

Questionnaire 1 (Clarification) for Exemption III-6(a) and III-6(a)(I) (EUROMOT)

Current wording of exemptions 6(a) and 6(a)(I)

No.	Exemption	Scope and dates of applicability
III-6(a)	Lead as an alloying element in steel for machining purposes and in galvanised steel containing up to 0,35 % lead by weight	Applies to categories 8, 9 and 11, and expires on <ul style="list-style-type: none"> - 21 July 2021 for cat. 8 other than in-vitro diagnostic medical devices, and cat. 9 other than industrial monitoring and control instruments - 21 July 2023 for category 8 in-vitro diagnostic medical devices - 21 July 2024 for category 9 industrial monitoring and control instruments, and for category 11
III-6(a)(I)	Lead as an alloying element in steel for machining purposes containing up to 0,35 % lead by weight and in batch hot dip galvanised steel components containing up to 0,2 % lead by weight	Expires on 21 July 2021 for categories 1-7 and 10

Acronyms and Definitions

- Cat. Category, referring to the categories of EEE specified in Annex II of the current RoHS Directive
- COM European Commission
- EEE Electrical and electronic equipment

1. Background

Bio Innovation Service, UNITAR and Fraunhofer IZM have been appointed¹ by the European Commission through for the evaluation of applications for the review of requests for new exemptions and the renewal of exemptions currently listed in Annexes III and IV of the RoHS Directive 2011/65/EU.

EUROMOT et al. submitted a request for a five year renewal of exemption III-6(a) for EEE of category 11 in its current wording:

¹ Implemented through the specific contract 070201/2020/832829/ENV.B.3 under the Framework contract ENV.B.3/FRA/2019/0017

Table 1: Requested exemption renewal

No.	Requested exemption	Requested scope and dates of applicability
III-6(a)	Lead as an alloying element in steel for machining purposes containing up to 0.35 % lead by weight	Applies to category 11 and expires on 21 July 2029

As result of a first review we identified that some information is missing. Against this background the questions below are intended to clarify some aspects concerning the request at hand.

We ask you to kindly answer the below questions until 11 September 2023 latest.

2. Questions

1. Could you please confirm that Table 1 correctly reflects the requested renewal of the exemption?

Yes

2. Exemptions 6(a) and 6(a)(I) were reviewed by Baron et al. (2022)² resulting in the below recommendation including also EEE of cat. 11:

Table 2: Renewal of current exemptions 6(a) and 6(a)(I) proposed by Baron et al. (2022)

Exemption formulation	Duration
6(a): Lead as an alloying element in steel for machining purposes containing up to 0,35 % lead by weight and in galvanized steel containing up to 0,35 % lead by weight	– 21 July 2023 for category 8 in vitro diagnostic medical devices; – 21 July 2024 for category 9 industrial monitoring and control instruments, and for category 11.
6(a)-I: Lead as an alloying element in steel for machining purposes containing up to 0,35 % lead by weight	Expires on 21 July 2024 for all categories
6(a)-II: Lead in batch hot dip galvanised steel components containing up to 0,2 % lead by weight	Expires on 21 July 2026 for all categories

Source: Baron et al. (2022)

The European Commission (COM) have not yet officially published their decision as to the adoption of the above recommendation. The COM wishes the consultants' to assess in this current review round whether there are any substantial reasons in line with Art. 5(1)(a) against the adoption of the above recommendation for EEE of categories 8, 9 and 11.

² C.f. Öko-Institut, https://rohs.exemptions.oeko.info/fileadmin/user_upload/RoHS_Pack_22/RoHS_Pack-22_final_report_amended_February_2022.pdf



Would you agree to the above recommended exemptions for cat. 11? If not, please explain your objections taking into account the findings and arguments presented in the report of Baron et al. (2022)² in particular with view of the criticism raised as to lacking information on where lead-free alternatives may be viable and where not.

Although it is recognised that Baron et al. has made the recommendations above. Due to the later addition of product category 11 "other electrical or electronic equipment - EEE" into the scope of RoHS, products falling into this category have been permitted additional time to transition to non-restricted substances. The changes to include category 11 into RoHS2 was not impact assessed at the point of its implementation, nevertheless all products fitting into the 'open scope' need to comply with RoHS.

