



## **Characters of European environmental regulation and JBCE' s role**

**June 15, 2006**

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# Who are we?

- JBCE (Japan Business Council in Europe) was founded in 1999 as the representative organization for Japanese companies operating in the European Union countries.
- JBCE's key objective is to contribute to EU policy issues in a positive way by utilizing the expertise developed in specific fields, such as environmental protection and technological innovation, drawing upon the experience gained in Japan and other countries.
- JBCE wishes to become one of the business-based organizations contributing to the achievement of EU goals.

# Our daily activities – JBCE's contribution to member companies

- Communication in JBCE is held only in English because involvement of the European professionals is very important. JBCE is not for Japanese people but for Japanese company.
- Provide “informal” update information to member companies
- Provide opportunity regarding preparing for lobbying or exchanging information with in JBCE members.  
Examples of the meeting is as following;
  - Environmental policy committee
  - WEEE & RoHS working group
  - EuP (Energy using product directive) working group
  - RoHS categories 8 & 9 (new amendment on medical equipment, control and monitoring equipment) working group

# Key Points to deal with EU environmental regulation

1. The sooner the better! Preparatory study by European commission (actually conducted by the consultant) > Co-decision procedure > Comitology procedure.
2. Act as European citizen. Should become the insider...Not to talk too much about the cost...Not be so demanding...etc...
3. Please do it by yourself. Not fully rely on the consultant. Need to show “Asian” faces. Communication with HQ is very important.
4. Need to understand uniqueness/complexity of European decision making structure.
5. Need to understand the strength of Japanese/Korean Industry. Requesting something does not make any sense. Necessary to contribute to regulators through our “assets” such as technology.
6. Separate the role between private sector and public sector (i.e. embassy) for EU lobbying. It depends on issues (how it is disciplinary) and bargaining power of the private sector.

## 2. Act as European – role of Japanese industrial associations

- > The role of the Non-EU (including Japanese industrial association) is different industry by industry.
- Automobile: ACEA cannot accept Japanese car manufacturer as member.
  - > JBCE has to work as representative of whole Japanese car industry.
- Electronics: EICTA has been accepted non-EU companies as member.
  - > JBCE will “make use of” EICTA’s opportunity. We leave many issues to EICTA. Mainly focus on lowly prioritized issue and conflicted issue.

### 3. Necessity of “Japanese” liaison in Europe

The impact of EU environmental regulation on Japanese business, and companies’ reaction

- EU environmental regulations have more than EU market impact. As many cases are related to product design and procurement, they become global supply chain issues.
- Also high-management issue because there are so much informal information and it is necessary to make decision based on the risk management.
  - More and more Japanese companies want to collect the information by themselves.
  - Competition among companies also provide motivation

# continued

- Necessary to have mutual exchanges of opinions between Europe and Japan
  - Europe: EU affairs including political atmosphere = European?, rarely Japanese
  - Japan: Technical issue and managerial decision = Japanese, difficult to find fluent English speaker
  - Who will take care of communication between Europe and Japan?
- As a result, more and more Japanese companies which send English speaking “Japanese” engineer to Brussels/Europe.

