives on the market as well as technical functionality and reliability of the equipment*. The Commission shall decide on any application for renewal *no later than 9 months after an application for renewal is submitted. The application for renewal shall be* submitted no later

than 27 months before an exemption expires.

Or. en

Justification

The "one size fits all" approach proposed by the Commission is unworkable. Considering innovation and investment cycles of EEE with long-term product road maps, the proposed timescales are unrealistic. A realistic timeframe needs to be set on a case-by-case basis.

Amendment 230

Thomas Ulmer, Anja Weisgerber

**Proposal for a directive
Article 5 - paragraph 2**

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall have a **maximum** validity period of four years **and may be renewed**. **The** Commission shall decide **in due time** on **any** application for renewal **that is** submitted no later than 18 months before an exemption expires.

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall have a validity period of **up to** four years. **Based on the facts presented in the application, a longer exemption period may be exceptionally granted, on a case-by-case basis.**

No later than 9 months after the application has been submitted, the Commission shall decide on an application for an exemption or for the renewal of an exemption. An application for renewal shall be submitted no later than 18 months before an exemption expires.

Where the Commission rejects an application for renewal, it shall grant a grace period for the placing on the market of the equipment, except in cases where continued placing on the market would constitute an unacceptable risk to human health or the environment. The grace period shall not exceed 6 months for the placing on the market and an additional 18 months for the putting into service of the equipment concerned.

Or. en

Justification

The specific needs of several industrial sectors should be better reflected in the text than expressed in amendment 42 of the draft report. For example, a number of medical devices (e.g. diagnostic imagers or surgical robots) have long development cycles (5-8 years). Therefore, the 18 months grace period proposed by the draft woman would not be sufficient for critical medical device applications. Furthermore, there is the need for a possibility to extend the timeline on a case-by-case basis, subject to suitable justification.

Amendment 231

Jill Evans

Proposal for a directive

Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall have a **maximum** validity period of four years and may be renewed. ***The Commission shall decide in due time on any application for renewal that is submitted no later than 18 months before an exemption expires.***

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall have a validity period of ***up to*** four years, ***to be decided on a case-by-case basis***, and may be renewed.

Or. en

(Partial replacement of amendment 42 by the rapporteur. Linked to the amendment for a new Article 5, paragraph 2c)

Justification

It should be clarified that decisions on exemptions are to be taken on a case by case basis. The procedure for the decision by the Commission is proposed to be made explicit, with clear deadlines, in a separate paragraph of this article.

Amendment 232

Kathleen Van Brempt, Jutta Haug, Judith A. Merkies, Jo Leinen

Proposal for a directive

Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with

Amendment

2. Measures adopted in accordance with

point b of paragraph 1 shall have a **maximum** validity period **of** four years and may be renewed. The Commission shall decide **in due time** on any application for renewal that is submitted no later than 18 months before an exemption expires.

point b of paragraph 1 shall have a validity period **up to** four years, **decided on a case-by-case basis, for categories 1, 2, 3, 4, 5, 6, 7, 10 and 11 of Annex I and a maximum validity period up to 8 years, decided on a case-by-case basis, for category 8 and category 9 industrial equipment of Annex I.** Exemptions may be renewed. **The Commission shall take into account socio-economic impacts when deciding on the duration of an exemption.** The Commission shall decide **no later than six months before an exemption expires** on any application for renewal that is submitted no later than 18 months before an exemption expires. **Where the Commission considers that more than the time until expiry of the exemption is necessary for regulatory certification procedures or to ensure adequate availability of substitutes, it shall grant a grace period after expiry of the exemption. The duration of the grace period shall be decided on a case-by-case basis and shall not exceed 18 months from the time of expiry of the exemption. The specific exemptions in Annexes V, VI and VIa should clearly indicate key dates and deadlines, i.e. the date of expiry of the exemption, the deadline for the application for renewal, and the expiry date of the transition period in the event that a renewal is not granted. If an application for renewal has been made by the latest application date but no decision has been taken in the timeframe described above, the exemptions shall remain valid after the review date until a decision on the application for renewal has been taken.**

Those measures, designed to amend non-essential elements of this Directive, shall be adopted according to Article 290 of the Treaty.

Or. en

Justification

Clear indications of deadlines and other dates related to the exemption procedure are needed to increase the legal and planning security for applicants. All newly granted and renewed exemptions should remain valid after the specified review date until a decision on the renewal is taken, provided an application was made to the Commission by the latest application date(s) at the very latest. Medical devices (category 8) as well as industrial monitoring and control instruments (under category 9) should be granted exemptions with a maximum duration of 8 years.

Amendment 233

Cristian Silviu Buşoi

Proposal for a directive

Article 5 - paragraph 2

Text proposed by the Commission

2. Measures adopted in accordance with point b of paragraph 1 shall have a maximum validity period of four years and may be renewed. The Commission shall decide in due time on any application for renewal that is submitted no later than 18 months before an exemption expires.

Amendment

2. Measures adopted in accordance with point b of paragraph 1 shall have a maximum validity period of four years and may be renewed. ***Measures adopted in accordance with point b of paragraph 1 shall have a validity period of eight years for applications used in category 9, Industrial monitoring and control instruments, and may be renewed.*** The Commission shall decide in due time on any application for renewal that is submitted no later than 18 months before an exemption expires.

Or. en

Justification

Exemptions for industrial monitoring and control instruments should be set to expire every eight years due to long requalification period to meet high reliability sector standards. Reliable substitutes for critical applications such as lead in radiation shielding used in cancer treatment are not and will not be available for decades. Products are redesigned every 7 to 10 years. Therefore an 8-year validity period should be allowed for Category 9 industrial exemptions.

Amendment 234
Bogusław Sonik

Proposal for a directive
Article 5 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Type-B measures adopted in accordance with point bb of paragraph 1 shall be reviewed every 10 years and may be renewed. On the basis of the applications submitted, supplemented by its own scientific and technical evidence, the Commission shall establish whether the conditions laid down in point bb of paragraph 1 are no longer fulfilled. If the Commission decides that the requirements laid down in point bb of paragraph 1 continue to be fulfilled, it shall renew the exemption and set a date for the next review, which may not be sooner than five years since the last review. Companies or their representatives shall submit applications for exemptions or renewals thereof in accordance with Article 5a.

Or. pl

Justification

Poprawka zawiera ściśle wytyczne dla Komisji odnośnie postępowania z wyjątkami typu „B” włączonymi do załącznika V, dla których obowiązuje 10-letni okres przeglądu. Komisja rozpatrzy wnioski o przedłużenie okresu przeglądu danego rozwiązania tylko, jeżeli przedsiębiorcy wypełnią wniosek i prześlą go do komisji zgodnie z art. 5a. Odciąży to Komisję z potrzeby przeglądu wszystkich wyjątków raz na cztery lata. Komisja powinna we wnioskach otrzymać od przedsiębiorców wystarczające dowody, aby bez obszernej weryfikacji wspomagana przez komitet podać decyzję. (poprawka powinna być brana pod uwagę łącznie z poprawką (art. 5.1bb; art. 5.1, art. 5.1cc art. 5.2; art. 5.2a.

Amendment 235
Chris Davies

Proposal for a directive
Article 5 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In cases where an exemption is not awarded or renewed, there shall be a minimum transition period of 12 months in order to allow the economic operator time to adapt. Where the Commission considers that more than 12 months is needed, the transition period can be extended on a case-by-case basis.

Or. en

Justification

This amendment proposes that a transition period of 12 months should be adopted as the standard time for product adaptation in the case that an exemption is not renewed or in the case that an exemption is not awarded.

Amendment 236
Jill Evans

Proposal for a directive
Article 5 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Applications for granting or renewing an exemption from Article 4(1) shall be made to the Commission in accordance with Annex VIb. An application for renewal of an exemption shall update the original request to reflect the latest situation.

Or. en

(Linked to the amendment introducing a new Annex VIb and to amendment deleting Article 6, paragraph 1, first indent.)

Justification

This amendment is inspired by the current discussions in Council. There should be clear requirements for applicants that request an exemption or a renewal of an exemption. A request for renewal must be updated so as to reflect the latest situation.

Amendment 237

Jill Evans

Proposal for a directive

Article 5 - paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall:

(a) acknowledge receipt of an application in writing within 15 days of its receipt. The acknowledgement shall state the date of receipt of the application;

(b) inform without delay the Member States of the application and shall make the application and any supplementary information supplied by the applicant available to them;

(c) make a summary of the application available to the public.

Or. en

Justification

The initial obligations of the Commission upon receiving an application should be clarified.

Amendment 238
Jill Evans

Proposal for a directive
Article 5 - paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. Applications shall be submitted not later than 18 months before the prohibition applies, or before the exemption expires, as the case may be. The Commission shall take a decision not later than 6 months before the prohibition applies, or before the exemption expires, as the case may be.

The Commission shall take into account socio-economic impacts when deciding on the duration of an exemption or a renewed exemption. Where the Commission considers that more than the time until application of the prohibition or until expiry of the exemption, as the case may be, is necessary to ensure adequate availability of substitutes, it shall grant a grace period after application of the prohibition or expiry of the exemption. The duration of the grace period shall be decided on a case-by-case basis and shall not exceed 18 months from the application of the prohibition or the expiry of the exemption.

The Commission shall adopt these measures by means of delegated acts in accordance with Article 18.

Or. en

(Partial replacement of amendment 42 by the rapporteur. Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

Economic operators request legal certainty on exemptions. Therefore, the Commission should have a deadline for its decisions. To allow for proper adaptation upon application of the prohibition or after the expiry of the exemption, a grace period of up to 18 months may be

granted. This results in a transitional period of up to 24 months which would grant economic operators in their own view enough time to adapt. Socio-economic considerations shall be taken into account when deciding about the duration of an exemption.

Amendment 239

Jill Evans

Proposal for a directive

Article 5 - paragraph 3

Text proposed by the Commission

3. Before Annexes are amended, the Commission shall inter alia consult ***producers of electrical and electronic equipment***, recyclers, treatment operators, environmental organisations and employee and consumer associations.

