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*Committee on the Environment, Public Health and Food Safety*

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**2008/0240(COD)**

1.6.2010

# **COMPROMISE/CONSOLIDATED AMENDMENTS**

**Draft report**  
**Jill Evans**  
(PE430.424v03-00)

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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## 1. Consolidated package I on scope by

Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils

### Amendments that are part of the compromise package without change:

- open scope: 14 (second part), 15, 195 (second part), 301
- consumables, accessories, and deletion of Annex II: 14 (first part), 36/212, 69/303, 161, 167, 169

### Amendments that will be covered by the amendments above:

- open scope: 33, 68, 196, 302, 114
- consumables and accessories, and deletion of Annex II: 26, 27, 99 (first part), 106-110, 125, 141, 143, 154, 168, 300, 304, 305, 312 (points 1, 2, 10-12)

### Consolidated amendment 1a

Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils

### Proposal for a directive

### Article 2 - paragraph 3 and 3a

#### *Text proposed by the Commission*

3. This Directive does not apply to:

(a) equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes ;

(b) equipment which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and can fulfill its function only if it is part of that equipment;

***(c) equipment which is not intended to be placed on the market as a single functional or commercial unit.***

#### *Amendment*

3. This Directive does not apply to:

a) equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes ;

(b) equipment which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and can fulfill its function only if it is part of that equipment;

***delete***

***(aa) means of transport for persons or goods;***

***(ab) large scale fixed installations, except monitoring and control equipment;***

***(ac) large scale stationary industrial tools, except monitoring and control equipment;***

*(ad) equipment which is manufactured in the Community or imported, and specifically designed for the purposes of research and development and not made available on the market for sale to the general public;*

*(ae) non-road mobile machinery intended exclusively for professional use;*

*(af) equipment designed to be sent into space;*

*No later than [...\*], the Commission shall submit a report examining the need for further exclusions of equipment in category 11 from the scope of this Directive where the long-term contribution to the objectives of this Directive by the inclusion of such equipment would be disproportionately low as compared to the long-term costs thereof, to be accompanied by a legislative proposal, if appropriate.*

*3a. Notwithstanding the exclusion from the scope of this Directive, Member States shall take all measures necessary to ensure that economic operators reduce exposure to the substances listed in Annex IV in materials and components of EEE for consumers, workers and the environment to as low a level as is technically and practically possible.*

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

#### *Justification*

*This covers amendments 16, 17, 113-123, 126-138, 146-148 and 166, 174, 267, 272.*

**Consolidated amendment 1b**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive – amending act**

**Article 3 - point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) 'dependent' means that the electrical and electronic equipment needs electricity to fulfil at least one of its basic functions;**

*Justification*

*This covers amendments 149-151 and 176.*

**Consolidated amendment 1c**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 3 - point l a (new)**

*Text proposed by the Commission*

*Amendment*

**(la) 'cables' means all cables inside electrical and electronic equipment and all cables that serve as connection or extension to connect the equipment to the relevant grid;**

*Justification*

*This is linked to compromises 1g, 1h and 3b that explicitly refer to cables.*

**Consolidated amendment 1d**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 3 - point p a (new)**

*Text proposed by the Commission*

*Amendment*

**(pa) 'means of transport' means a vehicle used for transport of people or cargo, such as cars, busses, trucks, trams, trains,**

*ships and airplanes;*

*Justification*

*This covers amendment 170.*

**Consolidated amendment 1e**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 3 - point p b (new)**

*Text proposed by the Commission*

*Amendment*

*(pb) 'large scale fixed installations' mean a particular combination of several types of apparatus and, where applicable, other devices, assembled and installed permanently at a predefined location. It shall not include electrical and electronic components which may, during the lifespan of the installation concerned, be replaced from time to time and which can fulfil their function also by not being part of that installation;*

*Justification*

*This covers amendments 162-166, 171 and 173.*

**Consolidated amendment 1f**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 3 - point p c (new)**

*Text proposed by the Commission*

*Amendment*

*(pc) 'large scale stationary industrial tools' mean an assembly of machines, equipment, and/or components, designed to be used together in industry to perform a specific task. They are installed by specialized personnel responsible for the installation activity only, and they are permanently located during their phase of use. It shall not include electrical and electronic components which may, during*