# 4. Political structure of EU

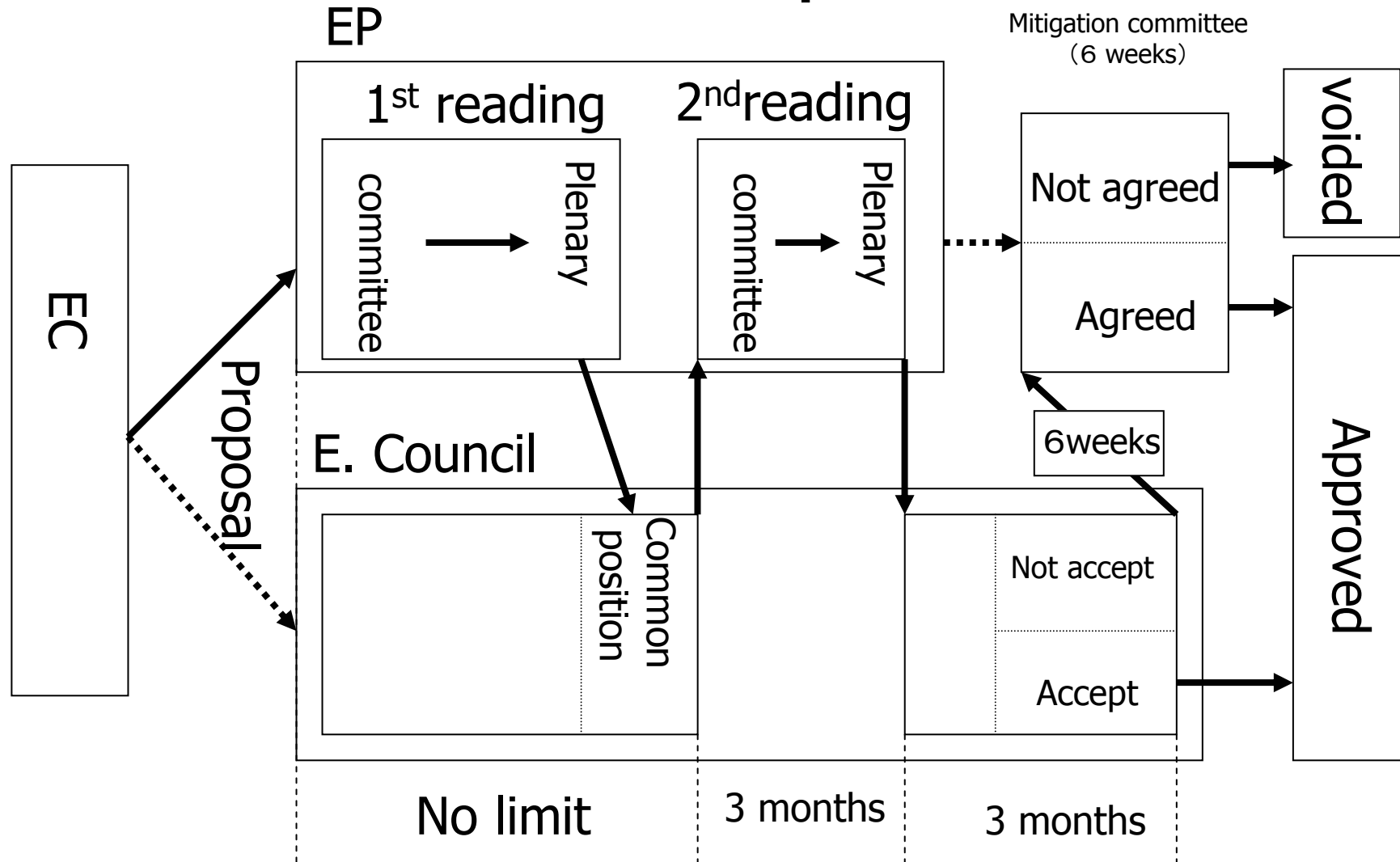
- Complicated structure. 3 institutions.
  - European Commission (government)
    - Having the right to propose the draft of new regulation
  - European Council (member states) = TAC (technical adaptation committee)
    - Representing the interests of member states. Decision is made by qualified majority voting (232 out of 321)
    - Weighted voting rights
      - 29 for Germany, France, Italy, UK
      - 27 for Spain, Poland
      - 13 for Netherlands....
      - 3 for Malta
    - Influence of the Nordic countries



