



U.S. CHAMBER OF COMMERCE

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TO: H.E. Dr. Saad bin Othman Al-Kasabi
Governor
Saudi Standards, Metrology and Quality Organization (SASO)
Riyadh
Kingdom of Saudi Arabia

SUBJECT: Technical Regulation for Restriction of Hazardous Substances
(RoHS) in electrical and electronic devices and equipment (EEE)

DATE: March 3, 2021

The U.S. Chamber of Commerce (“Chamber”) is pleased to offer our recommendations to the Saudi Standards, Metrology and Quality Organization (SASO) on the Technical Regulation for Restriction of Hazardous Substances (RoHS) in electrical and electronic devices and equipment (EEE).

The Chamber is the world’s largest business federation, representing the interests of more than three million enterprises of all sizes and sectors. The Chamber is a leading business voice on key policy issues, and in the U.S. and around the world, we advocate for sound policy frameworks that promote a thriving private sector, support economic growth, and foster innovation. Through our U.S.-Saudi Arabia Business Program, the Chamber closely engages the U.S. and Saudi governments to advance bilateral trade and investment, while addressing policy issues of concern to the U.S. business community.

The Chamber commends the Kingdom of Saudi Arabia’s (“KSA” or “Kingdom”) efforts to introduce limits and restrictions on hazardous substances in electrical appliances and equipment. Implementing such policy is important for consumer protection and environmental safety, and the Chamber supports such regulations especially as it relates to global standardization so as to better facilitate trade of electrical appliances and equipment.

There have been concerns from several of the Chamber's member companies with regards to some aspects of the current draft regulation. We take this opportunity to share some observations and recommendations towards the implementation of this regulation based on international best practices in this area.

Recommendation #1: Ensure alignment of regulations with existing international laws and best practices

In order to ensure a globally harmonized approach for chemical substances regulations on electronics, the Chamber encourages full alignment of the draft Saudi Arabia RoHS technical regulations with existing global RoHS type laws and international standardization, particularly IEC 63000. The global electronics industry has already adopted internal processes based on IEC 63000 to ensure its products' compliance with global substance restrictions for electronic products and can easily adapt to a similar regulation in Saudi Arabia.

Recommendation #2: Revise the proposed conformity assessment procedure to allow for self-compliance via industry

The conformity assessment process proposed in article 5 and Annex 3 (Type 1a type approval as per ISO/IEC 17067) mandates the preapproval of products and the examination of a sample of the product, or one or more of the risk parts prior to being granted RoHS Certificate. This procedure deviates from the implementation norm of RoHS globally.

Global norms allow for a conformity program based on self-compliance without the need for testing and certification of every product. Conformity assessment should be based on submission of a declaration of conformity to be provided by manufacturers and on implementation of international standard IEC 63000, whereby manufacturers collect technical documentation and provide that to authorities upon request in the context of post-market surveillance activities. This approach is implemented, known, and accepted by manufacturers, notified bodies, and enforcement authorities globally.

As per international standard IEC 63000, the type of technical documentation that a producer collects depends on the risk assessment that the producer makes. Producers can collect different types of technical documents (for example, contractual agreements and/or material declarations and/or test reports). It is important to note that test reports are one of the technical documentation options but that they are not mandatory.

Should SASO still proceed with conformity assessment testing, it should consider the following with regards to RoHS test reports:

- The test reports should not have a specified validity period as long as there has been no change in product components.

- Test reports can be reapplied for different product type numbers of the same category provided product components are similar.

Recommendation #3: Redefine the scope of the regulation

The current definition of EEE is not fully harmonized with global definitions. The Chamber proposes aligning with global EEE definitions: "Equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1000 volts for alternating current and 1500 volts for direct current".

The Chamber also proposes the following exemptions from the scope of the regulation in line with global practices on RoHS:

- Cables or spare parts for the repair, reuse, updating functionalities, or upgrading the capacity of electrical and electronic equipment, that were placed on the market before the Saudi RoHS regulation entered into force.
- Means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved.
- Equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis.
- Equipment necessary for the protection of the essential interests of the security of the Kingdom of Saudi Arabia, including arms, munitions, and war material intended for specifically military purposes.
- Equipment designed to be sent into space.
- Equipment which is specifically designed, and is to be installed, as part of another type of equipment that is excluded or does not fall within the scope of this technical regulation, which can fulfil its function only if it is part of that equipment, and which can be replaced only by the same specifically designed equipment.
- Large-scale stationary industrial tools.
- Large-scale fixed installations.
- Non-road mobile machinery made available exclusively for professional use.
- Photovoltaic panels intended to be used in a system that is designed, assembled and installed by professionals for permanent use at a defined location to produce energy from solar light for public, commercial, industrial and residential applications.
- Instruments used to store and dispense medication.

Recommendation #4: Simplify required technical documentation and clarify the process for providing such documentation

The regulation does not make clear how technical documentation must be provided. Under existing legislation globally, it is highly unusual to attach technical documents or technical files to the consignments/products, so the Chamber recommends that technical documentation be provided upon request of the authorities in the context of post-market surveillance but that providing it with consignments/products not be mandated. This is in line with the technical documentation requirements as outlined in IEC 63000.

Furthermore, the draft RoHS regulation requires that importers and manufacturers submit design and manufacturing diagrams in detail at the unit, division, and sub-division level of products. These requirements are challenging because it requires importers and manufacturers to reveal trade secrets and business-sensitive information. The Chamber thus recommends simplifying what documentation is necessary to provide in order to allow companies leeway to protect trade secrets.

Recommendation #5: Lengthen the timeline for implementation of the regulation

It is unclear in the regulation text when the provisions will go into full effect. A transition period of six months as foreseen in Article 10/1 or one year (Article 10/2), from publication in the Official Gazette is too short a time for economic operators, notified bodies, and other stakeholders to create global awareness and enable a smooth and effective implementation of requirements by all the stakeholders. We recommend at a minimum 18-month transition time for entry into force after publication in the Official Gazette to give adequate time for companies to ensure compliance.

The draft regulation also mandates the RoHS regulation's retroactive implementation and prohibits selling previously imported products before the RoHS implementation. Such requirements will impact products that were imported before the RoHS regulation comes into effect and that remain unsold in the retailers/resellers' shops and warehouses. We recommend that the RoHS regulation be applied to products imported to Saudi Arabia after the enforcement date without a retroactive application for the products manufactured or imported before the RoHS implementation date.

Recommendation #6: Appoint an appeals committee through which to resolve conflicts during the compliance process

As industry encounters problems and issues during the compliance process that might cause products to not receive approval, there should be a clear and fair process that gives manufacturers and importers a reasonable opportunity to justify and explain their application prior to a final decision being taken by SASO.

The Chamber thanks SASO and the Kingdom of Saudi Arabia for the opportunity to provide these comments. The U.S. business community is engaged in significant trade and investment with the Kingdom and is proud of its continued contributions to our vibrant bilateral economic relationship. We look forward to continued dialogue on the KSA's regulatory ecosystem.

Sincerely,

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