*the lifespan of the tool concerned, be replaced from time to time and which can fulfil their function also by not being part of that tool;*

*Justification*

*This covers amendments 155 and 172.*

**Consolidated amendment 1g**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 3 - point p d (new)**

*Text proposed by the Commission*

*Amendment*

*(pd) 'non-road mobile machinery intended exclusively for professional use' means equipment as defined in Directive 97/68/EC which is only made available for use by professionals;*

*Justification*

*This is linked to compromise 1a, which includes a new exclusion for non-road mobile machinery intended exclusively for professional use.*

**Consolidated amendment 1h**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 4 - paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that, EEE including spare parts for its repair or its reuse placed on the market does not contain the substances listed in Annex IV.

1. Member States shall ensure that, EEE including spare parts for its repair or its reuse, *cables, consumables and accessories, and parts for recalibration or updating of functionalities or upgrading of capacity* placed on the market does not contain the substances listed in Annex IV

[...].

*Justification*

*This covers amendments 28, 179 and 180.*

[...]

**Consolidated amendment 1i**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 4 - paragraph 4**

*Text proposed by the Commission*

4. Paragraph 1 shall not apply to spare parts for the repair or to the reuse of the following:

- (a) EEE placed on the market before 1 July 2006.
- (b) Medical devices placed on the market before 1<sup>st</sup> January 2014.
- (c) In vitro diagnostic medical devices placed on the market before 1<sup>st</sup> January 2016.
- (d) Monitoring and control instruments placed on the market before 1<sup>st</sup> January 2014.
- (e) Industrial monitoring and control instruments placed on the market before 1<sup>st</sup> January 2017.
- (f) EEE which benefited from an exemption and was placed on the market before that exemption expired.

*Amendment*

4. Paragraph 1 shall not apply to ***cables, consumables, accessories and*** spare parts for the repair or to the reuse, ***and not to parts for recalibration or updating of functionalities or upgrading of capacity,*** of the following:

- (a) EEE placed on the market before 1 July 2006.
- (b) Medical devices placed on the market before 1<sup>st</sup> January 2014.
- (c) In vitro diagnostic medical devices placed on the market before 1<sup>st</sup> January 2016.
- (d) Monitoring and control instruments placed on the market before 1<sup>st</sup> January 2014.
- (e) Industrial monitoring and control instruments placed on the market before 1<sup>st</sup> January 2017.
- (f) EEE which benefited from an exemption and was placed on the market before that exemption expired, ***as far as the relevant exemption is concerned.***

*Justification*

*This covers amendments 30, 139, 140, 184-189, and 312 (points 3-8)*





## 2. Compromise package II on Exemptions

### Compromise amendment 2a

Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils

### Proposal for a directive

#### Article 5

##### *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:

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

**(b)** Include materials and components of EEE in Annexes V **and** VI 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 or** technically impracticable;

- the **availability and** reliability of substitutes is not ensured,  
- 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;

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

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*

1. The Commission shall, for the purposes of adapting **Annexes V, VI and VIa** to scientific and technical progress **and taking into account the criteria established in Article 6a**, adopt the following measures:

**deleted**

**(a)** Include materials and components of EEE **for specific applications** in Annexes V, VI **and VIa** 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 technically impracticable;

- the reliability of substitutes is not ensured,  
- the negative environmental, health **and** consumer safety impacts caused by substitution are likely to outweigh the environmental, health **and** consumer safety benefits thereof **based on a life-cycle assessment where relevant**;

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

**The Commission shall adopt any such measure by means of an individual delegated act in accordance with Article 18.**

**Article 18(2).**

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.**

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

**The Commission shall take into account socio-economic impacts as defined in Annex XVI of Regulation (EC) 1907/2006 when deciding on the duration of an exemption or the renewal of an 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, including reasons due to intellectual property restrictions, 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 specific exemptions in Annexes V, VI and VIa shall indicate the date of granting the exemption, of its renewal, of its expiry, and of the grace period where applicable.**

**2a. Applications for granting, renewing or deleting 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 reflect the latest situation.**

**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) 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;*

*(c) 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;*

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

*(e) carry out an independent study on the justification of the application.*

*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. In case the Commission has not taken a decision by that time, the exemption shall be valid or remain valid until six months after the Commission has taken a decision.*

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.