Amendment

3. Before Annexes ***V, VI and VIa*** are amended, the Commission shall inter alia consult ***economic operators***, recyclers, treatment operators, environmental organisations and employee and consumer associations. ***Comments received by the Commission in the context of such consultations shall be made publicly available. The Commission shall provide an account of the information it receives and make it publicly available.***

Or. en

Justification

The Commission should only be empowered to amend certain annexes via delegated acts. The term economic operators should be used in line with the change of the definitions. The last part reinstates the provisions of RoHS 1.0 in a modified form, specifying that the comments shall be made publicly available, which codifies the current practice of public stakeholder consultations. The reference to the comitology committee is suppressed, as it no longer exists due to Art. 290 TFEU.

Amendment 240

Thomas Ulmer, Anja Weisgerber

Proposal for a directive

Article 5 - paragraph 3

Text proposed by the Commission

3. Before Annexes are amended, the Commission shall ***inter alia*** consult

Amendment

3. Before Annexes are amended, the Commission shall ***make an impact***

producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations.

assessment. It shall also consult producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations.

Or. en

Justification

It is an absolute necessity that a full impact assessment based on scientific evidence be performed before any new substances are included for restriction under RoHS. Without a thorough assessment of alternatives, it is impossible to adequately determine whether the proposed restriction will have a net benefit for human health and the environment.

Amendment 241

Chris Davies

Proposal for a directive

Article 5 - paragraph 3

Text proposed by the Commission

3. Before Annexes are amended, the Commission shall *inter alia* consult **producers of electrical and electronic equipment**, recyclers, treatment operators, environmental organisations and employee and consumer associations.

Amendment

3. Before Annexes are amended, the Commission shall **make an impact assessment. It shall also** consult producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations.

Or. en

Amendment 242

Bogusław Sonik

Proposal for a directive

Article 5 - paragraph 4

Text proposed by the Commission

4. As long as materials or components are included in Annexes V and VI to this Directive, on the basis of Article 5(1)(b) of this Directive, those applications shall

deleted

Amendment

also be considered exempted from the authorisation requirements set out in Article 58(2) of the regulation (EC) No 1907/2006.

Or. pl

Justification

Article 5(4) introduces legal uncertainty between RoHS and REACH. An exemption evaluated on the basis of the RoHS criteria cannot influence the REACH provisions. That would create chaos for companies as they would not know where to seek the relevant information.

Amendment 243

Thomas Ulmer, Anja Weisgerber

Proposal for a directive

Article 5 - paragraph 4

Text proposed by the Commission

4. As long as materials or components are included in Annexes V and VI to this Directive, on the basis of Article 5(1)(b) of this Directive, those applications shall also be considered exempted from the authorisation requirements set out in Article 58(2) of the regulation (EC) No 1907/2006.

Amendment

4. As long as materials or components are included in Annexes V and VI to this Directive, on the basis of Article 5(1)(b) of this Directive, those applications shall also be considered exempted from the authorisation requirements set out in Article 58(2) of the regulation (EC) No 1907/2006 ***for the validity period of the exemption granted under this Directive.***

As long as the use of a substance is authorised in accordance with Regulation (EC) No 1907/2006, those applications shall also be considered exempted from the requirements relating to applications for an exemption set out in this Directive, for the validity period of the authorisation granted under Regulation (EC) No 1907/2006.

Or. en

Justification

The development of truly innovative devices will, by definition, use the only known technological solution available at the time of design and this will require the use of

exemptions. Any requirement to obtain two exemptions for the same application before reaching the market, (e.g. a RoHS exemption and a REACH authorization) would prove to be overly burdensome, in particular as the vast amount of the exemption regime should therefore be included.

Amendment 244
Bogusław Sonik

Proposal for a directive
Article 5 - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall modify Annex V, detailing the exemptions and defining the type of each exemption individually, in accordance with the criteria laid down in Article 5(1)(b) and (bb). Those measures, designed to amend the non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Or. pl

Justification

Article 5(4) introduces legal uncertainty between RoHS and REACH. An exemption evaluated on the basis of the RoHS criteria cannot influence the REACH provisions. That would create chaos for companies as they would not know where to seek the relevant information. Instead of this article, the Commission is authorised to introduce the necessary changes in Annex V and differentiate according to the type of exemption.

Amendment 245
Jill Evans

Proposal for a directive
Article 5 - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Not later than [...*], the Commission shall decide, by means of delegated acts in accordance with Article 18, which of the

exemptions granted in Annex V shall also apply for industrial monitoring and control instruments. In the event that no decision is taken by that time, the exemptions granted in Annex V shall also be valid for industrial monitoring and control instruments.

**** insert date 18 months after entry into force of this Directive.***

Or. en

Justification

The Commission asked a consultant to assess exemptions for categories 8 and 9 for the recast. The consultant did not assess the exemptions already granted for other categories, simply assuming that they would also apply for categories 8 and 9. However, in the absence of a specific assessment, the Commission did not carry over these exemptions, leaving it to companies to make the relevant applications. As industrial monitoring and control instruments have relatively long design cycles, they should know as soon as possible about the status of these exemptions for their products.

Amendment 246

Jill Evans

Proposal for a directive

Article 5 - paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. The Commission may, by means of delegated acts in accordance with Article 18, modify Annex VIb to add further elements to it.

Or. en

(Linked to the amendment introducing a new Annex VIb.)

Justification

A mechanism needs to be created to allow the Commission to add further elements to the application for an exemption or its renewal.

Amendment 247
Françoise Grossetête, Catherine Soullie

Proposal for a directive
Article 5 - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where the use of a substance is authorised in accordance with Regulation (EC) No 1907/2006, equipment using that substance shall be considered as complying with the relevant requirements laid down by this Directive for the duration of the validity of the authorisation established in accordance with Regulation (EC) No 1907/2006.

Or. fr

Justification

The Commission proposal specifies that it will not be necessary for materials or components exempted under RoHS to obtain authorisation under REACH. As the REACH Directive enters into force before the RoHS Directive, it is important to ensure that the reverse is also true, in order to avoid both legal uncertainty and excessive administrative burden.

Amendment 248
Holger Krahmer

Proposal for a directive
Article 5 - paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. As long as the use of a substance is authorised in accordance with Regulation (EC) No 1907/2006, such equipment shall be considered compliant with the requirements set out in this Directive for the validity period of the granted authorisation under Regulation (EC) No 1907/2006.

Or. en

Justification

While the RoHS recast proposal specifies that no REACH authorisations would have to be sought for RoHS exemptions, legal uncertainty still remains since requirements on REACH authorisation will enter into force earlier than a recast RoHS Directive. Therefore, granted authorisations under REACH should be exempted under RoHS for the given validity period to secure legal certainty for EEE producers.

Amendment 249 **Bogusław Sonik**

Proposal for a directive **Article 5 a (new)**

Text proposed by the Commission

Amendment

Article 5a

Application for an exemption and renewal of an exemption

- 1. An application for an exemption shall be submitted in accordance with the following paragraphs.*
- 2. The application shall be sent to the Commission. The Commission shall:*
 - (a) acknowledge receipt of the application in writing within 14 days thereof. The acknowledgement shall indicate the date of receipt of the application;*
 - (b) inform the Member States about the application without delay and make it available to them, together with any other information supplied by the applicant which is not proprietary information;*
 - (c) make publicly available a summary of the application referred to in point 3(e), having regard for commercial confidentiality and intellectual property.*
- 3. The application shall contain the following information:*
 - (a) the name and address of the manufacturer;*
 - (b) the material or component and specific applications for which the*

exemption is requested, as well as the characteristics of that material or component;

(c) a justification of the exemption in accordance with the conditions laid down in Article 5, including an analysis of any alternative substances or techniques. That justification may be presented in the form of a description of studies undertaken, particularly, where available, independent studies verified by other entities;

(d) where appropriate, an indication of the information which should be regarded as proprietary, accompanied by verifiable justification;

(e) a summary of the application;

(f) the type of exemption (A or B) to which the application applies.

4. The Commission shall examine the application for an exemption and carry out an independent study of the justification for it.

5. In its examination of the application the Commission shall take into account the possibilities for SMEs to comply with points 3(b) and 3(c).

6. The Commission shall decide in due time on all applications, including applications for renewal. Applications for a renewal pursuant to Article 4(2a) shall be submitted not later than 24 months prior to the review date of the exemption, taking into account the need for legal certainty for economic operators pending a Commission decision.

7. The Commission shall adopt implementing rules on the application of this article, taking into account the situation of SMEs, including rules on the format and type of information to be provided when submitting an application for an exemption or a renewal, including an analysis of alternatives and, if suitable alternatives are available, substitution

plans as referred to in Regulation (EC) 1907/2006. Those measures, designed to amend the non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2).

Or. pl

Justification

This article introduces a systematic method for granting exemptions and authorises the Commission to draw up an exemption declaration form.

Amendment 250
Jill Evans

Proposal for a directive
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Nanomaterials

- 1. Economic operators shall notify the Commission of the use of nanomaterials in EEE and provide all relevant data with regard to their safety for human health and the environment over their life cycle.*
- 2. No later than [...*], having regard to the information provided by economic operators pursuant to paragraph 1, the Commission shall assess the safety of nanomaterials in EEE for human health and the environment, in particular during use and treatment, and communicate its findings in a report to the European Parliament and the Council. This report shall be accompanied by a legislative proposal for adequate risk management of nanomaterials in EEE, if necessary.*
- 3. Economic operators shall label EEE that contains nanomaterials no later than [...**].*

** insert date 36 months after entry into force of the Directive.*

*** insert date 24 months after entry into force of the Directive.*

Or. en

Justification

We need to put an end to the lack of information about the use and the safety of nanomaterials in EEE. Producers should be obliged to report uses and safety data to allow the Commission to prepare for the necessary legislative action. Consumers should know whether EEE contains nanomaterials.

Amendment 251

Jill Evans

Proposal for a directive

Article 6 - title

Text proposed by the Commission

Amendment

Implementing measures

Delegated acts

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

The Lisbon Treaty introduced Article 290 on delegated acts and Article 291 on implementing acts. The term "implement" could thus be understood as being limited to "implementing measures". However, for measures to be taken pursuant to this article, Article 290 applies, and not Article 291. The terminology should therefore be changed accordingly.

