Japan Machinery Center for Trade and Investment

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Japan

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13th February 2008

European Commission
Rue de la Loi 200
1049 Brussels - BELGIUM

Dear Sir / Madam,

Japan Machinery Center for Trade and Investment is a nonprofit organization established in 1952 in accordance with the Export and Import Transaction Law. It comprises about 300 major and medium-ranked companies engaged in exporting or investing in a broad range of machinery, including manufacturers of electrical and electronic equipment, trading firms and engineering companies.

Our committee handles environmental issues over products for trade and is strongly concerned with environment-related regulations on product in Europe and other countries. From this standpoint, we would like to comment on Invitation for comments on Policy Options and for Information Supply regarding the Review of Directive 2002/95/EC.

We would like to express our thanks for the transparency of the Review of the RoHS Directive and are delighted to have this opportunity to submit our comments on the Review.

If you have any questions, please feel free to contact our secretariat (Mr. Hideaki Fukasawa, E-mail : fukasawa@jmcti.or.jp).

Sincerely yours,

Takao Sato
Chairman
Trade and Environment Committee
Japan Machinery Center for Trade and Investment

JMCTI response

to the Invitation for Comments on Policy Options and for Information Supply regarding the Review of Directive 2002/95/EC

13 February, 2008

I. PRODUCT GROUPS TO BE INCLUDED [ARTICLE 6 OF ROHS]	
Since the final ERA report has made recommendations based on an analysis of reliability and failure, the conclusions of the report should be respected, in principle, for making decisions. It is also desirable, however, that sufficient consideration be given to new developments concerning the studies on addition of restricted substances and removal of existing exempted applications with respect to the two categories of equipment.	
II. SUBSTANCES COVERED [ARTICLE 6 OF ROHS]	
Option 1 to 6	We believe that the currently six restricted substances should be maintained, considering that many companies have already established their management systems concerning those substances, and that chemicals are managed comprehensively under the REACH.
Option 7	Labelling is not required for the six substances restricted under the RoHS Directive. No requirements should therefore be introduced for unrestricted substances.
Option 8	It is not appropriate to regulate easy removability of parts which is difficult to be assessed.
III. TECHNICAL CHANGES TO THE SCOPE OF THE DIRECTIVE	
Option 1	It is not necessary to separate WEEE from the scope of the RoHS, since no major disadvantages have occurred in the market as of the current time.
Option 2	We absolutely oppose this option. It would necessitate changing the designs of past products and entail greater cost and administrative burdens than necessary. The periods for supplying spare parts are determined based on how long the products will be operational in the market. If the spare parts were included and restricted, even products lawfully placed on the market after July 1, 2006 might have to be collected and disposed of. Spare parts should not be covered, therefore, from the perspective of saving resources.

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Option 5	It is not necessary to define the status of consumables, since there are no disadvantages for us thanks to the current FAQs of the European Commission.
Option 6 to 7	We oppose assessing whether or not products, the definition of which has not been generally accepted, should be included.
Option 8	We oppose extending the scope to cover the whole EEE, since the status quo has not been fully assessed.
Option 9	It is not necessary to add those categories since it is, after all, just an indicative annex.
Option 10	We support this option if it is intended to exclude parts for repairing and reuse to extend product usable period for those products lawfully placed on the market and the exemptions are removed for them later on. The reason for our support is that it would contribute to saving resources.
IV. DEFINITIONS	
Option 1	Industry refers to the definitions the European Commission provides for in its FAQs concerning this matter. Since we find no disadvantages in this, we consider that the current definition should be maintained to avoid confusion.
Option 2 to 5	We oppose these options, since we see no disadvantages in connection with the current situation.
Option 6	It is more desirable to improve the FAQs of the European Commission than to insert definitions in the RoHS Directive.
Option 7	There is no special need to insert a definition for such a generic term as “spare parts.”
V. FACILITATING IMPLEMENTATION	
Va. Enforcement of the RoHS Directive	
Option 1	The Enforcement Guide for the RoHS Directive published by the informal network should be respected, and we request that the administrative procedures be unified throughout the EU member states.
Option 2	If the criteria for conformity assessment are to be clarified, self-declaration scheme should be strengthened in accordance with the criteria as opposed to CA procedures through third-party verification, toward which we take a negative stance.

Option 3	We oppose this option. There is no need to introduce marking, since self-declaration is in place. Marking would entail a heavy burden on manufacturers.
Option 4	We support this option. The Enforcement Guide for the RoHS Directive published by the informal network should be respected, and we request that the administrative procedures be unified throughout the EU member states in a way that will lessen the burden on both member states and us.
Option 5	We support this option on a conditional basis. For the purpose of implementing the directive in a flexible, convenient and cost-effective manner, we would prefer self-declaration based on international standards to new provisions inserted into the RoHS Directive.
Option 6	We oppose this option. It is more efficient to collect information through self-declaration by industry based on international standards than to insert an obligation into the directive requiring the respective member states to collect information from industry.
Option 7	We oppose this option. We see no disadvantages in the current situation. Inserting a review clause for the purpose of identifying “candidate” products or substances could cause uncertainty and confusion. It would also be difficult to find generally acceptable, qualified and easily measurable indicators to assess the impacts on the environmental, social and internal markets.
Option 8	We oppose this option. We see no disadvantages in the current situation. Without such forums, specialist stakeholders can still participate in the decision-making process.
Option 9	We oppose this option. We recognize no advantage to introducing redundant provisions, since these matters should be covered in the scope of the existing WEEE directive.
Vb. Mechanism for exemptions	
<Comments on Entire Section Vb> Appropriate mechanisms for considering exemptions require high-level transparency throughout the decision-making process, from the phase of examining applications to the phase of granting exemptions. Our comments 1 to 9, given below, should be taken into consideration.	
Option 1	We oppose this option. We see no disadvantages in the current situation.

Option 2	We oppose this option. We consider that the current practice should be maintained, since it is important to consult stakeholders.
Option 3	New technologies that have not been applied to any products on the market should be given exemptions if they can improve functions and performance significantly. In addition to new technologies and products, exemptions should also be granted to applications for which no substitutes are available.
Option 4	We absolutely oppose this option. If industry were to assume the burden of proof, it would become more difficult to ensure fairness, transparency and accountability to every business due to the influence of the interests of individual sectors.
Option 5	Manufacturers request exemptions because they find it difficult to provide substitution plans. Exemption requests should be considered separately from substitution plans.
Option 6	We support this option. It would simplify and speed up the decision-making process for examining exemption requests.
Option 7	We support this option on a conditional basis. We would support this option, in principle, if stakeholders could refer to criteria reflecting environmental, social and economic factors and access all information concerning the whole decision-making process, from the phase of considering exemption requests to the phase of granting exemptions.
Option 8	Introducing other criteria in addition to Option 7 would create extremely complex criteria and impose excessive burdens on the public authorities and applicants. As a result, this option could become a source of potential problems.
Option 9	Submission of exemption requests directly to the TAC could lead to a situation in which decisions are made without consultation. This could lead to the possibility that exemptions might be granted for applications for which many companies could find substitutes, simply because a fraction of the companies could not do so for some reason. Stakeholders should be given access to all information concerning the whole decision-making process, ranging from exemption criteria to exemption requests and decisions. Consultation should also be initiated. We are also in favor of allowing applicants to give a presentation at a TAC meeting, if necessary. This presentation should also be disclosed.