***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.***

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.***

***deleted***

***3a. Notwithstanding the inclusion of materials and components in Annex V, VI or VIa, Member States shall take all measures necessary to ensure that economic operators reduce exposure to the substances listed in Annex IV in materials and components of EEE for consumers, workers and the environment to as low a level as is technically and practically possible.***

***3b. The Commission shall, by means of delegated acts in accordance with Article 18, adopt a harmonised format for applications pursuant to paragraph 2a.***

***3c. The Commission shall adopt comprehensive guidance on the application of paragraph 2a, taking into account the situation of SMEs.***

***3d. The Commission may, by means of delegated acts in accordance with Article 18, modify Annex VIb to add further elements to it.***

***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 equipment in categories 8 and 9. In case no decision is taken by that time, the exemptions granted in Annex V shall also be valid for such equipment.***

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

#### *Justification*

*This covers amendments 35-44, 99 (second part), 153, 177, 178, 196, 210-244, 245, 246-248, 249 (corresponding parts), 254, 255, 258-260, 264 and 318.*

**Compromise amendment 2b**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

**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 or deletion 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 concerned and its particular characteristics;***

***(c) a verifiable and fully referenced justification 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 referred to in point (d);***

***(f) a timetable for proposed actions by the applicant to develop, to request the development and/or to apply possible alternatives referred to in point (d);***

***(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.*

*Justification*

*This covers amendment 46, 249 (corresponding parts) and 338.*

**Compromise amendment 2c**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

**Proposal for a directive**

**Annex V – introductory paragraph**

*Text proposed by the Commission*

*Amendment*

*Applications exempted from the ban in  
Article 4(1)*

*Applications exempted from the ban in  
Article 4(1) as regards categories 1, 2, 3,  
4, 5, 6, 7 and 10*

*Unless stated differently, the applications  
in this Annex shall expire on [...\*]*

*\* insert date 48 months after entry into force*

*Justification*

*Clarification of the Commission's intention that Annex V is not valid for categories 8 and 9. This is to be read in conjunction with compromise 2a point 4a, which creates a review mechanism of the application of the exemptions in this Annex for categories 8 and 9, with default application of the exemptions in this annex to categories 8 and 9 in case no decision is taken within 18 months.*

*This covers amendment 72.*

**Compromise amendment 2d**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

**Proposal for a directive**

**Annex VI – introductory paragraph (new)**

*Text proposed by the Commission*

*Amendment*

*Unless stated differently, the applications  
in this Annex shall expire eight years  
after the dates referred to in Article 4(3).*

## *Justification*

*This covers amendment 73.*

### **Compromise amendment 2e**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, 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).***

## *Justification*

*This covers amendment 74 (first part), 336 (first part) and 337.*

### **Compromise amendment 2f**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

### **Proposal for a directive**

#### **Recital 13**

*Text proposed by the Commission*

*Amendment*

(13) Exemptions from the substitution requirement should be permitted if substitution is not possible from the scientific and technical point of view, taking specific account of the situation of SMEs or if the negative environmental, health ***or socio-economic*** impacts caused by substitution are likely to outweigh the health, environmental ***or socio-economic*** benefits of the substitution ***or the availability and reliability of substitutes is not ensured***. Substitution of the hazardous substances in electrical and electronic

(13) Exemptions from the substitution requirement should be permitted if substitution is not possible from the scientific and technical point of view, taking specific account of the situation of SMEs or if the negative environmental ***and*** health impacts caused by substitution are likely to outweigh the health ***and*** environmental benefits of the substitution. Substitution of the hazardous substances in electrical and electronic equipment should also be carried out in a way so as to be compatible with the health and safety of



equipment should also be carried out in a way so as to be compatible with the health and safety of users of electrical and electronic equipment. The placing on the market of medical devices requires a conformity assessment procedure, according to Directives 93/42/EC and 98/79/EC, which could require the involvement of a notified body designated by Competent Authorities of Member States. If such a notified body certifies that the safety of the potential substitute for the intended use in medical devices or in vitro medical devices is not demonstrated, this will be viewed as a clear negative socio-economic, health and consumer safety impact. It should be possible to apply for exemptions of equipment coming under the scope of this Directive from the date of its entry into force, even when that is before the actual inclusion in the scope of that equipment.

