



Advancing the Business of Technology

The U.S. High-Tech Industry and The EU WEEE Directive

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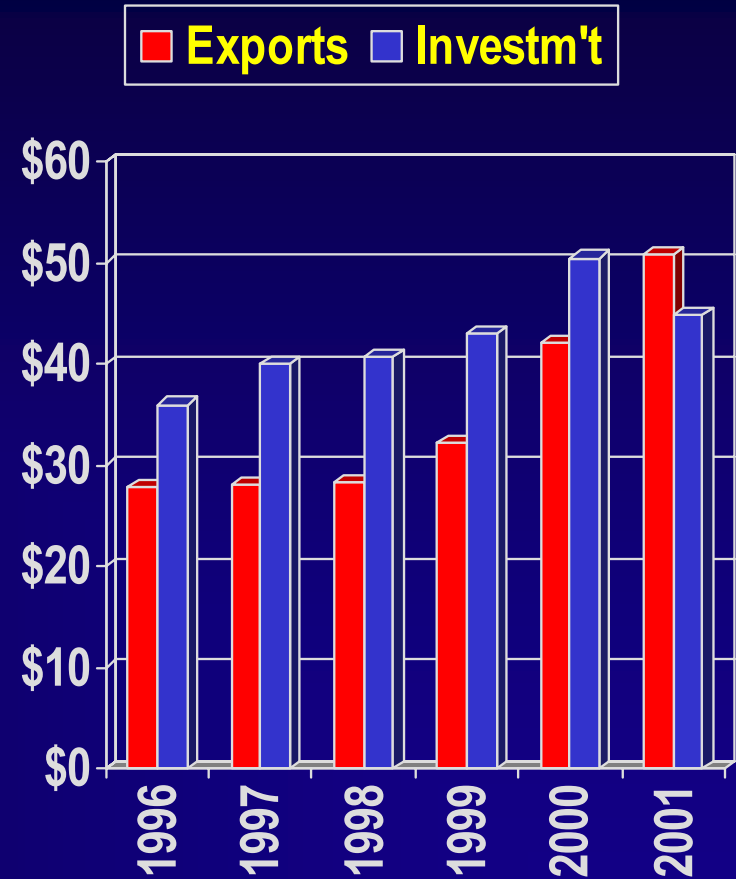
October 10, 2002

About AeA and High-Tech Trade

- AeA represents 3,000+ members and is the nation's largest high-tech trade association
- AeA has 17 Councils in the U.S., as well as offices in Brussels and Beijing
- The high-tech industry is the largest importing and exporting sector in the U.S., as well as the largest overseas manufacturing investor

U.S.-EU High-Tech Economic Ties

- **EU is U.S. High-Tech Industry's Largest Goods Export Market**
 - \$51 billion in 2001
 - 83% growth between 1996-2001
 - 24% of total U.S. high-tech goods exports
- **EU is U.S. High-Tech Investor's Primary Int'l Destination**
 - \$45 billion in 2001
 - 25% growth since 1996



Political Background

- **1992 Rio Summit on Sustainable Development**
 - Set out global strategy on Sustainable Development
- **1993 Fifth Environmental Action Plan**
 - Based on precautionary principle, shared responsibility, and producer pays
- **1996 Commission paper on Waste Management**
 - Emphasized reuse and recovery
- **1996 European Parliament asked Commission for a Legislative Proposal**
 - Based on extended producer responsibility

Political Background

- **1997 Council issued a Strategy on Waste**
 - Asked for Commission projects on e-waste
- **1998 DG ENV floated the First Draft of WEEE**
 - Included waste management provisions AND design mandates (materials bans and use of recycled plastics)
- **1998 - 2000 Four Drafts of WEEE went through the Commission Inter-Services Consultation**
 - Aggressive industry lobbying against the design mandates
 - Industry paid less-attention to the waste management provisions (except the white goods manufacturers who lobbied for visible fees)

Political Background

- **July 2000 Commission split the WEEE into two Directives:**
 - WEEE - Based on Article 175
 - Restrictions on the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) - Based on Article 95
 - Also ended up with DG ENT mandate on EEE
- **Directives sent to the European Parliament (EP) and Council for amendment and co-decision**
 - Members of Parliament offered 300+ WEEE amendments and Parliament adopted 46.
 - Commission accepted 35.

Timing

- **2001 Sixth Environmental Action Plan**
 - Based on a reversal of the burden-of-proof onto the polluter and substitution principle
- **WEEE/RoHS Conciliation started on September 12, 2002**
- **Council and Parliament have until November 7 (or 8?) to adopt a FINAL text in the so-called “Third Reading”**
- **Possible compromises on key items may be reached today (October 10).**

Industry's Key Issues to be Resolved

- Individual Financing
- Flexible Systems
- Historic Waste
- Orphan Waste
- Design Provisions

Status of Key Provisions

- Biggest Outstanding Issue: FINANCING
 - Presidency has proposed new compromise amendments to Article 7 (financing), but for the moment all member-state delegations retain a scrutiny reservation

Key Provision #1: Individual Financing

- Presidency's Proposed Compromise, Article 7.2:
 - "To ensure the financing of the operations referred to in paragraph 1, **each producer finances the wastes of his own products**. The producer can choose to ensure this financing by means of either collective or individual financing schemes and in accordance with Community legislation."