Amendment 252
Jill Evans

Proposal for a directive
Article 6 - paragraph 1 - introductory part

Text proposed by the Commission

Amendment

The Commission shall adopt detailed rules for:

No later than [...*], the Commission shall adopt, by means of delegated acts in accordance with Article 18, detailed rules for:

**** insert date eighteen months after entry into force of this Directive.***

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

There is a need to provide a clear deadline for the adoption of the delegated acts.

Amendment 253
Bogusław Sonik

Proposal for a directive
Article 6

Text proposed by the Commission

Amendment

Implementing measures

deleted

The Commission shall adopt detailed rules for:

applications for the exemption including a format and types of information to be provided when introducing those applications, including analysis of the alternatives and, if suitable alternatives are available, substitution plans as referred to in Regulation (EC) 1907/2006.

- Complying with the maximum concentration values of Article (4) (2)

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators pending a Commission Decision on renewal of exemptions.

Those measures designed to amend non essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2)

Or. pl

Justification

This article is now unnecessary. The provisions of this article are in Articles 5a, 4(8), 5(2) and 5(2a).

**Amendment 254
Jill Evans**

**Proposal for a directive
Article 6 - paragraph 1 - indent 1**

Text proposed by the Commission

Amendment

- applications for the exemption including a format and types of information to be provided when introducing those applications, including analysis of the alternatives and, if suitable alternatives are available, substitution plans as referred to in Regulation (EC) 1907/2006. ***deleted***

Or. en

*(Replacing amendment 46, linked to the amendment inserting a new Article 5(2a) and Annex VIb.)***Justification**

This amendment is inspired by the current discussions in Council. There should be clear requirements for applicants that request an exemption or a renewal of an exemption.

Amendment 255

Kathleen Van Brempt, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 - indent 1

Text proposed by the Commission

- applications for the exemption including a format and types of information to be provided when introducing those applications, including analysis of the alternatives and, if suitable alternatives are available, substitution plans as referred to in Regulation (EC) 1907/2006.

Amendment

- applications for the exemption including a format and types of **verifiable** information to be provided **and comprehensive guidance** when introducing those applications, including analysis of the alternatives **on a life-cycle basis** and, if suitable alternatives are available, substitution plans as referred to in Regulation (EC) No 1907/2006, **including transition times necessary for regulatory certification and sufficient supply of suitable alternatives. A clear timeline for exemption procedures, including relevant references to ECHA procedures, should be available on the Commission's website. Dossiers and documents to be provided for the application for exemption should, as far as possible, refer to data and documentation needed for the authorisation procedure under Regulation (EC) No 1907/2006 (REACH).**

Or. en

Justification

An automatic transfer of an authorization granted under REACH to an exemption under RoHS raises legal difficulties, given the different procedures, the different coverage and different implications for producers in third countries. However, in order to reduce the administrative burden for applicants, the documents and data needed for an application for exemption under RoHS should correspond in format and content, as much as possible in light of the specific exemption criteria and procedure under RoHS, to respective requirements under the REACH authorization procedure.

Amendment 256
Oreste Rossi

Proposal for a directive
Article 6 - paragraph 1 - indent 2

Text proposed by the Commission

- Complying with the maximum concentration values of Article (4) (2);

Amendment

- mandating the European standardisation bodies without delay to develop harmonised standards for RoHS compliance for each product category listed in Annex I. The definition of 'homogeneous material' in point (l) of Article 3 shall serve as the common basis for further specification in standardisation, especially on sample preparation;

Or. en

Justification

Technical details, such as compliance with the MCVs, should be specified through the establishment of harmonised standards.

Amendment 257
Jill Evans

Proposal for a directive
Article 6 - paragraph 1 - indent 3

Text proposed by the Commission

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators pending a Commission Decision on renewal of exemptions.

Amendment

deleted

Or. en

(Linked to the amendment inserting a new Article 5(2b))Justification

The appropriate application of Article 5(2) is proposed to be laid down in the ordinary legislative procedure.

Amendment 258

Kathleen Van Brempt, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 - indent 3

Text proposed by the Commission

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***pending a Commission Decision on renewal of exemptions.***

Amendment

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***concerning review, the latest application and the expiry dates of the Commission Decision on the renewal of exemptions.***

Or. en

Justification

This provision ensures consistency with additional provisions on the exemption procedure in Article 5, paragraph 2.

Amendment 259

Chris Davies, Dirk Sterckx

Proposal for a directive

Article 6 - paragraph 1 - indent 3

Text proposed by the Commission

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***pending a Commission Decision on renewal of exemptions.***

Amendment

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***regarding review, latest application and expiry dates of exemptions.***

Or. en

Justification

Intended to provide for greater legal security and predictability.

Amendment 260

Julie Girling

Proposal for a directive

Article 6 - paragraph 1 - indent 3

Text proposed by the Commission

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***pending a Commission Decision on renewal*** of exemptions.

Amendment

- The implementation of Article 5(2), taking into account the need for legal certainty for economic operators ***regarding review, latest application and expiry dates*** of exemptions.

Or. en

Justification

See Art.5.2 The concepts of review, latest application and expiry dates have been introduced by the proposed amendment on article 5 – paragraph 2. To insure consistency within the exemption, article 6, 3rd indent should also refer to those concepts.

Amendment 261

Kathleen Van Brempt, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 - indent 3 a (new)

Text proposed by the Commission

Amendment

- labelling requirements for the substances included in Annex IVa (new) in accordance with Article 4(1)b (new), with regard to the improvement of recyclability. These requirements shall take into account provisions under Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of eco-design requirements for energy-using products, avoiding the creation of overlaps with the latter but establishing synergies where possible. A standard for the identification and detection of nanomaterials needs to be developed, to be used for this Directive, but also in view of broader application for

other legislation with relevance to nanomaterials.

Or. en

Justification

For some substances the Öko-Institut's study recommended labelling. Where labelling improves the recyclability and security during treatment of WEEE and consumers' information, it should be taken into account. In this context, further thought should also be given to improving the recyclability of plastics through better ways of distinguishing halogen-containing plastics from other types of plastics. An optimal linkage with the Eco-design Directive has to be ensured. (Linked to Amdt of Article 4 (1) b new and to Amdt on Annex IVa new.)

Amendment 262

Kathleen Van Brempt, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 - indent 3 b (new)

Text proposed by the Commission

Amendment

- the broadening and potential institutionalisation of channels for exchange with third countries, be it via regulatory dialogues, international helpdesks or training programmes, so to ensure that information on RoHS provisions is available and understood in third countries.

Or. en

Justification

Since the import of products into the Common market is directly affected by the provisions of the RoHS Directive, there should be a possibility for companies based in third countries to get advice and information through regulatory dialogues, training programmes or other. An international help desk in ECHA which also informs about particular requirements for EEE under RoHS might be one of several options. This also reflects and responds to the fact that RoHS has become an internationally recognized legislation that has inspired similar legislation in some non-EU countries.

Amendment 263
Jill Evans

Proposal for a directive
Article 6 - paragraph 1 - indent 3 a (new)

Text proposed by the Commission

Amendment

- the application of the labelling requirements for nanomaterials of Article 5a(3).

Or. en

(Linked to the new Article 5a(3).)

Justification

To ensure harmonised labelling of nanomaterials in EEE, the Commission should be conferred the powers to adopt detailed rules for the application of that requirement.

Amendment 264
Chris Davies

Proposal for a directive
Article 6 - paragraph 1 - indent 3 a (new)

Text proposed by the Commission

Amendment

- The format and content of dossiers submitted under Article 4(7).

Or. en

Justification

Intended to provide for greater certainty.

Amendment 265

Kathleen Van Brempt, Jutta Haug, Judith A. Merkies, Justas Vincas Paleckis, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall mandate European standardisation bodies without delay to develop harmonised standards for RoHS compliance for each product category listed in Annex I.

Or. en

Justification

Harmonised standards will help producers to achieve compliance with this Directive and provide necessary technical details on each of the categories, based on the definition of homogeneous material.

Amendment 266

Jill Evans

Proposal for a directive

Article 6 - paragraph 2

Text proposed by the Commission

Amendment

Those measures designed to amend non essential elements of this directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(2). ***deleted***

Or. en

(Linked to the amendment to the introduction of Article 6(1). Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

The reference to the delegation of powers is given in the introductory paragraph of this article.

Amendment 267

Kathleen Van Brempt, Jutta Haug, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 - paragraph 1 b (new)

Text proposed by the Commission

Amendment

The Commission shall also, by that date, review the scope and the list of exclusions in Article 2 of this Directive and, based on a comprehensive impact assessment, suggest the inclusion of further product categories if deemed beneficial in view of this Directive's objectives. Specific attention should be given to the potential inclusion of specific consumables and accessories, or of equipment which is part of another type of equipment that does not fall within the scope of this Directive according to Article 2.

Or. en

Justification

Impact assessments on the inclusion of new product categories have only been undertaken in a fragmentary way. Therefore, a broad list of exclusions is deemed necessary. However, for equipment with relevance for banned substances, which are not covered similarly under another type of legislation, suggestions for inclusion should be made during the next review (car radios, screens in airplanes, consumables and accessories such as ink cartridges, remote controls etc.).

Amendment 268

Kathleen Van Brempt, Jutta Haug, Judith A. Merkies, Åsa Westlund

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Before [...*], the Commission shall review the measures provided for in this

Directive to take into account, as necessary, new scientific evidence.

1. The Commission shall also study, by that date, and every four years thereafter, the need to extend the list of substances or groups of substances in Annex IV and Annex IVa, in particular - but not exclusively - with regard to the substances listed in Annex III, on the basis of scientific facts and taking the precautionary principle into account.