users of electrical and electronic equipment. ***Socio-economic considerations should be taken into account when deciding on the duration of an exemption. It should be possible to grant a grace period after expiry of an exemption in case more time is required to ensure adequate availability of substitutes, including for reasons due to intellectual property restrictions.*** The placing on the market of medical devices requires a conformity assessment procedure, according to Directives 93/42/EC and 98/79/EC, which could require the involvement of a notified body designated by Competent Authorities of Member States. If such a notified body certifies that the safety of the potential substitute for the intended use in medical devices or in vitro medical devices is not demonstrated, this will be viewed as a clear negative socio-economic, health and consumer safety impact. It should be possible to apply for exemptions of equipment coming under the scope of this Directive from the date of its entry into force, even when that is before the actual inclusion in the scope of that equipment.

#### *Justification*

*This covers amendments 10, 91 and 92.*

#### **Compromise amendment 2g**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

#### **Proposal for a directive Recital 14**

##### *Text proposed by the Commission*

(14) Exemptions from the prohibition for certain specific materials or components should be limited in their scope, in order to achieve a gradual phase-out of hazardous substances in electrical and electronic equipment, given that the use of those substances in such applications should

##### *Amendment*

(14) Exemptions from the prohibition for certain specific materials or components should be ***adopted case-by-case and should be*** limited in their scope ***and time***, in order to achieve a gradual phase-out of hazardous substances in electrical and electronic equipment, given that the use of

become avoidable.

those substances in such applications  
should become avoidable.

*Justification*

*This covers amendments 11, 93, 94, 95, 96*

### **3. Consolidated package III on methodology for future restrictions**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Julie Girling, Sabine Wils**

**Amendments that are part of the compromise package without change:**

3, 4, 7, 34, 271

**Amendments that will be covered by the amendments above:**

49, 104, 273

#### **Consolidated amendment 3a**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Julie Girling, Sabine Wils**

**Proposal for a directive**

**Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 6a**

##### **Review**

*Before [... \*], and periodically thereafter, the Commission shall, taking account of the precautionary principle, and based on an impact assessment, review and amend the list of prohibited substances in Annex IV if it is considered that a substance, or a group of similar substances in EEE or in the waste derived from it, is detrimental to the environmentally sound recovery or disposal of waste electrical and electronic equipment, or has an adverse impact on human health or the environment during use of EEE or treatment of waste EEE.*

*[...]*

*Particular attention shall be paid during that review if such substances or groups of substances:*

*(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 release to the environment of the substance or of hazardous residues,*

*transformation or degradation products thereof during its life cycle, and in particular during the preparing for reuse, recycling or other treatment of materials from WEEE, including during sub-standard operations in the Union and in third countries;*

*(c) could result in unacceptable exposure of workers involved in the collection, reuse, recycling or treatment of WEEE;*

*(d) could give rise to significant quantities of secondary hazardous waste during the preparing for reuse, recycling or other treatment of materials from WEEE;*

*(e) could be replaced by safer substitutes or alternative technologies via design changes or materials and components which have less negative impacts on environmentally sound recovery or disposal of waste EEE or less negative impacts on human health and the environment.*

*During that review, the Commission shall consult interested parties including economic operators, recyclers, treatment operators, environmental organisations and employee and consumer associations. The Commission shall also take into account any relevant dossier submitted to the European Chemical Agency under Regulation (EC) No 1907/2006 or other Community legislation. It shall also take into account the possibility of granting exemptions for those applications where such substitutes or alternative technologies are not yet available.*

*The Commission shall adopt measures to extend the scope of Annex IV, as appropriate, by those dates and periodically thereafter, by means of delegated acts in accordance with Article 18.*

*A Member State or the European Parliament may request the Commission any time to submit such a proposal. Such a request shall be duly justified on the*

*basis of the criteria set out in this Article. The Commission shall consider the request and adopt measures, if appropriate, no later than twelve months after the reception of the request, by means of delegated acts in accordance with Article 18.*

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

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

### *Justification*

*This covers amendments 48, 101, 102, 197-205, 206, 207, and 268-270.*

### **Consolidated amendment 3b**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Julie Girling, Sabine Wils**

### **Proposal for a directive**

### **Recital 12**

#### *Text proposed by the Commission*

(12) *As* soon as scientific evidence is available and taking into account the precautionary principle, the prohibition of other hazardous substances and their substitution by more environmentally friendly **alternatives** which ensure at least the same level of protection of consumers should be examined, **paying** attention to coherency with other Community legislation, **and in particular to** Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). Specific account should be taken of the potential impact on SMEs.