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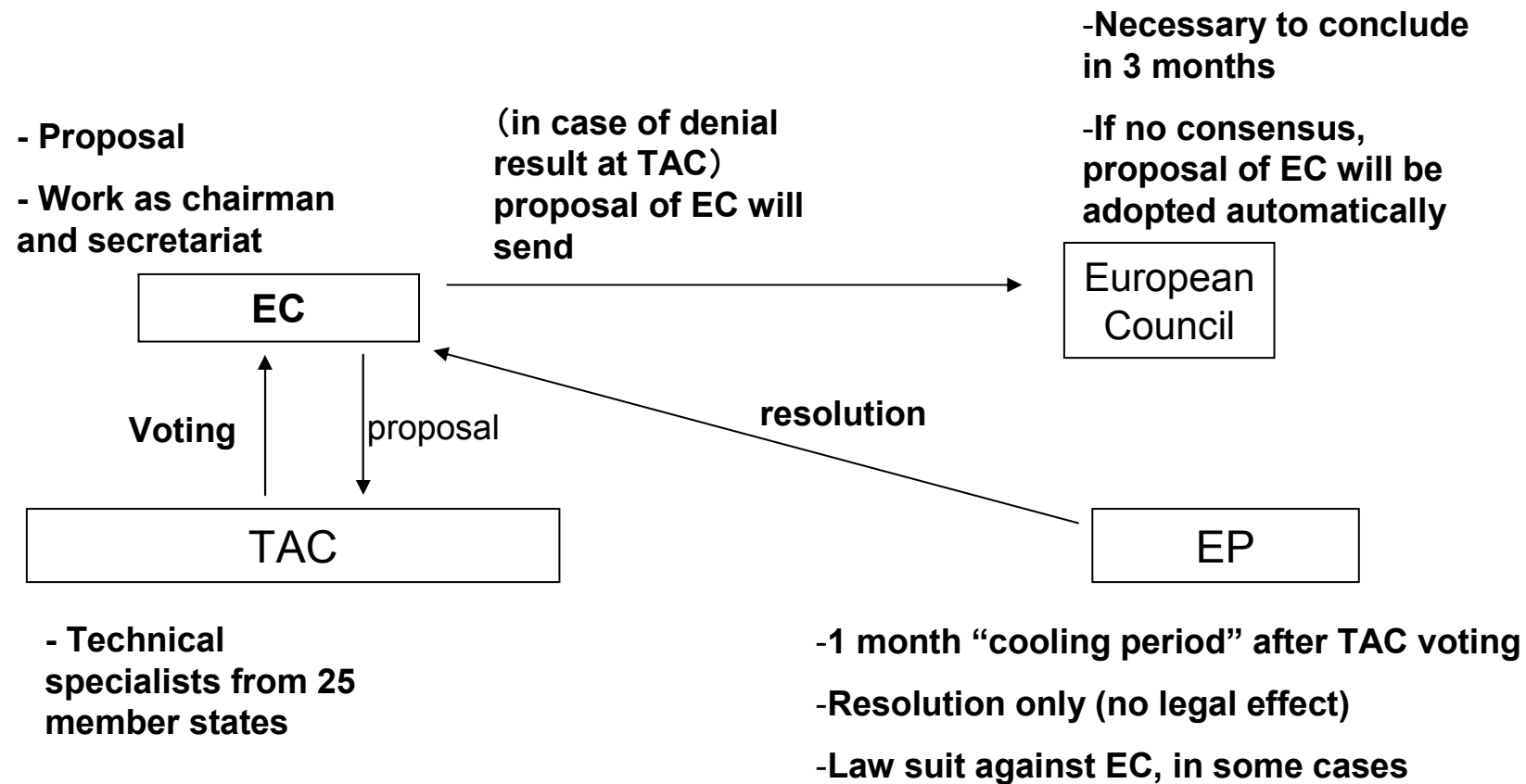
- European Parliament (members from member states are weighted by population of member states )
  - Act as party. Not act as representative of member states. More liberal position on environmental issue.
  - Influence of NGOs through green party

# Co-decision procedure



# Comitology procedure

■ For details of regulation. E.g exemption of RoHS



# Difference of “Regulatory Culture”

→ Vague part = discretionary powers to authorities finally exists. Disadvantage for non-EU companies.

- Authorities intentionally do not decide the details
  - So called, “New Approach”
  - In order to adjust the technical progress smoothly. “As you know technology, you can define the boundary of the scope (RoHS scope, commented by DG environment official)”

→ “Chilling” effect for business

- Precautionary principle
  - Sometimes not enough scientific discussion.
  - Less predictability for contents of regulation. This approach has harmful effect on business activities.
  - How is the response from the other world? (Similar type of reRoHS introduced in the many countries)

# Institutional conflicts in EU authorities

→ Institutional conflict in EU authorities cause harmful effect on procedure related to regulation. For example, in RoHS exemption procedure we faced;

- Delays of time schedule.
- Too much politicized discussion even in scientific area

They are very difficult manage.

- EP vs. EC
- European Council (member states) vs. EC

# Potential complexity of institutions in environmental regulation arena

- Complicated legal structure may be one reason why there are so many conflicts.
- Directive vs. regulation
  - WEEE, RoHS, EuP... Directive (Implementation of member states is necessary)
  - REACH... Regulation (Implemented by EC)
- Legal base article 175 vs. 95
  - WEEE...175 (Addition by member state is okay. I.e. no control from EC)
  - RoHS, EuP...95 (No allowance for addition. No freedom of member states)
  - But, WEEE and RoHS are implemented in the combined legal text in many member states!