Particular attention shall be paid during that review to the following impacts of such substances or groups of substances:

- the feasibility and profitability of reuse of EEE and recycling of materials from waste EEE;*
- the cumulative and unacceptable exposure of workers involved in the collection, reuse, recycling and treatment of materials from waste EEE;*
- the potential for release of those substances and materials or of hazardous residues, transformation or degradation products through the production, use, the preparing for re-use, recycling or other treatment of materials from waste EEE, including during sub-standard operations in the Union and in third countries, in particular thermal treatment processes;*
- the possibility of replacement by substitutes or alternative technologies which have less negative environmental, health and consumer safety impacts, taking into account the possibility of granting exemptions for those applications where such substitutes or alternative technologies are not yet available.*

These measures designed to amend essential elements of this Directive shall be adopted according to Article 289 of the Treaty. Where substances from Annex III are recommended by the relevant expert study and not included in the proposal for

review, a specific justification should be provided by the Commission. When proposing amendments of Annex IV and IVa reference shall be made to any relevant dossier, chemical safety report or risk assessment submitted to the European Chemical Agency under Regulation (EC) No 1907/2006 or other Community Regulations.

** insert date four years after entry into force of the Directive.*

Or. en

Justification

The introduction of a new Annex with substances to be labelled (Annex IV a new) needs to be reflected here. New decisions on substance bans are an essential element of this directive and should thus be taken under the co-decision procedure, every four years. This review should be based on clear criteria that focus on the waste phase of EEE, but also take into account human health during the production and use phase. In case the Commission does not suggest a substance for inclusion that has been recommended for inclusion by the corresponding expert study, this decision should be justified.

Amendment 269

Jill Evans

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Review

Before [...], the Commission shall review the measures provided for in this Directive to take into account, as necessary, new scientific evidence.*

In particular the Commission shall, by that date, present proposals for subjecting equipment which falls under categories 8, 9 and 11 to Article 4(1a).

The Commission shall also study, by that

date, and every four years thereafter, the need to extend the list of substances or groups of substances in Annex IV, in particular with regard to the substances listed in Annex III, on the basis of scientific facts and taking the precautionary principle into account.

Particular attention shall be paid during that review to the following impacts of such substances or materials:

- the feasibility and profitability of reuse and recycling;*
- the exposure of workers involved in the collection, reuse, recycling or treatment, in a cumulative manner, where applicable;*
- the potential for release of those substances and materials or their hazardous transformation or degradation products or secondary wastes to the environment during use, reuse, recovery or disposal, including during sub-standard operations in the Union and in third countries, in particular thermal treatment processes.*

The Commission shall examine the feasibility of replacing such substances and materials with safer substitutes via design changes or materials and components which do not require any of the materials or substances referred to in Article 4(1) and shall present proposals to the European Parliament and to the Council by that date, and every four years thereafter, in order to extend the scope of Annex IV, as appropriate.

** insert date four years after entry into force of the Directive.*

Or. en

(Replacing amendment 48)

Justification

RoHS is a one-issue directive: restricting hazardous substances in EEE. RoHS was adopted in co-decision. Future restrictions should continue to be adopted in co-decision. The Directive should lay down clear criteria for future reviews. These should include economic impacts on reuse and recycling, exposure to workers and releases to the environment, including the release of transformation products (such as e.g. dioxins) or the formation of secondary waste (e.g. hazardous waste created as a result of incineration). Reviews should occur every four years.

Amendment 270
Sabine Wils

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Review

Before [...*], the Commission shall review the measures provided for in this Directive to take into account, as necessary, new scientific evidence.

In particular the Commission shall, by that date, present proposals for subjecting equipment which falls under categories 8, 9 and 11 to Article 4(1a).

The Commission shall also study, by that date, and every four years thereafter, the need to extend the list of substances or groups of substances in Annex IV, in particular with regard to the substances listed in Annex III, on the basis of scientific facts and taking the precautionary principle into account.

Particular attention shall be paid during that review to the following impacts of such substances or materials:

- adverse effects on human beings and the environment during the use of electrical and electronic equipment;***
- the feasibility and profitability of reuse and recycling;***

- the cumulative exposure of workers involved in the collection, reuse, recycling and treatment;
- the potential for release of those substances and materials or their hazardous transformation products or secondary wastes to the environment during recovery, use or disposal, including during substandard operations in the EU and in third countries, in particular thermal treatment processes. The Commission shall examine the feasibility of replacing such substances and materials with safer substitutes and shall present proposals to the European Parliament and to the Council by that date, and every four years thereafter, in order to extend the scope of Annex IV, as appropriate.
** insert date (48 months after entry into force).*

Or. de

Justification

The Directive should, in its criteria for future revisions thereof, should also take into account the dangers posed by hazardous substances during the use of electronic and electrical equipment.

Amendment 271
Jill Evans

Proposal for a directive
Article 6 b (new)

Text proposed by the Commission

Amendment

Article 6b

Adaptation to REACH

When new limitations on the placing of the market with regard to substances used in EEE are adopted pursuant to Regulation (EC) No 1907/2006, the relevant Annexes of this Directive shall be amended accordingly, corresponding to the sunset date for substances of very high

concern for which no authorisation was granted, or to the date of application of the restriction, as the case may be.

The Commission shall adopt such measures by means of delegated acts in accordance with Article 18.

Or. en

(Replacement of amendment 49 by the rapporteur. Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

A mechanism needs to be introduced to allow that restrictions or phase-outs under authorisation as adopted under REACH are carried over into RoHS.

Amendment 272

Julie Girling

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Review

*Following a comprehensive impact assessment, the Commission shall submit to the European Parliament and the Council by xxxx*a report evaluating the scope of the Directive, accompanied, where appropriate, by proposals for measures required to amend the scope of the Directive to include all waste EEE.*

**Four years after entry into force of the Directive.*

Or. en

Justification

The scope of the directive is limited currently to covering the categories set out in annex I and specified in annex II. In order to reap maximum environmental benefit the directive should be extended to all WEEE. However, the scope of the directive should not be fundamentally

changed until a full impact assessment has been carried out. This amendment therefore specifies that an impact assessment is to be carried out before the scope of the directive is reviewed and potentially amended to include all Waste electrical and electronic equipment.

Amendment 273

Kathleen Van Brempt, Judith A. Merkies, Jo Leinen, Åsa Westlund

Proposal for a directive

Article 6 b (new)

Text proposed by the Commission

Amendment

Where new restrictions or authorisation duties are adopted pursuant to Regulation (EC) No 1907/2006 with regard to hazardous substances in EEE, the relevant Annexes of this Directive shall be amended accordingly.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted according to Article 290 of the Treaty.

Or. en

Justification

This amendment ensures coherence with chemicals legislation under the REACH regulation. Where decisions under REACH have been taken on the restriction or authorization duties for specific substances with relevance to EEE, this should automatically be reflected in RoHS Annex IV.

Amendment 274

Åsa Westlund

Proposal for a directive

Article 7 - paragraph 5

Text proposed by the Commission

Amendment

5. When deemed appropriate with regard to the risks presented by a product, manufacturers shall, to protect the health and safety ***of consumers***, carry out sample

5. With regard to the risks presented by a product, manufacturers shall, to protect the ***environment and human*** health and safety, carry out sample testing of

testing of marketed EEE, investigate, and, if necessary, keep a register of complaints, of non-conforming EEE and product recalls, and shall keep distributors informed of any such monitoring.

marketed EEE, investigate, and, if necessary, keep a register of complaints, of non-conforming EEE and product recalls, and shall keep distributors informed of any such monitoring.

Or. sv

Amendment 275

Åsa Westlund

Proposal for a directive

Article 7 - paragraph 8

Text proposed by the Commission

8. Manufacturers who consider or have reason to believe that a EEE which they have placed on the market is not in conformity with the applicable Community harmonisation legislation shall immediately take the necessary corrective measures to bring that EEE into conformity, to withdraw it or recall it, if appropriate. Furthermore, ***where the EEE presents a risk***, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the EEE available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Amendment

8. Manufacturers who consider or have reason to believe that a EEE which they have placed on the market is not in conformity with the applicable Community harmonisation legislation shall immediately take the necessary corrective measures to bring that EEE into conformity, to withdraw it or recall it, if appropriate. Furthermore, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the EEE available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Or. sv

Justification

It is important that the authorities receive information about what has occurred so that they can carry out an independent risk analysis.

Amendment 276
Åsa Westlund

Proposal for a directive
Article 7 - paragraph 9

Text proposed by the Commission

9. Manufacturers shall, further to a ***reasoned*** request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the EEE, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by EEE which they have placed on the market.

Amendment

9. Manufacturers shall, further to a request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the EEE, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by EEE which they have placed on the market.

Or. sv

Justification

The authorities must be able to request relevant information in order to fulfil their supervisory duties.

Amendment 277
Holger Krahmer

Proposal for a directive
Article 7 - paragraph 9

Text proposed by the Commission

9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the EEE, in a language which can be easily understood by that authority. ***They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by EEE which they have placed on the market.***

Amendment

9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the EEE, in a language which can be easily understood by that authority.

Justification

Manufacturers' obligations with regard to non-compliant products are already regulated in other New Approach Directives regulating product safety.

Amendment 278**Julie Girling****Proposal for a directive****Article 8- paragraph 2 - point a***Text proposed by the Commission*

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years;

Amendment

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years ***after the EEE has been placed on the market,***

Justification

The reference to 'made available on the market' should be replaced by 'placed on the market'. The New Legislative Framework always refers to "placed on the market" when defining the starting date for the time period for which the Declaration of Conformity must be retained. This is because "placing on the market" means "the first making available of a product on the Community market" (Article R1(2) of Decision No 768/2008/EC) and which is a therefore single fixed date. In contrast, a product can have multiple "made available" dates and such reference would thus lead to legal uncertainty.

Amendment 279**Jill Evans****Proposal for a directive****Article 8- paragraph 2 - point a***Text proposed by the Commission*

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years;

Amendment

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years ***after the EEE has been***

placed on the market;

Or. en

(Replacing amendment 56)Justification

The ten-year timeline needs a clear starting point.

Amendment 280

Chris Davies, Dirk Sterckx

Proposal for a directive

Article 8- paragraph 2 - point a

Text proposed by the Commission

Amendment

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years;

(a) keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for ten years ***after the EEE has been placed on the market;***

Or. en

Justification

Intended to provide greater certainty. EU legislation defines “placing on the market” as “the first making available of a product on the Community market” and is therefore a single fixed date.