#### *Amendment*

(12) **Periodically, and** as soon as scientific evidence is available, and taking into account the precautionary principle, the prohibition of other hazardous substances and their substitution by more environmentally friendly **alternative substances or technologies** which ensure at least the same level of protection of consumers should be examined. **To this end, the Commission should study the negative impacts of other hazardous substances and the feasibility of their substitution, in particular at the end of life of electrical and electronic equipment, with a view to making legislative proposals to strengthen the provisions of this Directive on a regular basis. This examination should include a full impact assessment with consultation of relevant stakeholders. The examination should**

*also pay* attention to coherency with other Community legislation *and maximise synergies with the work carried out under* Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)<sup>1</sup> Specific account should be taken of the potential impact on SMEs.

*Justification*

*This covers amendments 9, 87 and 88.*

**Consolidated amendment 3c**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Julie Girling, Sabine Wils**

**Proposal for a directive**

**Recital 23a (new)**

*Text proposed by the Commission*

*Amendment*

***(23b) A thorough analysis of the added value of the RoHS Directive should be carried out in the context of the upcoming review of Regulation (EC) No 1907/2006.***

*Justification*

*This covers amendments 90 and 103.*

#### **4. Consolidated package IV on Annex III**

**Consolidated amendment 4a** (formerly part of the amendment on future restrictions)

**Jill Evans, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Article 6 a - third last subparagraph (new)**

*The substances or groups of substances listed in Annex III shall be considered as a priority.*

#### *Justification*

*This covers amendments 201-205 corresponding parts (particular emphasis on Annex III in the review, as proposed by the Commission).*

**Consolidated amendment 4b**

**Jill Evans, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Annex III**

#### *Text proposed by the Commission*

#### *Amendment*

Substances referred to in **Article 4(7)**

Substances referred to in **Article 6a**

**1. Hexabromocyclododecane (HBCDD)**

**1. Brominated flame retardants**

**2. Chlorinated flame retardants**

**3. Polyvinylchloride (PVC)**

**4. Medium-chain chlorinated paraffins (MCCP)**

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

**5. 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.**

**3. Butyl benzyl phthalate (BBP)**

**4. Dibutylphthalate (DBP)**

#### *Justification*

*This covers amendments 70, 71, 306-311, 313-315.*

## Consolidated amendment 4c

Jill Evans, Kathleen van Brempt, Chris Davies, Sabine Wils

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

(6) The substances covered by this Directive are scientifically well researched and evaluated and have been subject to different measures both at Community and at national level.

##### *Amendment*

(6) The substances covered by this Directive are scientifically well researched and evaluated and have been subject to different measures both at Community and at national level. ***More evaluation is necessary to assess whether it is justified to establish restrictions on substances or groups of substances listed in Annex III.***

##### *Justification*

*This covers amendments 81-84.*

## Consolidated amendment 4d

Jill Evans, Kathleen van Brempt, Chris Davies, Sabine Wils

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) The measures provided for in this Directive take into account existing international guidelines and recommendations and are based on an assessment of available scientific and technical information. The measures are necessary to achieve the chosen level of protection of human and animal health and the environment, having regard to the risks which the absence of measures would be likely to create in the Community. The measures should be kept under review and, if necessary, adjusted to take account of available technical and scientific information.

##### *Amendment*

(7) The measures provided for in this Directive take into account existing international guidelines and recommendations and are based on an assessment of available scientific and technical information. The measures are necessary to achieve the chosen level of protection of human and animal health and the environment, having regard to the risks which the absence of measures would be likely to create in the Community. The measures should be kept under review and, if necessary, adjusted to take account of available technical and scientific information. ***The risks to human health and the environment arising from the use of substances listed in Annex III should be considered as a priority.***



*Justification*

*This covers amendments 85 and 86.*

**Consolidated amendment 4e**

**Jill Evans, Kathleen van Brempt, Chris Davies, Sabine Wils**

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

(11) The technical development of electrical and electronic equipment without heavy metals, ***PBDE and PBB*** should be taken into account.

