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Dear Madam, Dear Sirs,

Thank you for your letter of 9 July concerning the stakeholder consultation on "Adaptation to scientific and technical progress under Directive 2002/95/EC (RoHS) on the restriction of the use of certain hazardous substances in electrical and electronic equipment". In your letter you express the concern on the way the consultation was conducted, more particularly regarding DecaBDE.

Let me first of all assure you that our stakeholder consultation was undertaken in agreement with the relevant Commission services, the Legal Service included. Indeed, I think Article 5(2) of the RoHS Directive is straightforward: "Before the Annex is amended pursuant to paragraph 1, the Commission should *inter alia* consult producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations". The comments have to be forwarded to the Technical Adaptation Committee (TAC) and the Commission has to provide an account of the information received. Therefore, the process for the amendment of the Annex is carried out in a transparent manner, involving all the parties concerned.

In this context it is also worth underlining that the consultation did not address Article 5.1 (c). Maybe this clarifies a misunderstanding. Another aspect I like to mention is the fact that we need flexibility to accommodate justified requests for new exemptions. One might differ as regards the evidence for such requests, but I am very confident that the directive's committee is perfectly able to judge whether or not they have enough evidence concerning the different decisions.

However, I understand that your main concern relates to DecaBDE. The European Parliament, in second reading, after the adoption of the Common Position on RoHS stated in its justification "*In the directive....the European Parliament voted for a phase out of all PBDEs with respect to this specific application by 1 July 2006. As regards Deca BDE, it should nevertheless be possible to lift this ban depending on the results of the risk assessment currently in progress*". And the ROHS directive itself says "The Commission shall evaluate the applications,..., in order to establish whether these items are to be amended accordingly." Given the importance of DecaBDE, this evaluation had and has my fullest attention.

The meeting of the Competent Authorities (CAs) for the implementation of Regulation 793/93 on Existing Substances held in Dublin on 26 May 2004 concluded that additional information is required to address the remaining scientific uncertainties, supported the launch of an environmental monitoring programme and agreed that the most appropriate mechanism to determine which measures are best to address outstanding concerns is the risk reduction strategy procedure under Regulation 793/93.

I see therefore, like you, outstanding safety concerns related to DecaBDE and agree that proportionate precautionary measures are necessary to reduce DecaBDE's emissions in the environment. Therefore, under the current circumstances, I will not propose to the Commission that it lift the ban on DecaBDE currently existing under the RoHS Directive. I assume this meets your concerns.

Yours sincerely,

  
Margot WALLSTRÖM