Amendment 281

Julie Girling

Proposal for a directive

Article 9- paragraph 3

Text proposed by the Commission

Amendment

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the EEE or, where that is not possible, on its packaging or in a document accompanying the EEE.

3. ***Unless the authorised representative’s name and address is indicated, the*** importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the EEE or, where that is not possible, on its packaging or in a document

accompanying the EEE.

Or. en

Justification

Naming the importer in addition to naming the authorised representative is unnecessary and creates unnecessary administrative burden. This is especially the case when model is imported by several parties. This would avoid unnecessary administrative burden for industry and confusion for customers.

Amendment 282
Chris Davies, Dirk Sterckx

Proposal for a directive
Article 9- paragraph 3

Text proposed by the Commission

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the EEE or, ***where that is not possible***, on its packaging or in a document accompanying the EEE.

Amendment

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the EEE or on its packaging or in a document accompanying the EEE.

Or. en

Justification

Intended to provide greater clarity and remove disputes over the interpretation of "where that is not possible"

Amendment 283
Jill Evans

Proposal for a directive
Article 9- paragraph 7

Text proposed by the Commission

7. Importers shall, for ten years, ***keep*** a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical

Amendment

7. Importers shall ***keep***, for ten years ***after the EEE has been placed on the market***, a copy of the EC declaration of conformity at the disposal of the market surveillance

documentation can be made available to those authorities, upon request.

authorities and ensure that the technical documentation can be made available to those authorities, upon request.

Or. en

(Replacing amendment 59)

Justification

The ten-year timeline needs a clear starting point.

Amendment 284

Julie Girling

Proposal for a directive

Article 9- paragraph 7

Text proposed by the Commission

7. Importers shall, for ten years, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

Amendment

7. Importers shall, for ten years ***after the EEE has been placed on the market***, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

Or. en

Justification

This text is consistent with Article 7(3) of the Commission proposal, module A of Annex II to Decision No 768/2008/EC which is referred to in Article 7(2) of the Commission proposal. When referring to the time period for which the DoC must be retained, Decision No 768/2008/EC always refers to “placed on the market” and never to “made available”. This is because “placing on the market” means “the first making available of a product on the Community market” (ref. Article R1(2) of Decision No 768/2008/EC) and which is a therefore single fixed date. In contrast, a product can have multiple “made available” dates.

Amendment 285
Chris Davies, Dirk Sterckx

Proposal for a directive
Article 9- paragraph 7

Text proposed by the Commission

7. Importers shall, for ten years, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

Amendment

7. Importers shall, for ten years ***after the EEE has been placed on the market***, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

Or. en

Justification

Intended to provide greater certainty. EU legislation defines “placing on the market” as “the first making available of a product on the Community market” and is therefore a single fixed date.

Amendment 286
Jill Evans

Proposal for a directive
Article 10- paragraph 1

Text proposed by the Commission

1. When making an EEE available on the market distributors shall act with due care in relation to the requirements applicable.

Amendment

1. When making an EEE available on the market distributors shall act with due care in relation to the requirements applicable, ***in particular that the EEE bears the CE marking, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Articles 7(6) and 7(7) and Article 9(3).***

(Linked to the deletion of Article 10, paragraph 2, first)

Justification

It is appropriate to highlight specific provisions in the context of the due care obligation of distributors.

Amendment 287

Jill Evans

Proposal for a directive

Article 10- paragraph 2 - subparagraph 1

Text proposed by the Commission

Amendment

2. Before making an EEE available on the market distributors shall verify that the EEE bears the CE marking, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 7(5) and (6) and Article 9(3). **deleted**

Justification

This provision would mean that every distributor would have to open up the original packaging of every EEE before making it available on the market. This would go too far. Instead, it is proposed to highlight these issues in the context of the 'due care' obligation in Article 10(1). This ensures that distributors are responsible for ensuring that they only make available products that comply with these provisions, without obliging them to unpack every single item.

Amendment 288
Chris Davies

Proposal for a directive
Article 13- paragraph 1

Text proposed by the Commission

1. The EC declaration of conformity shall state that the fulfilment of requirements specified in *Article 4* has been demonstrated.

Amendment

1. The EC declaration of conformity shall state that the fulfilment of requirements specified in *this Directive* has been demonstrated.

Or. en

Justification

Conformity should be declared with the entire Directive.

Amendment 289
Christofer Fjellner

Proposal for a directive
Article 16 - paragraph 1

Text proposed by the Commission

Member States shall presume electrical and electronic equipment bearing the CE marking as conforming to this Directive.

Amendment

deleted

Or. en

Justification

Because the specified maximum concentration values (i.e. % limits) for RoHS apply at the "homogeneous material" level, compliance testing must also occur at this level. At the finished product level, it is possible to test a finished product, but it is not possible to break the finished product down to thousands of homogeneous materials and test each of them individually. Under the current RoHS it is impractical for manufacturers of finished products to undertake their own testing. Manufacturers therefore control their supply chain and use documentation to demonstrate compliance.

Amendment 290
Christofer Fjellner

Proposal for a directive
Article 16 - paragraph 2

Text proposed by the Commission

Electrical and electronic equipment *on* which tests *and* measurements have been *performed* in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Amendment

Materials, components, and electrical and electronic equipment which ***have passed*** tests ***or*** measurements, ***or which*** have been ***assessed***, in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Or. en

Justification

See justification of Article 16 - paragraph 1.

Amendment 291
Bogusław Sonik

Proposal for a directive
Article 16 - subparagraph 2

Text proposed by the Commission

Electrical and electronic equipment on which tests and measurements have been performed in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Amendment

Materials, components and parts of electrical and electronic equipment on which tests and measurements have been performed in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Or. pl

Justification

These changes take into account the concept that components complying with the RoHS produce products complying with the RoHS. If the declaration of conformity is issued for a finished product there needs to be a way of communicating that information along the supply chain in order to reduce the costs to businesses of bringing their products into conformity. A solution could be for manufacturers to issue a voluntary declaration of materials, which could provide additional information for the control bodies. However, the declaration of conformity alone cannot be considered a substitute for the tests and measurements report.

Amendment 292

Kathleen Van Brempt, Judith A. Merkies

Proposal for a directive

Article 16 - paragraph 2

Text proposed by the Commission

Electrical and electronic equipment **on** which tests **and** measurements have been **performed** in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Amendment

Materials, components, or electrical and electronic equipment which **have passed** tests **or** measurements, **or which** have been **assessed**, in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Or. en

Justification

Finished products cannot be "tested" to prove compliance with this Directive, they can only be "assessed" against specific conformity standards.

Amendment 293

Oreste Rossi

Proposal for a directive

Article 16 - paragraph 2

Text proposed by the Commission

Electrical and electronic equipment **on**

Amendment

Electrical and electronic equipment which

which ***tests and measurements have been performed in accordance*** with harmonised standards, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

is in conformity or parts thereof with harmonised standards the references of which have been published in the *Official Journal of the European Union*, shall be presumed to comply with all the relevant requirements of this Directive to which such standards relate.

Or. en

Justification

Rewording to become aligned with art. R8 of Decision N° 768/2008 in order to create a level playing field of all economic operators under the CE-marking requirements.

Amendment 294
Jill Evans

Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

Formal objection to a harmonised standard

Article R9 of Decision No 768/2008/EC on a common framework for the marketing of products shall apply.

Or. en

(Replacement of amendment 66 by the rapporteur. Linked to the repeal of the comitology procedures by the Treaty on the Functioning of the European Union.)

Justification

It should be possible for a Member State or the Commission to formally object to a harmonized standard. Amendment 66 was an exact copy of Article R9 from the new legislative framework (NLF), which contains comitology provisions. Due to the new Treaty, the comitology procedures no longer apply for new legislative acts. However, the recast of RoHS cannot align acts other than RoHS to the provisions of the new Treaty. To introduce the possibility for a formal objection to a harmonised standard without prejudice to a future alignment of NLF, there should only be a reference to the relevant article.

Amendment 295
Jill Evans

Proposal for a directive
Article 18

Text proposed by the Commission

Committee

1. The Commission shall be assisted by the Committee set up by Article 18 of European Parliament and Council Directive on waste 2006/12/EC of 5 April 2006.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendment

Exercise of the delegation

1. The powers to adopt the delegated acts referred to in Articles 5 and 6 shall be conferred on the Commission for an indeterminate period of time.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 18a and 18b.

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

In the context of this directive, it seems appropriate to confer the powers on the Commission to adopt delegated acts for an indeterminate period of time.

Amendment 296
Holger Krahmer

Proposal for a directive
Article 18 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall ensure that in

the conduct of its activities it observes a balanced participation of Member States' representatives and all interested parties concerned, such as industry, including SMEs and craft industry, environmental protection groups and consumer organisations. Those parties shall meet in a consultation forum. The rules of procedure of the Forum shall be established by the Commission.

Or. en

Justification

To reduce legal uncertainty and economic risks the exemptions mechanism should become more workable, clear and transparent. The consultation of stakeholder should be improved in establishing clearer rules of procedures. Therefore, a Consultation Forum similar to Directive 2009/125EC on Eco Design should be created to ensure a continuous and structured stakeholder consultation mechanism in the implementation process of the directive.

Amendment 297
Christofer Fjellner

Proposal for a directive
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

The Commission shall ensure that in the conduct of its activities it observes a balanced participation of Member States' representatives and all interested parties concerned, such as industry, including SMEs and craft industry, environmental protection groups and consumer organisations. Those parties shall meet in a consultation forum. The rules of procedure of the Forum shall be established by the Commission.

Or. en

Justification

To reduce legal uncertainty and economic risks the exemptions mechanism should become more workable, clear and transparent. The consultation of stakeholder should be improved in establishing clearer rules of procedures. Therefore, a Consultation Forum similar to Directive 2009/125EC on Eco Design should be created to ensure a continuous and structured stakeholder consultation mechanism in the implementation process of the directive.

Amendment 298

Jill Evans

Proposal for a directive

Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Revocation of the delegation

- 1. The delegation of power referred to in Article 18 may be revoked at any time by the European Parliament or by the Council***
- 2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.***
- 3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.***

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

The possibility to revoke the delegation of powers should be included.