*Amendment*

(11) The technical development of electrical and electronic equipment without heavy metals, ***brominated flame retardants, chlorinated flame retardants, PVC and hazardous plasticisers [...]*** should be taken into account.

*Justification*

*This covers amendment 8.*

## **5. Consolidated package V on Annex nanomaterials**

**Jill Evans, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

### **Amendments that are part of the compromise package without change:**

- definition: 159
- prohibition: 316
- labelling: 263
- recital: 80

### **Amendments that will be covered by the compromise:**

- definition: 160, 175
- prohibition: 313 (last part)
- recital: 97

### **Consolidated amendment 5a**

**Jill Evans, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

#### **Proposal for a directive**

#### **Article 3 - point p b (new)**

*Text proposed by the Commission*

*Amendment*

*In view of the various definitions of nanomaterials published by different bodies at international level and the constant technical and scientific developments in the field of nanotechnologies, the Commission shall adjust and adapt point (pa) of the subparagraph above to technical and scientific progress, taking into account definitions subsequently agreed at international level, by means of delegated acts in accordance with Article 18.*

*Justification*

*This is needed as an addition to amendment 159.*

**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 that can lead to exposure of consumers no later than [...\*\*].***

***4. The Commission shall develop a standard for the identification and detection of nanomaterials by means of delegated acts in accordance with Article 18 no later than [...\*\*\*].***

***5. The Commission shall develop detailed rules for the application of the labelling requirements of paragraph 3 by means of delegated acts in accordance with Article 18 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.***

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

*Justification*

*This covers amendments 250, 251, 261 (corresponding part), 263, 309 (point 8), 310 (point 2, 317 (points 1 and 2)).*

**Consolidated amendment 5c**

**Jill Evans, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

**Proposal for a directive**

**Recital 14a (new)**

*Text proposed by the Commission*

*Amendment*

***(14a) The use of nanomaterials in electrical and electronic equipment may increase with the further development of technology. There is inadequate information about the use of nanomaterials other than nanosilver and certain carbon nanotubes in electrical and electronic equipment and the risks associated with such use. In order to enable the Commission to assess the safety of nanomaterials in electrical and electronic equipment, economic operators should notify the use of nanomaterials in electrical and electronic equipment and provide all relevant data with regard to their safety for human health and the environment. The Commission should assess the information received, and come forward with a legislative proposal for adequate risk management, if necessary. Producers should label electrical and electronic equipment that contains nanomaterials that can lead to exposure of consumers to enable consumers to make an informed choice.***

*Justification*

*This is linked to amendment compromise 5c.*

## 6. Compromise package VI on delegated acts

Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils

Amendments that are part of the compromise package without change:

98, 295, 298, 299

### Compromise amendment 6a

Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils

#### Proposal for a directive

##### Article 6

*Text proposed by the Commission*

*Amendment*

##### ***Implementing measures***

##### ***Delegated acts***

***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:

***- 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)

- Complying with the maximum concentration values of Article (4)(2), ***inter alia by defining a de minimis volume, and specific rules for surface coatings.***

***- Sampling and inspection of electrical and electronic equipment.***

***- A harmonised format for a material declaration for EEE materials, components and parts, including details of the concentration of substances regulated under this directive.***

***- 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).*

*deleted*

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

#### *Justification*

*This covers amendments 45, 47, 208, 209, 251-262 and 264-266.*

#### **Compromise amendment 6b**

**Jill Evans, Boguslaw Sonik, Kathleen van Brempt, Chris Davies, Julie Girling, Sabine Wils**

#### **Proposal for a directive Recital 20**

##### *Text proposed by the Commission*

*(20) In particular the Commission should be empowered to adapt Annexes II, III, IV, V and VI to technical and scientific progress and to adopt other necessary implementing measures. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/95/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.*

##### *Amendment*

*(20) In order to allow the provisions of this Directive to be adapted to technical and scientific progress and to adopt other necessary measures, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect of the adaptation of Annexes V, VI, VIa and VIb, the adoption of a format for applications for exemptions, detailed rules for compliance with maximum concentration values, on sampling and inspection, the definition of nanomaterials, standards for the detection of nanomaterials, the application of the labelling of nanomaterials and adaptations to REACH.*