## 5. Strength of Japanese/Korean companies, and implication for lobbying strategy

### 1. Japanese companies' case...our political influence in EU

- Less investment compared with US. We are the 3<sup>rd</sup> investor but 5-8 times less than 2<sup>nd</sup> (US).
  - > Necessary to collaborate with EU and US industry partners
- Global business model is more easily applied to electronics than automobile.
- Companies' nationality still exists. That is why lobbying for member states is difficult part. However, less "colors" in new member states.
  - > Importance of new member states based on the weighted voting rights

# Continued

## 2. Focusing more on “disciplinary” area

- Environmental policy area is more disciplinary than industrial or trade policy area.
- No protection concern for EU industry.
- If we can contribute to European environmental protection, that can be bargaining power.
- In case of WEEE and RoHS, the reason for our successful lobbying is our advanced regulation and technology.



## 6. Separation of role

- The role of private sector
  - More acceptable situation when we act as “European corporate citizen”
  - In case of the professional and/or technical proposal
  - Corporation issue with European / American industrial associations
  - Failure case with authorities (lobbying case of American companies. More confrontational.). Limit of the output in case of political compromise.
- Corporative issue with government
  - Contact with high level, response to political issue (in case of the institutional conflict) which exceeds disadvantage (confrontational situation)
  - Existence of legitimated argumentation like WTO issue (e.g. Discriminatory treatment for non-EU companies) is necessary.

# Hot environmental issue in Europe

## 1. RoHS

- RoHS exemptions
- “Put on the market”
- LSIT for category 6
- RoHS compliance

## 2. EuP

## 3. REACH

## 4. Category 8 & 9 of RoHS

## a) Exemption request

- Discussion on only 3 items in the second consultation round (Interest of Japanese Industry: PDP, SED and Optical isolator)
- RoHS will start from 01/07/06. However, exemptions are not fixed yet. Serious concern on time schedule. Otherwise, products should be withdrawn from the EU market.
- Belongs to Comitology procedure.
- Institutional conflict between Parliament and Commission.
- Other point: Economic discussion cannot be made.

# Current development and Future process

- Visited main TAC members.
- 26/04 TAC/ EC will discuss timing for voting
- End of May – voting by “writing” (email?)
- By end of June – to be effective

## b) Put on the market

- Issues for each member state's implementation
- EC/National border? Or others like retailer level?
- Should be EC level, otherwise distribution cost will increase

# Current development and Future process

- Approached high levels in EC
- Collaborative work with European trade associations
- EC sent out “warning” letter to several countries
- Almost solved. Still problematic/uncertain countries: Czech republic, Lithuania

## c) LSIT (Large-scaled Stationary Industrial Tools in cat. 6)

- Issues for interpretation of “fixed installation” and “tools”
- Linked with Article 2.1 of WEEE
- Issues each member state’s implementation and FAQ
- Necessary to separate Art.2.1 and Cat6 issue.
- Finally might need to amend FAQ for clarification EC/National border? Or others like retailer level?
- For at 8&9 products, they are heavily affected. Need to watch the situation carefully. On the other hand, necessary not to mix up two issues because discussion on “Fixed installation” is very controversial