Amendment 299
Jill Evans

Proposal for a directive
Article 18 b (new)

Text proposed by the Commission

Amendment

Article 18b

Objections to delegated acts

- 1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.**
- 2. If neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and enter into force at the date stated therein.**
- 3. If the European Parliament or the Council objects to the adopted delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.**

Or. en

(Linked to the replacement of the former "regulatory procedure with scrutiny" with the new procedure of delegated acts under Article 290 of the Treaty on the Functioning of the European Union.)

Justification

A two+two-month procedure should be included for objections to delegated acts. This would allow a relatively fast entry into force in non-controversial cases, while granting sufficient time in case of controversial cases.

Amendment 300
Bogusław Sonik

Proposal for a directive
Annex I

Text proposed by the Commission

Amendment

Annex I deleted

Or. pl

Justification

This annex is unnecessary given the introduction of an open scope.

Amendment 301
Jill Evans

Proposal for a directive
Annex I

Text proposed by the Commission

Amendment

Categories of electrical and electronic equipment covered by this Directive

1. Large **household** appliances
2. Small **household** appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools (**with the exception of large-scale stationary industrial tools**)
7. Toys, leisure and sports equipment
8. Medical devices
9. Monitoring and control instruments including industrial monitoring and control instruments
10. Automatic dispensers

Categories of electrical and electronic equipment covered by this Directive

1. Large appliances
2. Small appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools

7. Toys, leisure and sports equipment
8. Medical devices.
9. Monitoring and control instruments including industrial monitoring and control instruments
10. Automatic dispensers
- 11. Other electrical and electronic equipment not covered by any of the categories above**

(This replaces amendment 68 by the rapporteur.)

Justification

The term "household" has led to confusion and should thus be deleted. It is difficult to see why large scale industrial tools should be excluded from the scope, given that industrial monitoring and control instruments are included. In light of the different scope of restrictions and corresponding timelines for different categories of EEE, a list of categories of EEE should be maintained, but completed by a category that catches all EEE that is not covered by any of the current categories. This would ensure an open scope while allowing differentiation between different categories.

Amendment 302
Oreste Rossi

Proposal for a directive
Annex I - point 9

Text proposed by the Commission

Amendment

9. Monitoring and control instruments
including industrial monitoring and control instruments

9. Monitoring and control instruments

Justification

(See Annex II point 9). Using the same headings shall avoid confusion.

Amendment 303
Bogusław Sonik

Proposal for a directive
Annex II

Text proposed by the Commission

Amendment

Annex II deleted

Justification

This annex is unnecessary given the introduction of an open scope.

Amendment 304

Chris Davies, Dirk Sterckx

Proposal for a directive

Annex II - point 1

Text proposed by the Commission

Binding list of products which fall under the Categories listed in Annex I:

1. Large household appliances, including
Washing machines
Clothes dryers
Dish washing machines
Large household appliances used for refrigeration, conservation and storage of food, such as:
Large cooling appliances, Refrigerators, Freezers
Large household appliances used for cooking and other processing of food, such as:
Cooking, Electric stoves, Electric hot plates,
Microwaves
Large appliances for heating rooms, beds, seating furniture, such as:
Electric heating appliances, Electric radiators,

Fanning, exhaust ventilation and conditioning equipment such as:

Electric fans

Air conditioner appliances

Amendment

Binding list of products which fall under the Categories listed in Annex I:

1. Large household appliances, including
Washing machines
Clothes dryers
Dish washing machines
Large household appliances used for refrigeration, conservation and storage of food, such as:
Large cooling appliances, Refrigerators, Freezers
Large household appliances used for cooking and other processing of food, such as:
Cooking, Electric stoves, Electric hot plates,
Microwaves
Large appliances for heating rooms, beds, seating furniture, such as:
Electric heating appliances, Electric radiators, ***including in-, outdoor and single packaged units of heat pumps up to 12 kW.***

Fanning, exhaust ventilation and conditioning equipment such as:

Electric fans

Air conditioner appliances, ***including in-, outdoor and single packaged units of air conditioning appliances up to 12 kW.***

Or. en

Justification

If it is NOT agreed to open the scope of this legislation to embrace all electrical and electronic goods then air conditioning equipment and heat pumps should be included within the Directive.

Amendment 305

Oreste Rossi

Proposal for a directive

Annex II - point 9

Text proposed by the Commission

9. Monitoring and control instruments, including
Smoke detector
Heating regulators
Thermostats
Measuring, weighing or adjusting appliances for household *or as laboratory equipment*
Industrial monitoring and control instruments

Amendment

Monitoring and control instruments, including
Smoke detector
Heating regulators
Thermostats
Measuring, weighing or adjusting appliances for household *use*
Industrial monitoring and control instruments

Or. en

Justification

There is an overlap between the definition of 'industrial monitoring and control instruments' given in art. 3(p) and the subsequent entry under category 9 in Annex II: "Measuring ... equipment". Both entries can apply to laboratory equipment used by professionals, but the implementation timescales are different.

Amendment 306

Bogusław Sonik

Proposal for a directive

Annex III

Text proposed by the Commission

Amendment

Annex III deleted

Justification

This annex is unnecessary. Rules on defining new substances or making them subject to the restrictions in the directive have been introduced in the amendments to Article 4(7).

Amendment 307
Holger Kraemer

Proposal for a directive
Annex III

Text proposed by the Commission

Amendment

Annex III deleted

Or. en

Justification

This amendment deletes Annex III as there is no clear methodology to select the substances listed. Furthermore, such an Annex would be misinterpreted globally and would lead to confusion by providing another list of chemicals for review but which are not yet banned.

Amendment 308
Sergio Berlato

Proposal for a directive
Annex III

Text proposed by the Commission

Amendment

Annex III deleted

Or. it

Justification

This amendment deletes Annex III, as there is no clear methodology to select the substances listed. Furthermore, such an annex would be misinterpreted globally and would lead to confusion by providing another list of chemicals that are to be subject review but have not yet been banned.

Amendment 309

Åsa Westlund

Proposal for a directive Annex III

Text proposed by the Commission

Substances referred to in Article 4(7)

1. *Hexabromocyclododecane (HBCDD)*
2. *Bis (2-ethylhexyl) phthalate (DEHP)*
3. *Butyl benzyl phthalate (BBP)*
4. *Dibutylphthalate (DBP)*

Amendment

Substances referred to in Article 4(7)

1. *Arsenic compounds*
2. *Beryllium and its compounds*
3. *Antimony trioxide*
4. *Dinickel trioxide*
5. *Bisphenol A*
6. *Brominated organic substances other than brominated flame retardants*
7. *Chlorinated organic substances other than chlorinated flame retardants or plasticisers*
8. *Nanomaterial*
9. *Silver ions used for biocide*
10. *Substances of very high concern which appear on the candidate list referred to in Article 59(1) of Regulation (EC) No. 1907/2006*

Or. sv

Justification

A list which is constantly updated in this way may have a positive effect in terms of the substitution of these substances.

Amendment 310

Kathleen Van Brempt, Judith A. Merkies

Proposal for a directive Annex III

Text proposed by the Commission

Substances referred to in *Article 4(7)*

1. *Hexabromocyclododecane (HBCDD)*
2. *Bis (2-ethylhexyl) phthalate (DEHP)*

Amendment

Substances referred to in *Article 6a*

1. *Polyvinylchloride (PVC)*
2. *Nano-materials, especially asbestos-like*

3. Butyl benzyl phthalate (BBP)

4. Dibutylphthalate (DBP)

Or. en

Justification

These substances need further examination before a decision on the need for a ban or labelling requirements can be taken.

Amendment 311

Frédérique Ries, Chris Davies

Proposal for a directive

Annex III

Text proposed by the Commission

1. Hexabromocyclododecane (HBCDD)

2. Bis (2-ethylhexyl) phthalate (DEHP)

3. Butyl benzyl phthalate (BBP)

4. Dibutylphthalate (DBP)

Amendment

1. Dinitrotoluene

2. Diaminodiphenylmethane (MDA)

**3. 5-tert-butyl-2,4,6-trinitro-m-xylene
(musk xylene)**

**4. Alkanes, chloro (Short Chain
Chlorinated Paraffins)**

**5. Aluminosilicate Refractory Ceramic
Fibres**

6. Anthracene

7. Anthracene oil

8. Anthracene oil, anthracene paste

**9. Anthracene oil, anthracene paste,
anthracene fraction**

**10. Anthracene oil, anthracene
paste, distn. lights**

11. Anthracene oil, anthracene-low

12. Benzyl butyl phthalate (BBP)

**13. Bis (2-ethylhexyl)phthalate
(DEHP)**

14. Bis(tributyltin)oxide (TBTO)

15. Cobalt dichloride

16. Diarsenic pentaoxide

17. Diarsenic trioxide

18. Dibutyl phthalate (DBP)

19. Diisobutyl phthalate

**20. Hexabromocyclododecane
(HBCDD) and all major**

- diastereoisomers identified;*
- 21. Lead chromate*
 - 22. Lead chromate molybdate sulphate red*
 - 23. Lead hydrogen arsenate*
 - 24. Lead sulfochromate yellow*
 - 25. Pitch, coal tar, high temp.*
 - 26. Sodium dichromate*
 - 27. Triethyl arsenate*
 - 28. Tris(2-chloroethyl)phosphate*
 - 29. Zirconia Aluminosilicate Refractory Ceramic Fibres*
 - 30. Bisphenol A.*

Or. en

Justification

The Commission rightly provides another list of chemicals for review which are not yet banned but poses high risk to the environment or human health. Furthermore, it is important to ensure a safe and coherent legal framework. This is why a clear link should be established with the candidate list of substances of very high concern following the authorisation requirements set out in article 58 (2) of the REACH regulation (EC). To which should be added Bisphenol A because no less than 109 public studies concluded that there are adverse effects at low levels for human health and environment.

Amendment 312
Bogusław Sonik

Proposal for a directive
Annex III a (new)

Text proposed by the Commission

Amendment

Annex IIIa

Appliances, equipment and spare parts for appliances exempted from the scope of the Directive

- 1. Equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and military material intended exclusively for military purposes.*
- 2. Equipment which is not intended to be placed on the market as a single*

functional or commercial unit.

