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Tyre recycling at a glance

Every year in Europe about 3 million tonnes of tyres reach the end of their life (so-called End-of-Life Tires, in short: ELTs). ELTs are efficiently sent off for recovery/recycling at dedicated facilities for the production of rubber granules/powder, metal, and fossil fuel alternatives. Elasticity, resistance to aging, ability to withstand loads/fatigue cycles, UV rays and bad weather are indispensable qualities for tyre rubber. For these reasons during its second life, the material derived from ELTs has been introduced as an excellent material for the production of sports facilities, injury-prevention flooring, acoustic/anti-vibration insulations, modified asphalts and bituminous membranes. Although official European statistics are not available for ELT recycling, an estimated 50% of the “old tyres” are ground to produce a valuable material that can be used either in substitution of synthetic and natural rubber, two scarce resources that are not produced in Europe and, consequently, are valuable materials according to the Raw Materials Initiative.

Only in Italy, more than 3.000 tonnes/year of recycled rubber are used to produce soundproofing panels and rolls that are highly effective and sustainable. Such a quantity corresponds to 3-4% of the annual production of tyre recycled rubber and to less than 10% of the market volume for soundproofing membranes.

Germany is probably the European leader in the production of acoustic panels made of tyre recycled rubber and the outstanding quality of those products has set very high standards in Europe.

To our knowledge, the use of tyre recycled rubber in textile floorings (it is a sustainable material for high quality articles e.g. as acoustic underlay, mats for noise/vibration absorption; anti-slip; etc.) does not pose any risk to human health in the most common exposure scenarios.

Therefore, the restriction introduced by the Provision set forth by the Draft seems unreasonable.

OBJECTION NO. 1: UNCLEAR WORDING

In first place, the English wording of the Provision referring to “components made of old tyres” is undefined and, consequently, not clear.

Even assuming that the Provision presumably is intended to state that “Textile floorings with components derived from old tyres may not be used in accommodation areas”, the Provision is still highly undefined.

In first place, it is to be questioned when a tyre is to be defined “old” or not. Does the “old” refer to “used tyres”, “old models of tyres” or “end-of-life tyres” or “tyres still in use or unsold but having more than X years”?

Assuming that the terminus “old tyre” or – in German – “Altreifen” is intended to refer to a waste, however, it is not clear whether such provision also applies also to recycled components (i.e. recycled tyre-derived materials) which, notably, are not any more to be classified as a waste.

Given the case that point 1 of the Technical provision (“Subject matter and scope”) states that “This technical rule does not apply to textile floorings that contain waste for recovery unless the material for these is identical to production waste”, it appears that the ban set forth in the Provision is of general nature thus comprehending also recycled tyre-derived materials.



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Even in case that there were a risk, restrictions generally require to be formulated by taking into account those exposure pathways which can reasonably be expected. In such context it needs to be considered that there are many applications (e.g. barrier layers against noise and vibrations in buildings or in sports facilities; etc.) where users / consumers do not come into contact with them at all or only rarely and then only for short periods of time. Potential emissions or transfer scenarios require to be measured by analytical method reflecting the realistic usage scenarios.

In the absence of concrete exposure-scenarios such general ban appears to be unproportioned specially if one considers that there are applications of recycled tyre-derived material in the building sector without any direct or indirect exposure (example: acoustic dam inserted in between concrete ceilings; etc.).

OBJECTION NO. 3: LACK OF SCIENTIFIC EVIDENCE

The general ban is not supported by any scientific evidence.

Given the broadness of the ban as to the materials included (“components made of old tyres” - see objection no. 1 above) as well as to any usage (“may not be used” - see objection no. 2 above), the need for scientific evidence appears even more evident. As a principle, the broader a ban is formulated, the more it needs to be supported by adequate scientific evidence which, to our best knowledge, is completely missing.

A total ban of use of “components made of old tyres” in accommodation areas – as provided for by the German Provision – would require to have scientific evidence of the fact that such materials cause risks comparable to other materials banned or limited from being used in construction products (e.g. asbestos, POP or PCB containing materials; PAH containing materials; materials causing VVOC, VOC and SVOC emissions as well as other emissions; etc.).

It is therefore questioned the ground (i.e. scientific evidence) on which the total ban of use of “components made of old tyres” in accommodation areas has been stated. In the absence of such scientific evidence, the total ban appears to be unproportioned and, consequently, a product-specific barrier to trade in the EU.

This appears even more evident if one considers that the very Draft Model Administrative Rules – Technical Building Regulations [M-VV TB], notified in July 2016 by Germany, allows - in various parts of such technical piece of legislation - the use of recycled materials (e.g. so called “recycled aggregates”).

