



LIGHTINGEUROPE
THE VOICE OF THE LIGHTING INDUSTRY

Communication to the GLA

Current Revisions to EU

Environmental Legislation

Introduction

Currently, there are two important legislative processes in the European Union, which are going to change the rules regarding the use of mercury in lamps. One is related to the regular revision of the RoHS exemptions (Directive on Restriction of Hazardous Substances 2011/65), the other is related to the recent adoption of a new law - Regulation on Mercury - which will transpose the Minamata Convention in the EU acquis.

Some recent communications around these subjects are mixing up the above two processes and as a result making inaccurate statements on what will be allowed and what not.

In this paper LightingEurope would like to explain the status of these processes and what can be expected.

RoHS - Mercury

The RoHS directive prohibits the placement of electronic products, which contain mercury, lead, cadmium and another seven substances on the EU Market. According to RoHS, products such as mercury-containing lamps, LEDs and other electronic devices are allowed on the market only if certain hazardous materials they contain are below a specific threshold – listed in the exemptions in Annex III and Annex IV of RoHS. These exemptions are reviewed regularly. During the revision, various stakeholders are consulted, and they communicate their very diverse and sometimes extreme opinions. At the end of a lengthy and complex process the European Commission (EC) publishes its decision in the form of draft individual Delegated Acts.

We are currently in the middle of a review of the RoHS exemptions. At the present stage of the review process, the national governments of the EU are being consulted. After this, the first draft acts of the EC will be published end Q3/Q4 2017.

These draft acts will then be subject to a global consultation via the WTO notification process which lasts for sixty days. At the end of the process the European Council and the European Parliament scrutinise the text – this will most likely take place early 2018 (February). The earliest the final agreed text will be published is most likely Q2 2018.

LightingEurope is participating actively in the discussions, providing technical and socio-economic input with the aim to extend the exemptions for an additional five years for all relevant mercury-containing lamps. LightingEurope presented its positions on 1st September 2016, where it emphasized that many mercury-containing lamps do not have

an adequate replacement in LED lamps yet. These concerns were also raised in the 3 letters we have sent to the EU.

In February 2017, LightingEurope was asked to contribute to a Socio-Economic Impact Assessment, carried out by the Oeko Institute at the request of the European Commission. This Impact Assessment was aimed at demonstrating the effects of 2 scenarios on the European Market: the renewal or the non-renewal of the exemptions.

The timetable for the Commission to publish the Delegated Acts with the exemptions has been prolonged – they were originally expected for late June or July 2017, LightingEurope now understands these will be published towards end Q3/early Q4 2017.

The exemptions will most probably be grouped into several Acts. These acts will be subject to an EU online consultation for 4 weeks (EU Better Regulation consultation), where any interested parties may submit public comment on the Acts. Simultaneously, the Acts will be notified to the WTO and WTO members have 8 weeks to notify any concerns they may have about the proposed Acts posing a barrier to trade.

Regulation on Mercury

The European Union recently adopted a new law on mercury. The Regulation (EU) 2017/852 on mercury entered into force on 13 June 2017 and the measure will apply from 1 January 2018. This will repeal the law currently in force on the Prohibition of Mercury Export and will transpose the stipulations of the Minamata Convention on Mercury.

The Minamata Convention on Mercury and the new EU Regulation on Mercury regulate all aspects and use of mercury from mining until disposal. There special provisions on the import, export and manufacturing of mercury-containing products, therefore also on lamps. The Minamata Convention explicitly names the prohibited uses of mercury. Any use which is not prohibited is allowed.

As far as the lighting sector is concerned, the text agreed by the EU legislators is acceptable for LightingEurope members. The new EU Regulation on Mercury concerns only general lighting purpose lamps. The new EU regulation will not have any impact on special purpose lamps. It will allow the European manufacturing and export of general lighting purpose lamps, as long as they are below a certain mercury-content limit listed in Annex II of the law.

This new law is largely harmonised with the RoHS Directive exemptions, and it doesn't weaken the provisions of RoHS on imported lamps.

The EU RoHS Directive has stricter requirements than Minamata.

RoHS - Cadmium

As mentioned above, at present the European Commission is still working on its draft delegated acts for the Mercury exemptions.

However, concerning the Cadmium exemption 39, the Commission has published a draft Delegated Act on 6th February 2017, which reads as follows: "Cadmium selenide in downshifting cadmium-based semiconductor nanocrystal quantum dots for use in display lighting applications (< 0.2 µg Cd per mm² of display screen area)" - Expires for all categories on [two years after the publication of the Delegated Directive in the Official Journal]".

LightingEurope has expressed its disappointment that the exemption does not cover lighting, and has proposed a change in the wording for display applications (see LightingEurope feedback to the public consultation¹).

Both the EU and the WTO consultations periods are closed and the Commission is currently processing the input it has received. The Commission intends to publish the final Draft Delegated Act for Cadmium at the end of August 2017, when it will be sent for scrutiny to the Council and European Parliament.

In the meantime, it is important to specify that the exemption is still valid while the renewal process is still ongoing. For lighting applications, LightingEurope is currently preparing a new exemption request demonstrating that cadmium-based specific illumination applications have benefits over other light source alternatives.

To the members of the Global Lighting Association

You have the chance to express your opinion on the renewal of the RoHS exemptions via the WTO notification procedure. It will start most probably by the end of Q3/early Q4 2017, and will last 60 days.

You can argue in favour of keeping the exemption and show that its removal could constitute a barrier to trade. LightingEurope proposes that you

1. Inform your members, who have vested interests in exporting products that need RoHS Mercury exemptions
2. Find arguments reflecting why it is necessary to maintain a certain exemption: technical, environmental, socio-economic
3. Determine how a concern at WTO needs to be filed (department responsible, contact persons)

The period of 60 days for the WTO notification is short: the decisions of the EU are not clear yet and good arguments are needed to your government to submit a concern.

LightingEurope is an industry association of 34 European lighting manufacturers, national associations, and companies producing materials. LightingEurope members represent over 1,000 European companies, a majority of which are SMEs; a total workforce of over 100,000 people in Europe; and an annual turnover estimated to exceed 20 billion euros. LightingEurope is dedicated to promoting efficient lighting practices for the benefit of the global environment, human comfort, and the health and safety of consumers.

For further information please contact:

Ms Ourania Georgoutsakou, Secretary-General, LightingEurope
+32 (0)471 02 83 22
ourania.georgoutsakou@lightingeurope.org

¹ Link to the LightingEurope contribution to the Public Online Consultation:
http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-644052_en