3. Spare parts intended for repair or re-use of EEE placed on the market before 1 July 2006.

4. Spare parts intended for repair or re-use of medical devices placed on the market before 1 January 2014.

5. Spare parts intended for repair or re-use of in vitro diagnostic medical devices placed on the market before 1 January 2016.

6. Spare parts intended for repair or re-use of monitoring and control instruments placed on the market before 1 January 2014.

7. Spare parts intended for repair or re-use of industrial monitoring and control instruments placed on the market before 1 January 2017.

8. Spare parts intended for repair or re-use of EEE which benefit from an exemption and were placed on the market before that exemption expired.

9. Active implantable medical devices.

10. Various types of appliances, tools and other devices assembled, installed and designed for work in a specific location for industrial use.

11. Consumables for appliances not corresponding to the definition of electrical and electronic equipment.

12. Substances intended to be released under normal or reasonably foreseeable conditions of use of EEE.

Or. pl

Justification

This annex brings together all the possible exemptions from the directive's scope in a single place. It will be examined in the codecision procedure. In addition to the Commission's original text it introduces in point 10 definitions of permanently assembled stationary appliances and in point 12, in accordance with Article 7(1)(b) of REACH, exempts substances

intentionally released from EEE (such as toners and inks). Point 11 exempts consumables which in themselves are not electrical or electronic equipment according to the definition in Article 3a of the draft directive.

Amendment 313

Sabine Wils

Proposal for a directive

Annex IV

Text proposed by the Commission

Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials

Lead (0.1 %)
Mercury (0.1 %)
Cadmium (0.01 %)
Hexavalent chromium (0.1 %)
Polybrominated biphenyls (PBB) (0.1 %)
Polybrominated diphenyl ethers (PBDE) (0.1 %)

Amendment

Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials

Part A

Lead (0.1 %)
Mercury (0.1 %)
Cadmium (0.01 %)
Hexavalent chromium (0.1 %)
Polybrominated biphenyls (PBB) (0.1 %)
Polybrominated diphenyl ethers (PBDE) (0.1 %)

Part B

Arsenic compounds (0.1%)
Beryllium and its compounds (0.1%)
Antimony trioxide (0.1%)
Bisphenol A (0.1 %)
Organobromines other than brominated flame retardants (0.1%)
Organochlorines other than chlorinated flame retardants or plasticisers (0.1%)
Carbon nanotubes similar to asbestos (limit of detection)

Polyvinylchloride (PVC) (0.1 %)
Chlorinated plasticisers (0.1 %)
Bis (2-ethylhexyl) phthalate (DEHP) (0.1%)
Butyl benzyl phthalate (BBP) (0.1 %)
Dibutylphthalate (DBP) (0.1 %)
Nanosilver (limit of detection)

Or. de

Justification

The substances added to the Commission proposal present a major hazard to people and the environment in the phases of production and/or use and recovery.

Amendment 314

Jill Evans

Proposal for a directive Annex IV

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials	Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials
Lead (0,1%)	<i>Part A</i> Lead (0,1%)
Mercury (0,1%)	Mercury (0,1%)
Cadmium (0,01%)	Cadmium (0,01%)
Hexavalent chromium (0,1%)	Hexavalent chromium (0,1%)
Polybrominated biphenyls (PBB) (0,1%)	Polybrominated biphenyls (PBB) (0,1%)
Polybrominated diphenyl ethers(PBDE) (0,1%)	Polybrominated diphenyl ethers(PBDE) (0,1%)
	<i>Part B</i> <i>Brominated flame retardants (0,1 %)</i> <i>Chlorinated flame retardants (0,1 %)</i> <i>Polyvinylchloride (PVC) (0,1 %)</i> <i>Chlorinated plasticisers (0,1 %)</i> <i>Phthalates meeting the criteria for classification as carcinogenic, mutagenic or toxic to reproduction category 1A or 1B in accordance with Regulation (EC) No 1272/2008.</i>

Or. en

Justification

The study by the European Commission on the RoHS recast recommended the phase-out of organobromines, organochlorines and PVC due to the problems they create for waste treatment. The electronics industry is well-advanced in its global initiative to convert to “low-

halogen” (defined as brominated/chlorinated flame retardants/PVC below 900ppm). Similar action has already been undertaken by some manufacturers of ‘white goods’. These voluntary actions should be supported by clear requirements from the legislator to create a level playing field and provide market certainty.

Amendment 315

Kathleen Van Brempt, Judith A. Merkies

Proposal for a directive

Annex IV

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials	Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials
	<i>Part A</i>
Lead (0,1%)	Lead (0,1%)
Mercury (0,1%)	Mercury (0,1%)
Cadmium (0,01%)	Cadmium (0,01%)
Hexavalent chromium (0,1%)	Hexavalent chromium (0,1%)
Polybrominated biphenyls (PBB) (0,1%)	Polybrominated biphenyls (PBB) (0,1%)
Polybrominated diphenyl ethers(PBDE) (0,1%)	Polybrominated diphenyl ethers(PBDE) (0,1%)
	<i>Part B</i>
	<i>Medium-chain chlorinated paraffins (MCCP)</i>

Or. en

Justification

In addition to the substances mentioned earlier (as for instance in the report of Jill Evans) , several studies recommend the restriction of the use of medium-chain chlorinated paraffins (MCCP) by means of their inclusion in Annex IV to the RoHS Directive (German Umweltbundesamt, ERA study). MCCP is used as a plasticiser and flame retardant with persistent, bioaccumulating, and toxic properties. These properties have also been sufficiently documented as also given in the study by the Öko-Institut(2008), see endnote 5.

Amendment 316
Jill Evans

Proposal for a directive
Annex IV

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials	Prohibited substances referred to in Article 4(7) and maximum concentration values tolerated by weight in homogeneous materials
Lead (0,1%)	Lead (0,1%)
Mercury (0,1%)	Mercury (0,1%)
Cadmium (0,01%)	Cadmium (0,01%)
Hexavalent chromium (0,1%)	Hexavalent chromium (0,1%)
Polybrominated biphenyls (PBB) (0,1%)	Polybrominated biphenyls (PBB) (0,1%)
Polybrominated diphenyl ethers(PBDE) (0,1%)	Polybrominated diphenyl ethers(PBDE) (0,1%)
	<i>Nanosilver (detection limit)</i>
	<i>Long multi-walled carbon nanotubes (detection limit)</i>

Or. en

Justification

Nanosilver is already being used as an antimicrobial in EEE, e.g. as a coating for mobile phones, or even released by washing machines. Apart from such uses being superfluous, they endanger human health and the environment. Carbon nanotubes may be used in EEE, yet it has been shown that they can have asbestos-like properties. Respected authorities such as the UK Royal Commission on Environmental Pollution, the UK Health and Safety Executive or the German Environment Agency have raised concern about these nanomaterials or even recommended against their use.

Amendment 317

Kathleen Van Brempt, Judith A. Merkies, Åsa Westlund

**Proposal for a directive
Annex IVa (new)**

Text proposed by the Commission

Amendment

(Annex IV a)

- 1. Nano-silver**
- 2. Asbestos like carbon-nanotubes**
- 3. Beryllium metall**
- 4. Beryllium oxide (BeO)**

Or. en

Justification

For some substances labelling has been recommended by the Öko-Institut (item 3 & 4). For items 1 and 2, there is scientific evidence that exposure to long multiwalled carbon nanotubes may result in asbestos-like disease and that the release of nanosilver particles may lead to adverse impacts on human health and the environment. Further research remaining necessary, labelling would be a first step to support careful handling of these substances. An optimal interlinkage with the Eco-design Directive has to be ensured. (Linked to Amdt of Art. 6 (1) indent 3 a new and Amdt on Art. 4 (1) b new)

Amendment 318

Bogusław Sonik

**Proposal for a directive
Annex VI**

Text proposed by the Commission

Amendment

Annex IV deleted

Or. pl

Justification

This annex has been included in Annex V, with the numbering continued. Before the directive enters into force, the Commission should update this annex in accordance with the amendment to Article 5(4a) and bring it into line with scientific and technical progress. The current Annex VI is based on an ERA report drawn up in the light of knowledge available in 2005.

Amendment 319

Julie Girling

**Proposal for a directive
Annex VI - introductory part**

Text proposed by the Commission

Amendment

***Equipment utilising or detecting ionising
radiation*** ***deleted***

Or. en

Justification

ERA concluded in its study asked for by the Commission (2006-0383) that the inclusion of medical devices in the scope would be possible, but manufacturers would require certain exemptions. ERA also recommended that a temporary exemption for lead in solders should be re-considered nearer to the time that the RoHS Directive is amended. In the course of a new ERA Report (2009-0394) manufacturers of some complex medical apparatus have discovered that these cannot yet ensure long term reliability without lead. This should be taken into consideration in the recast.

Amendment 320

Chris Davies

**Proposal for a directive
Annex VI - introductory part**

Text proposed by the Commission

Amendment

***Equipment utilising or detecting ionising
radiation*** ***deleted***

Or. en

Justification

As categories 8 (medical devices) and 9 (monitoring and control instruments) mentioned in Annexe I are included in the scope it is necessary to specifically exclude the articles listed here, principally because of their specialist use in medical procedures and long production cycles of monitoring and control instruments.

Amendment 321
Julie Girling

Proposal for a directive
Annex VI - point 5

Text proposed by the Commission

5 Lead in shielding for ionising radiation

Amendment

5 Lead in shielding, ***collimators and scattering control devices and grids*** for ionising radiation

Or. en

Justification

See justification to Annex VI - introductory part

Amendment 322
Chris Davies

Proposal for a directive
Annex VI - point 5

Text proposed by the Commission

5 Lead in shielding for ionising radiation

Amendment

5 Lead in shielding, ***collimators and scattering control devices and grids*** for ionising radiation

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 323
Julie Girling

Proposal for a directive
Annex VI - point 6

Text proposed by the Commission

6 Lead in *X-ray* test objects.

Amendment

6 Lead in *ionising radiation* test objects
and X-ray markers

Or. en

Justification

See justification to Annex VI - introductory part.