#### *Justification*

*This covers amendments 100 and is linked to compromise 6a.*

## 7. Consolidated package VII on additional restrictions

Amendments that are part of the consolidated package without change:  
195 (first part)

### Consolidated amendment 7a

Jill Evans, Kathleen van Brempt, Sabine Wils

#### Proposal for a directive

##### Article 4 - paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that EEE including spare parts for its repair or its reuse, cables, consumables and accessories, and parts for recalibration, updating of functionalities or upgrading of capacity, placed on the market does not contain the substances listed in Annex IV, Part B.***

*Justification*

*This covers amendment 29, 181 and 182.*

### Consolidated amendment 7b

Jill Evans, Kathleen van Brempt, Sabine Wils

#### Proposal for a directive

##### Article 4 - paragraph 5 b (new)

*Text proposed by the Commission*

*Amendment*

***5b. Paragraph 1a shall not apply to cables, consumables, accessories and spare parts for the repair or to the reuse, and not for parts for recalibration or updating of functionalities or upgrading of capacity of the following:***

***(a) EEE placed on the market before [... \*],***

***(b) EEE which benefits from an exemption and was placed on the market before that exemption expired, but only as far as the relevant exemption is***

*concerned.*

*\* insert date 42 months after entry into force.*

*Justification*

*This covers amendment 32 and 194.*

**Consolidated amendment 7c**  
**Jill Evans, Kathleen van Brempt, Sabine Wils**

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

*Text proposed by the Commission*

*Amendment*

***5a. Without prejudice to Article 6a, paragraph 1a shall apply to EEE falling under the categories 3 and 4 set out in Annex I which are placed on the market from [...\*]***

***\* insert date 42 months after entry into force.***

*Justification*

*This covers amendment 31.*

**Consolidated amendment 7d**  
**Jill Evans, Kathleen van Brempt, Sabine Wils**

**Proposal for a directive**  
**Article 6 a - second subparagraph (new)**

***In particular, the Commission shall, no later than [...\*], present proposals for subjecting equipment which falls under categories 1, 2, 5, 6, 7, or 10 to Article 4(1a), and no later than [...\*\*] present proposals for subjecting equipment which falls under category 8, 9 or 11 to Article 4(1a).***

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



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

*Justification*

*This covers amendments 269 and 270 (corresponding part (i.e. second sentence).*

**Consolidated amendment 7e**  
**Jill Evans, Kathleen van Brempt, Sabine Wils**

**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
	<b><i>Part A</i></b>
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%)
	<b><i>Part B</i></b>
	<b><i>Brominated flame retardants (0,1%)</i></b>
	<b><i>Chlorinated flame retardants (0,1%)</i></b>
	<b><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 (0,1%).</i></b>

## *Justification*

*This covers amendment 71, 313, 314, 315.*

### **Consolidated amendment 7f**

**Jill Evans, Kathleen van Brempt, Sabine Wils**

### **Proposal for a directive**

#### **Recital 4**

#### *Text proposed by the Commission*

(4) The available evidence indicates that measures on the collection, treatment, recycling and disposal of waste electrical and electronic equipment (WEEE) as set out in Directive 2002/96/EC are necessary to reduce the waste management problems linked to the heavy metals concerned **and** the flame retardants concerned. In spite of those measures, however, significant parts of WEEE will continue to be found in the current disposal routes. Even if WEEE were collected separately and submitted to recycling processes, its content of mercury, cadmium, lead, chromium VI, PBB and PBDE would be likely to pose risks to health or the environment.

#### *Amendment*

(4) The available evidence indicates that measures on the collection, treatment, recycling and disposal of waste electrical and electronic equipment (WEEE) as set out in Directive 2002/96/EC are necessary to reduce the waste management problems linked to the heavy metals concerned, the ***halogenated*** flame retardants **and** ***hazardous phthalates*** concerned. In spite of those measures, however, significant parts of WEEE will continue to be found in the current disposal routes. Even if WEEE were collected separately, and submitted to recycling processes, its content of mercury, cadmium, lead, chromium VI, ***brominated flame retardants, chlorinated flame retardants and certain phthalates*** would be likely to pose risks to health or the environment.

## *Justification*

*This covers amendment 6.*