Industry's Position: Individual Financing

- Producers should only be financially responsible for the take-back and treatment of their own products, b/c uniform take-back fees don't provide an incentive to companies drive down the costs of take-back, treatment, and recycling
 - Parliament strongly backing individual financing
 - Council still reticent, especially the U.K. that wants financing left up to Members States
 - May lead to fragmentation of the EU system

Key Provision #2: Systems

- Producers should be allowed to establish take-back, treatment, and recycling schemes that can be operated collectively
 - EP and Council agree and not in conflict with individual producer responsibility for financing
- Existing schemes in certain Member States should be allowed to continue their operations after the Directive has entered into force
 - Parliament text allows this

Key Provision #3: Historic Waste

- Presidency's Proposed Compromise, Article 7.3:
 - "The responsibility for the **financing** of the costs of the management of WEEE from products put on the market before expiry of the period referred to in paragraph 1 ("**historical waste**") shall be provided by **one or more systems to which all producers**, existing on the market when the respective costs occur, **contribute proportionately**, e.g. in proportion to their **respective share of the market** by type of equipment."

Industry's Position: Historic Waste

- Historic Waste
 - The cost for recycling should be shared collectively by all producers, in proportion to their respective market share when the recycling cost occurs
- Visible Fee
 - Producers should also be explicitly allowed to show the recycling cost for historical waste on their new products
 - Visible fee is allowed until March 2013

Key Provision #4: Orphan Products

- Presidency's Proposed Compromise, Article 7.4:
 - "To prevent costs for the management of WEEE coming from producers that are not longer present on the market (orphan products) or which can no longer be identified from falling on society or the remaining producers, Member states shall ensure that **each producer provides a guarantee** when placing a product on the market showing that its end of life will be financed. The guarantee may take the **form for the producer of his participation to a collective financing scheme for the WEEE or a subscription to a recycling insurance or a blocked bank account or participation to other appropriate financial scheme.**"

Industry's Position: Orphan Products

- To avoid orphaned products, the Parliament has suggested that each actor placing products on the market register with the local enforcement authorities and provide financial guarantees for the future recycling of these products through:
 - Recycling insurance
 - A blocked bank account, or
 - Participation by the producer in “appropriate” financial schemes for the financing of the management of WEEE (to be elaborated)

Industry's Position: Orphan Products

- When Orphan Products exist
 - If an actor has disappeared from the market without making provisions for its own waste, industry supports the Council language, which would require the **existing producers** on the EU market to **collectively pay** for the take-back, treatment and recycling of those products

Key Provision #5: Product Design

- The EP has proposed an amendment aimed to stop manufacturers from designing features that prevent the re-use of EEE and or their components at their end-of-life (Am. 22, Art. 3a)
 - “In order to promote the prevention of waste, Member States shall encourage the design and production of EEE which take into account and facilitate the dismantling, re-use and recovery, in particular the recycling of WEEE, their components and materials”

Industry Position: Product Design

- Because WEEE doesn't cover consumables, the Danish Presidency and the Commission agree:
 - Product design should be dealt with in the RoHS Directive (Art. 4.2 bis), if at all.
- EP hasn't agreed
- Industry opposes the amendment

Impact on Industry

- AeA estimates that for a mid-sized U.S. high-tech company, the financial impact of the WEEE could be approx. \$100 million to:
 - Recycle “historic” products (for the last 10 years)
 - Establish a product tracking system and materials database (2-year project)
 - Align operations (engineers, establish environmental processes, join professional organizations, hire legal counsel)

Impact on Industry

- Uncertain costs include:
 - The cost of the to-be-developed member-state take-back and recycling programs
 - EICTA estimated \$50 billion in the first few years
 - EU sees this as an employment generator
 - Necessary company reserves for future recycling
 - Data sharing arrangements
 - Future product reliability
 - Discussion: Add More?

AeA and AeA Europe Activities

- **AeA Europe EHS Committee** been working with the **European Commission (DG Environment), EP, and Member States on e-waste management since early 1990s**
 - AeA Europe Executive Cmte. Chair - Agilent
 - EHS Committee Chair - Sun
 - WEEE/RoHS Issue Lead - Hewlett Packard
 - Environmental Bulletin/Legal Issues - Allen & Overy
- **AeA U.S. provides technical and political support to AeA Europe**

AeA and AeA Europe Activities

- AeA Europe works with EICTA and JBCE, as well as the U.S. Mission to the EU, to lobby for changes
 - Key audiences: DG ENV, Trade, Enterprise, Internal Market, Council reps, MEPs, COREPER
- AeA U.S. has worked with the Transatlantic Business Dialogue (TABD), as well as many other U.S. high-tech trade associations
 - EIA, ITI, NEMA, SIA, TIA

AeA and AeA Europe Activities

- AeA works with U.S. Government (USG) to relay industry's concerns to Commission, EP and Member States
 - Office of the U.S. Trade Rep., Commerce Dept., State Dept., U.S. EPA
- AeA and USG have also worked with third-countries to raise awareness about the impacts of WEEE and RoHS on the global high-tech industry:
 - AeA briefed governments of Canada, Japan, Mexico, Costa Rica, Thailand
 - AeA and USG submitted comments to World Trade Organization Technical Barriers to Trade Cmte.