Amendment 324
Chris Davies

Proposal for a directive
Annex VI - point 6

Text proposed by the Commission

6 Lead in *X-ray* test objects.

Amendment

6 Lead in *ionising radiation* test objects
and X-ray markers

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 325
Julie Girling

Proposal for a directive
Annex VI - point 8

Text proposed by the Commission

8 Radioactive cadmium isotope source for
PETXTNRPE439.897v01-00

Amendment

8 Radioactive cadmium isotope source for

100/111

AM\809039EN.doc

portable X-ray fluorescence spectrometers
**Sensors, detectors and electrodes (plus
item 1)**

portable X-ray fluorescence spectrometers

Or. en

Justification

See justification to Annex VI - introductory part

Amendment 326
Chris Davies

Proposal for a directive
Annex VI - point 8

Text proposed by the Commission

8 Radioactive cadmium isotope source for
portable X-ray fluorescence spectrometers
**Sensors, detectors and electrodes (plus
item1)**

Amendment

8 Radioactive cadmium isotope source for
portable X-ray fluorescence spectrometers.

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 327
Julie Girling

Proposal for a directive
Annex VI - point 10

Text proposed by the Commission

10 Lead and cadmium in atomic
adsorption spectroscopy lamps

Amendment

10 Lead and cadmium in atomic
absorption spectroscopy lamps

Or. en

Justification

See justification to Annex VI - introductory part.

Amendment 328

Chris Davies

Proposal for a directive

Annex VI - subtitle

Text proposed by the Commission

Amendment

Others

deleted

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 329

Julie Girling

Proposal for a directive

Annex VI - subtitle

Text proposed by the Commission

Amendment

Others

deleted

Or. en

Justification

See justification to Annex VI - introductory part

Amendment 330
Julie Girling

Proposal for a directive
Annex VI - point 11

Text proposed by the Commission

Amendment

11 Lead in alloys as a superconductor and thermal conductor in MRI

11 Lead in alloys as a superconductor and thermal conductor in MRI **and MEG**

Or. en

Justification

See justification to Annex VI - introductory part

Amendment 331
Chris Davies

Proposal for a directive
Annex VI - point 11

Text proposed by the Commission

Amendment

11 Lead in alloys as a superconductor and thermal conductor in MRI

11 Lead in alloys as a superconductor and thermal conductor in MRI **and MEG**

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 332
Julie Girling

Proposal for a directive
Annex VI - point 17

Text proposed by the Commission

Amendment

17 Lead in solders in **portable emergency defibrillators**

17 Lead in solders in
- **Class II** portable defibrillators,
- **Class II patient-worn devices and**

***portable ultrasound equipment and
portable patient monitoring equipment***

Or. en

Justification

See justification to Annex VI - introductory part.

Amendment 333

Chris Davies

**Proposal for a directive
Annex VI - point 17**

Text proposed by the Commission

17 Lead in solders in ***portable emergency
defibrillators***

Amendment

17 Lead in solders in

***- Class II portable defibrillators,
- Class II patient-worn devices and
portable ultrasound equipment and
portable patient monitoring equipment***

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 334

Chris Davies

**Proposal for a directive
Annex VI - point 20a - 20w (new)**

Text proposed by the Commission

Amendment

***20a Lead in solders and in component
terminations and connector terminals of
Magnetic Resonance Imaging and
Magnetoencephalography that operate at
temperatures lower than -50° C***

20b Lead in termination coatings of non-

magnetic components used in Magnetic Resonance Imaging and Magnetoencephalography and solders used to bond these non-magnetic components

20c Lead in solders and in component termination coatings used for assembly of printed circuit boards of medical devices that include BGA, CSP, QFN, and similar devices and medical devices used for imaging including CT, PET, SPECT, MEG, MRI and molecular imaging and for medical devices used for radiation and particle therapy

20d Lead in solder used for assembly of printed circuit boards used for mounting semiconductor digital array detectors, e.g. cadmium zinc telluride and pin-grid array digital X-ray detectors

20e Lead and hexavalent chromium in components specifically designed for industry sectors that are out of scope of the RoHS directive and utilised as components in medical devices

20f Lead as a dry lubricant in copper and aluminium alloys for locations exposed to ionising radiation

20g Lead for vacuum-tight seals of image intensifiers

20h Hexavalent chromium in in-situ alkali dispensers

20i Cadmium in output phosphors of image intensifiers

20j Lead acetate marker for use in stereotactic head-frames for use with CT and MRI

20k Lead and hexavalent chromium in component parts from used X-ray tubes that were put onto the EU market prior to 1 January 2014 and re-used in new X-ray tubes from 1 January 2014 until 31 December 2019.

20l Mercury in straight fluorescent lamps

for special purposes.

20m Lead in the glass of cathode ray tubes, electronic components and fluorescent tubes.

20n Lead as an alloying element in steel containing up to 0.35% lead by weight, aluminium containing up to 0.4% lead by weight and as a copper alloy containing up to 4% lead by weight

20o

- Lead in high melting temperature type solders (i.e. lead based alloys containing 85% by weight or more lead).

- Lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signalling, transmission as well as network management for telecommunication.

- Lead in electronic ceramic parts (e.g. piezo-electronic devices).

20p Cadmium and its compounds in electrical contacts and cadmium plating except for applications banned under Directive 91/338/EEC amending Directive 76/769/EEC

20q Lead used in compliant pin connector systems

20r Lead and cadmium in optical and filter glass

20s Lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80% and less than 85% by weight.

20t Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit Flip Chip packages.

20u Lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with NiFe lead

frames and lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with copper lead frames.

20v Lead in solders for the soldering to machines through hole discoidal and planar array ceramic multilayer capacitors.

20w Lead oxide in seal frit used for making window assemblies for Argon and Krypton laser tubes.

Or. en

Justification

See justification for Annex VI - introductory part.

Amendment 335

Julie Girling

Proposal for a directive

Annex VI - point 20 a - 20 j (new)

Text proposed by the Commission

Amendment

20a Lead in solders and in component terminations and connector terminals of Magnetic Resonance Imaging and Magnetoencephalography that operate at temperatures lower than -50C

22b Lead in termination coatings of non-magnetic components used in Magnetic Resonance Imaging and Magnetoencephalography and solders used to bond these non-magnetic components

20c Lead in solder used for assembly of printed circuit boards used for mounting semiconductor digital array detectors, e.g. cadmium zinc telluride and pin-grid array digital X-ray detectors

20d Lead and hexavalent chromium in components specifically designed for

industry sectors that are out of scope of the RoHS Directive and utilised as components in medical devices
20e Lead as a dry lubricant in copper and aluminium alloys for locations exposed to ionising radiation
20f Lead for vacuum-tight seals of image intensifiers
20g Hexavalent chromium in in-situ alkali dispensers
20h Cadmium in output phosphors of image intensifiers
20i Lead acetate marker for use in stereotactic head-frames for use with CT and MRI
20j Lead and hexavalent chromium in component parts from used X-ray tubes that were put onto the EU market prior to 1 January 2014 and re-used in new X-ray tubes from 1 January 2014 until 31 December 2019.

Or. en

Justification

See justification to Annex VI - introductory part.

Amendment 336
Horst Schnellhardt

Proposal for a directive
Annex VI a (new)

Text proposed by the Commission

Amendment

Annex VIa

Applications exempted from the ban in Article 4(1) as regards Category 11
1. Cadmium in thin-film photovoltaic panels based on cadmium telluride

Or. de

Justification

If there is an open scope, photovoltaic modules should be excluded from the scope of the

Directive. There is no effective substitute for the cadmium telluride contained in photovoltaic panels. The photovoltaic industry is typified by innovations. Predictability in terms of future planning is necessary to ensure the further development of such innovations, which contribute significantly to environmental protection, job creation and economic development. Temporary exemptions from the scope do not fulfil this condition.

Amendment 337
Sabine Wils

Proposal for a directive
Annex VI a (new)

Text proposed by the Commission

Amendment

Annex VIa

Applications exempted from the ban in Article 4(1) as regards Category 11

Unless stated differently, the applications in this Annex shall expire four years after the date referred to in Article 2(1a).

Or. de

Justification

Cadmium is a serious hazard to people and the environment. Its use in PV modules must be stopped quickly. There must be the possibility of granting applications a temporary exemption from the Directive. Given the current data situation, however, the rapporteur's decision to provide for an exemption for cadmium in PV modules is rejected.

Amendment 338
Jill Evans

Proposal for a directive
Annex VI b (new)

Text proposed by the Commission

Amendment

Annex VIb

Application for exemption from Article 4(1) or for renewal of such an exemption
Applications may be submitted by a manufacturer, an authorised representative of a manufacturer, or any actor in the supply chain and shall

include at least the following:

- (a) the name, address and contact details of the applicant;*
- (b) information on the material or component and the specific uses of the substance in the material and component for which an exemption is requested and its particular characteristics;*
- (c) a verifiable and fully referenced justification for an exemption on the basis of the conditions established in Article 5;*
- (d) an analysis of possible alternative substances, materials or designs on a life-cycle basis, including, when available, information and peer-reviewed studies about independent research, and development activities by the applicant;*
- (e) an analysis of the availability of the alternatives described in point (d);*
- (f) a substitution plan as referred to in Regulation (EC) No 1907/2006 including a timetable for proposed actions by the applicant;*
- (g) where appropriate, an indication of the information which should be regarded as proprietary accompanied by verifiable justification;*
- (h) a proposal for a precise and clear wording for the exemption;*
- (i) a summary of the application.*

Or. en

Justification

This amendment is inspired by a very similar amendment discussed in Council. In addition to the wording discussed in Council, this amendment a) calls for a verifiable and fully referenced justification, b) assessment of the availability of alternatives, and c) a substitution plan in any case.

Amendment 339
Bogusław Sonik

Proposal for a directive
Annex VII - point 7

Text proposed by the Commission

Amendment

7. Where applicable, the notified body ... *deleted*
(name, number) ... performed ...
(description of intervention) ... and issued
the certificate: ...

Or. pl

Justification

This subpoint is unnecessary as there are no harmonised standards with which the notified bodies could verify compliance.