

Annex: Specific study request – 'Specific terms of reference'
(under Framework contract ENV.A.2/FRA/2015/0008)

1. Context/General Information

Directive 2000/53/EC¹ on end-life-vehicles ("ELV" Directive hereafter referred to as "the Directive") bans the use of certain substances in vehicles. According to the provisions of Article 4(2)(b) of the Directive, its Annex II, containing a number of specifically exempt uses, is updated on a regular basis according to scientific and technical progress, in order to evaluate, in particular, whether the use of these substances is still unavoidable. To date, Annex II to the Directive has been adapted eight times (in 2002, 2005, 2008, 2010, 2011, 2013, 2014 and 2017)².

Any adaptation of the Annex needs to follow the requirements of the Directive. In particular:

- Article 4(2)(a) of the Directive provides that "Member States shall ensure that materials and components of vehicles put on the market after 1 July 2003 do not contain lead, mercury, cadmium or hexavalent chromium other than in cases listed in Annex II under the conditions specified therein."
- Annex II to the Directive lists a limited number of components and materials of vehicles which are exempt from the requirements of Article 4(2) (a) and may contain, according to the case, specific amounts of lead, mercury, cadmium or hexavalent chromium. This Annex also specifies the scope and expiry date of the exemptions as well as, where relevant, an obligation for marking materials and components containing heavy metals in order to enable removing them before shredding.
- Annex II also provides review dates for a number of the exemptions.
- Article 4(2) (b) provides for a regular adaptation of Annex II to scientific and technical progress. It stipulates that, in accordance with the procedure laid down in Article 11, Annex II shall be amended on a regular basis, according to technical and scientific progress in order to:
 - (i) as necessary, establish maximum concentration values up to which the existence of the substances referred to in subparagraph (a) in specific materials and components of vehicles shall be tolerated;
 - (ii) exempt certain materials and components of vehicles from the provisions of subparagraph (a) if the use of these substances is unavoidable;
 - (iii) delete materials and components of vehicles from Annex II if the use of these substances is avoidable;
 - (iv) under points (i) and (ii) designate those materials and components of vehicles that can be stripped before further treatment; they shall be labelled or made identifiable by other appropriate means."

¹ OJ L 269, 21.10.2000, p. 34.

² http://ec.europa.eu/environment/waste/elv/events_en.htm

2. Subject of the study

According to Annex II, exemptions **8(e)**, **8(f)(b)** and **8(g)** need to be reviewed in 2019. Exemption **14** has no review date but needs to be reviewed in order to be aligned, inter alia, with Directive 2002/95/EC on the Restriction of Hazardous Substances (RoHS)³ and Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)⁴.

Exemption **8(j)** bans the use of lead for the application concerned before 1 January 2020. However, evidence has been relayed to the Commission of technical difficulties regarding the feasibility of phasing out the use of lead in solders for soldering of laminated glazing, as required in this exemption, for vehicles type approved before 1 January 2020. The Commission services have by consequence decided to re-assess the exemption **8(j)**. Given the closeness of the date of expiry of the current exemption while taking into account the delay of 6 months given for transposition into Member States 'national legislation, this entry is to be re-assessed as a time-wise priority.

As part of the review, a stakeholder consultation shall be organised (as described in detail below).

3. Tasks to be performed

Task 1: Assessment and evaluation of the exemptions

The consultant shall provide a technical and scientific assessment of the exemptions under section 2 above. This shall be reflected in a report with separate sections for each of the entries to be assessed. The report concerning the assessment of entry **8(j)** shall be finalised in a separate deliverable, to be provided according to the timeline below.

For all exemptions to be assessed:

The assessment shall comply with the requirements of the ELV Directive. The detailed boundaries of the assessment shall be discussed and agreed with the Commission services in the kick-off meeting at the beginning of the project.

In particular, the consultant shall:

- Compile information and documents, the related current uses of the restricted substances, including the quantities of the restricted substance present in the applications concerned;
- Identify any substitution possibility with regard to the restricted substance and the use concerned;
- Assess if the elimination or substitution of the restricted substances via design changes or different materials and components is currently technically or scientifically possible;
- If substitutes exist, assess their use and, where relevant, any obstacles to their use;

³ OJ L 174 1.7.2011, p. 88

⁴ OJ L 136, 29.5.2007, p. 3

- The assessment shall take into account other relevant legislation such as REACH and RoHS and, where applicable, identify the possible need for aligning the wording of the exemption;
- Identify the prospects for future availability of alternative techniques or materials by an expiry date of an exemption / any other date;
- Identify efforts made, in particular by the industry concerned, for identifying available alternatives with regard to the exemptions in question and with regard to developing alternatives;
- Provide a clear assessment and conclusive evaluation of whether the exemptions are still justified in light of with the requirements of the Directive ("unavoidable");
- Consider previous assessments relevant for the exemption requests published at: http://ec.europa.eu/environment/waste/elv_index.htm;
- For all entries evaluated, identify a draft wording for Annex II reflecting the technical and scientific assessment.