# Current development and Future process

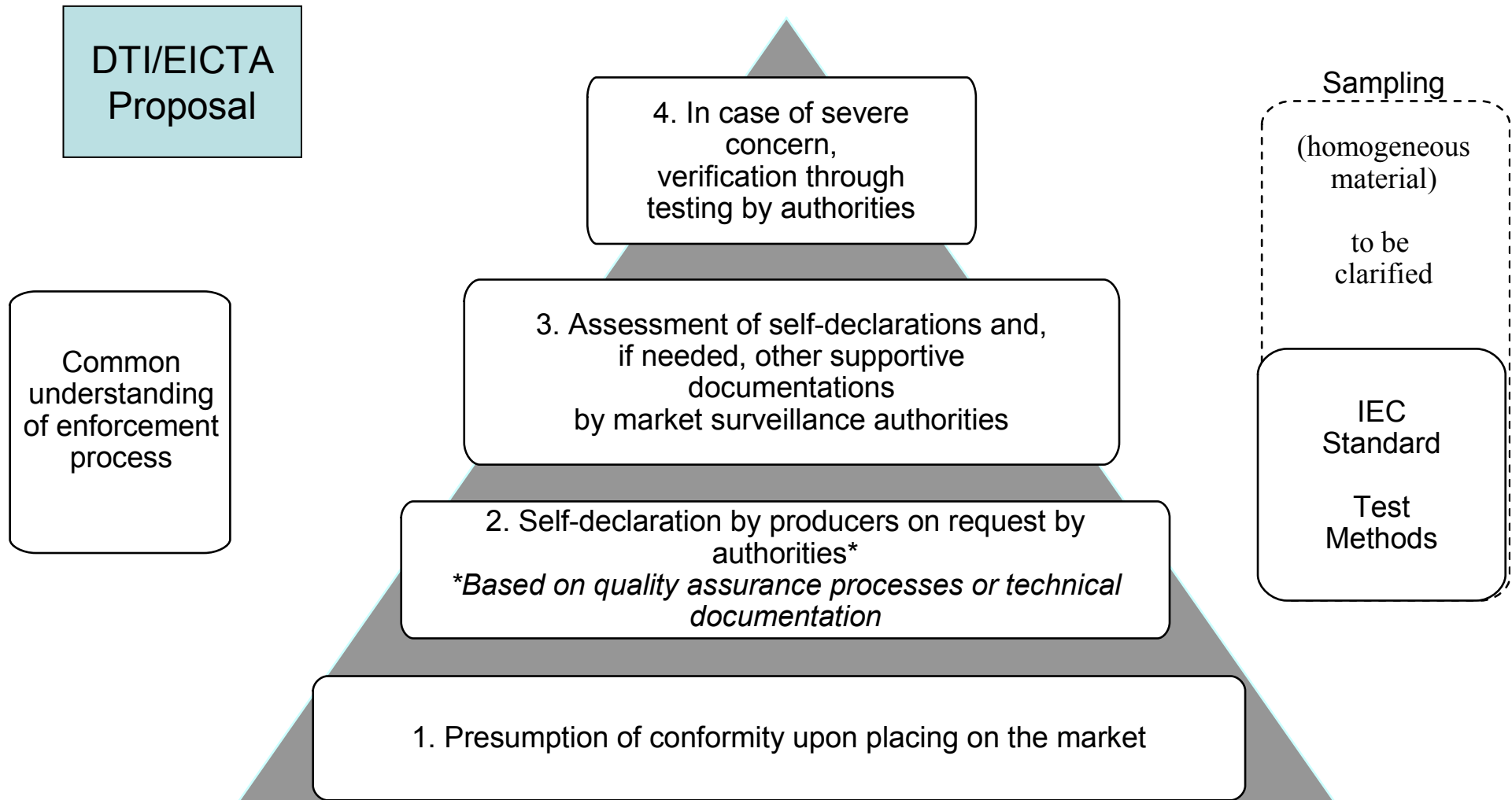
- Approached high levels in EC
- Collaborative work with European trade associations (AeA)
- Send out our position paper to EC soon.



## d) RoHS compliance

- Discussion on the cost issue for RoHS compliance
- Different situation from RoHS directive itself (it has internal market harmonization requirement by article 95).
- RoHS does not prescribe any requirements in terms of compliance documentation or enforcement procedures
- Currently DTI (UK govt.) work towards harmonised compliance documentation and enforcement procedures
- JBCE fully support DTI's work

# ROHS – EU State of Affairs & Key Issues



# Current development and Future process

- EC/DTI will have meeting on April 26 to share basic ideas with member states
- Guidelines including information exchanges among member states will be finalized by the end of April, hopefully

## 2. Category 8 & 9 of RoHS

- Discussion on control, measurement, medical, and analytical equipments
- Co-decision procedure: not TAC decision, implying that it takes time (2010 or 2011?).  
Kinds of work to make “new RoHS directive”
- However we have to be careful because product life cycle of these categories is long and it also takes time to comply. “The earlier, the better”
- Point: Scope issue, especially for category 9

# Current development and Future process

- Originally Commission was planned to submit draft by last February. Delayed time schedule.
- Current situation: Under basic consultant work (ERA technology, UK)
- JBCE established the WG and developed the ideas of the regulation.
- Continue to exchange views with European association such as GAMBICA, AeA, ORGALIME
- JBCE's original thoughts including scope discussion on cat9 and exemption request were basically successfully included in the draft report.
- 26/04 Workshop by EC/ERA (JBCE will be present) to discuss draft final report
- 29/06 Final report

Thank you very much

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