It is known that lead-free machining alloys are marketed by alloy manufacturers and are being used. However, these alloys are not always drop-in replacements to the lead-based alloys used in internal combustion engines, associated components, and end-products in which these are used. Therefore, it is always necessary for EUROMOT's members to carry out research and testing to determine whether each potentially viable substitute is suitable. The exemption is requested to allow the necessary testing to be undertaken, as components cannot be incorporated into current designs without this being undertaken. Many of the applications EUROMOT member produce are critical, such as back-up generators or operate in highly dangerous environments such as mining and construction. As a consequence of this, design changes to all components needs to be rigorously and formally assessed.

At least 5 years is expected to be necessary as if the properties of the alternative alloy are significantly different such that either the engine design needs to change, or this could potentially affect reliability or emissions, then it may be necessary to gain approval for the engines made with alternative alloy parts as required by the EU engine emissions legislation.

- In case that the renewal of the current exemption 6(a) beyond 2024 can be justified in line with Art. 5(1)(a), we would like to propose the renewal as exemptions 6(a)(I) and 6(a)(II) like listed in Table 2 to be consistent with the recommendation of Baron et al. (2022).

Table 3: Renewal of current exemptions 6(a) and 6(a)(I) proposed by Baron et al. (2022)

No.	Exemption	Scope and dates of applicability
III-6(a)	Lead as an alloying element in steel for machining purposes and in galvanised steel containing up to 0,35 % lead by weight	Applies to categories 8, 9 and 11, and expires on <ul style="list-style-type: none"> - 21 July 2021 for cat. 8 other than in-vitro diagnostic medical devices, and cat. 9 other than industrial monitoring and control instruments - 21 July 2023 for category 8 in-vitro diagnostic medical devices - 21 July 2024 for category 9 industrial monitoring and control instruments, and for category 11
III-6(a)(I)	Lead as an alloying element in steel for machining purposes containing up to 0,35 % lead by weight	Applies to all categories and expires on <ul style="list-style-type: none"> - 21 July (2024+X) for cat. 11 - 21 July 2024 for all other categories

III-6(a)(I)	Lead in batch hot dip galvanised steel components containing up to 0,2 % lead by weight	Applies to all categories and expires on <ul style="list-style-type: none"> - 21 July (2026 + Y) for cat. 11 - 21 July 2026 for all other categories
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X and Y can range between 0 and 5 years

Please comment on this proposal explaining clearly any obstacles you see if you do not agree to the proposal.

We would agree that the above proposal would be suitable for 6(a)(I) relating to machining purposes if X were to equal 5 years. 5 years is necessary to undertake essential testing as outlined in the renewal request in section 7.

The proposal for 6(a)(I) relating to hot dip galvanised is not necessary to permit additional time for category 11.

Please note that answers to these questions will be published as part of the evaluation of this exemption request. If your answers contain confidential information, please provide a version that can be made public along with a confidential version in which proprietary information is clearly marked.

We ask you to kindly provide the information in formats that allow copying text, figures and tables to be included into the review report.

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We ask you to kindly provide the information in formats that allow copying text, figures and tables to be included into the review report.

3. References

Baron et al. (2022): Study to assess requests for a renewal of nine (-9-) exemptions 6(a), 6(a)-I, 6(b), 6(b)-I, 6(b)-II, 6(c), 7(a), 7(c)-I and 7 (c)-II of Annex III of Directive 2011/65/EU (Pack 22) – Final Report (Amended Version). Under the Framework Contract: Assistance to the Commission on technical, socio-economic and cost-benefit assessments related to the implementation and further development of EU waste legislation. Author(s): Yifaat Baron, Carl-Otto Gensch, Andreas Köhler, Ran Liu, Clara Löw, Katja Moch, Oeko-Institut e. V. (Pack 22). retrieved from



https://rohs.exemptions.oeko.info/fileadmin/user_upload/RoHS_Pack_22/RoHS_Pack-22_final_report_amended_February_2022.pdf