The above list is not exhaustive and will be agreed during the kick-off meeting.

With regard to the exemption 8 (j), the assessment shall be based on the previous assessment⁵, while fully taking into account the above criteria. The assessment should principally focus on the technical feasibility of replacement of lead in the application concerned, and take into account any additional information that has become available following the conclusion of the previous assessment. This shall include consultation of relevant stakeholders to be identified in consultation with the Commission.

The offers shall include a roadmap of the work planning; the detailed timetable of the work, a consultation plan and a stakeholders list are to be presented in a draft report for the inception meeting and will be completed with the Commission following the inception meeting.

Task 2: Stakeholder Consultation

A draft consultation plan, including a list of relevant stakeholders, is to be submitted to the Commission before the kick-off meeting, to be considered at that meeting.

The consultant shall organise and perform a stakeholder consultation as outlined here:

This exercise shall be conducted following the minimum standards for consultation of interested parties set in the Commission Communication COM (2002) 704 final of 11.12.2002 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF>).

This consultation should start at an early stage of the project.

The consultation will follow the Better Regulation Guideline requirements for consultations carried out by the Commission (see http://ec.europa.eu/smart-regulation/guidelines/ug_chap7_en.htm). These sources will provide further guidance e.g. on the general principles and minimum standards. It should also link to the consultation on the DG ENV consultation page, publication of answers/results/report on the web in close

⁵ See 7th adaptation of Annex II in http://ec.europa.eu/environment/waste/elv/events_en.htm

cooperation with the Europa webmaster (env-europa@ec.europa.eu). Before the end of the contract, the contractor shall deliver the results of the consultation for publishing on the Europa website.

Stakeholder consultation shall be an iterative process. At the beginning of the project, the contractor shall set up a website and keep it updated with regular reports indicating the progress of work. The contractor shall host the website. The non-confidential contributions of the stakeholders shall be posted on the website.

Information about the launch of the evaluation of the selected exemption should be clearly presented to all relevant stakeholders.

4. Guide and details of how the tasks are to be carried out

The duration of the tasks regarding entries 8(e), 8(f)(b), 8(g) is **10** months from the date of signature of the contract.

A separate deliverable (report) shall cover the assessment of entry 8(j), to be provided within **6** months from the date of the signature of the contract.

The execution of the tasks may not start before the contract has been signed.

The place of performance of the tasks shall be the contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises.

Frequent contact with the Commission will take place during the elaboration of the study in order to provide for a smooth and effective exchange as necessary. The contractor shall be available for clarification requests from the Commission (by email or phone) following the publication of the study until the Commission adopts the decision on the requests concerned.

The contractor does not have the authority to publish the deliverables without prior authorisation from the Commission. All matters related to this study should be treated with confidentiality.

5. Estimated expertise requirement

Expert workload corresponding to maximum [REDACTED] (including possible travel and subsistence costs).

6. Experience (professional qualifications) required of the contractor

The contractor should demonstrate that the team is technically capable of carrying out the works in all areas as described in this technical annex and show that the core team has proven experience in the field of assessing the technical and scientific aspects of Directive 2000/53/EC.

The contractor should be able to provide all the deliverables to the Commission in quality-checked English.

7. Estimated timetable

- **Kick-off meeting:**

Within 2 weeks of the specific contract signature, the contractor shall participate in a kick-off meeting with the Commission to discuss the detailed methodology, timing and consultation plan of the study. This shall be based on a draft roadmap to be provided by the consultant for the meeting, as well as a consultation plan identifying the stakeholders to be consulted and the means of consultation. This meeting will be held in the Commission's offices in Brussels unless both parties agree to hold it by a telephone conference.

- **Reports:**

- Interim report: Shall be submitted to the Commission before the end of the second month following the signature of the specific contract for entry 8(j) and before the end of the fourth month following the signature of the specific contract for entries 8(e), 8(f)(b), 8(g) and 14. These reports can be informal showing the progress of the evaluation.

- Draft final report: For entry 8(j), a draft final report shall be submitted before the end of the fourth month. For entries 8(e), 8(f)(b), 8(g) and 14 a draft final report shall be submitted to the Commission before the end of the eighth month following the signature of the specific contract.

- Final Report: For entry 8(j), a final report shall be submitted before the end of the sixth month. For entries 8(e), 8(f)(b), 8(g) and 14 a final report shall be submitted to the Commission by the end of the duration of this specific contract. The final reports should take into account the comments from the participants in the above mentioned stakeholders consultation. The study report shall then be finalised by the end of this specific contract, after taking into account the Commission comments.

The contractor shall start working immediately after the signature of the contract.

All reports shall be provided on paper (one copy) and in electronic form (WORD 7 or higher version format). The reports shall be drafted in English.

The contractor shall include in the offer the availability for one meeting with the Commission in Brussels, if necessary.

- **Duration:** **10 months**

- **Budget:** 