Given the fact that it is not clear whether the Provision also applies also to recycled components, if this were the case, then it is to be noted that it cannot be understood the reason why the Draft Model Administrative Rules – Technical Building Regulations allows the use, under certain conditions, of recycled materials whereas – when it comes to “components made of old tyres” – a general ban for its use is set up. And this notwithstanding the fact that “components made of old tyres”, if used in construction products, can score with extraordinary performances in terms of acoustic insulation, waterproofing, vibrations-dampening, durability as well as resistance to load/fatigue i.e. with criteria of fundamental importance in the construction sector.

OBJECTION NO. 4: PRODUCT-SPECIFIC BARRIER TO TRADE IN THE EU

The Provision appears to be intended as a product-specific barrier to trade in the EU of “components made of old tyres”. In deed, the Provision exclusively fixes its attention on “components made of old tyres”. The Provision does just focus on “components made of old tyres” have been addressed by the Provision – and not for example



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components of other similar old materials such as old floorings, tubes, textiles, industrial scraps, etc.. As there are no reasons for such product-specific ban, the Provision is under the concrete suspicion to be conceived as setting up an authentic obstacle to the free movement of goods within the EU. The Provision in question risks to create a new barrier and negative effects to the internal market which are not supported by scientific evidence, and therefore are to be classified as a protectionist measure.

In the EU, the market of “components made of old tyres” is made of ca. 1,5 million tonnes of material per year.

OBJECTION NO. 5: ILLOGICALNESS

As set forth by the technical regulation (see point 1 - Subject matter and scope)

“This document specifies the test conditions (test sample requirements, test chamber loading requirements, etc.) and the parameters for classifying individual products in groups and selecting the representative product for each group (worst case scenario).”

Apparently the technical regulation, due to the fact that it excludes “components made of old tyres”, implicitly seems to state that the test conditions (test sample requirements, test chamber loading requirements, etc.) and the parameters set forth by the technical regulation (see point 2) are not fit for being applied to that “components made of old tyres”.

Such reasoning, however, lacks of a sound basis.

It is to be noted that “components made of old tyres” are not excluded per se, i.e. considering their “nature”, from the test conditions (test sample requirements, test chamber loading requirements, etc.) and the parameters set forth by the technical regulation which can be applied, without any difficulties, also to “components made of old tyres”. In deed, the procedures set forth in chapter 2 related to

- “Determining and assessing volatile organic emissions (VVOC, VOC and SVOC emissions) and other emissions from textile floorings where applicable” (see point 2.1.)
- “Assessing volatile organic emissions (VVOC, VOC and SVOC emissions)” (see point 2.2) and
- “Determining the content of polycyclic aromatic hydrocarbons (PAHs)” (see point 2.3)

Excluding, as a general rule, “components made of old tyres” from such assessment cannot be supported unless sufficient scientific evidence existed which, however, to our knowledge is not the case.

In addition, it appears highly surprising that the Technical rule for Textile Flooring states that “Textile floorings with components made of old tyres may not be used in accommodation areas.” In deed, such Provision does not fall within the “Subject matter and scope” (point 1) of the Technical Rule which – given the above scope – rather focusses on test conditions and the parameters (see point 2). In the light of the above, the above Provision – by excluding certain materials as components – falls out of the “Subject matter and scope” (point 1) of the Technical Rule. Consequently the Provision addresses on constituents/ingredients, a matter which cannot be covered by the Technical rule for Textile Flooring, but only by the “Health protection requirements for physical structures ([German designation: Anlagen bezüglich des Gesundheitsschutzes;] ABG)” (see there point 2.1.). And in fact, the latter provides for specific rules (see point 2.1.) applying to waste materials being used to manufacture construction products.



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In other words: the Provision is and cannot be covered by the "Subject matter and scope" (point 1) of the Technical Rule and is in contrast ("Systeminhärenter Widerspruch") with the very system provided for by the Draft Model Administrative Rules – Technical Building Regulations [M-VV TB].

OBJECTION NO. 6: COMPATIBILITY WITH EU LAW

1. "Circular Economy Package"

As stated on the Commission Website, "The European Commission adopted an ambitious Circular Economy Package, which includes revised legislative proposals on waste to stimulate Europe's transition towards a circular economy which will boost global competitiveness, foster sustainable economic growth and generate new jobs. The Circular Economy Package consists of an EU Action Plan for the Circular Economy that establishes a concrete and ambitious programme of action, with measures covering the whole cycle: from production and consumption to waste management and the market for secondary raw materials. The proposed actions will contribute to "closing the loop" of product lifecycles through greater recycling and re-use, and bring benefits for both the environment and the economy.." (http://ec.europa.eu/environment/circular-economy/index_en.htm)

However, due to the German Provision, the promotion of the circular economy and the supply of established markets with high-quality technological products (recycled tyre-derived materials) will face massive problems, if unduly restrictive regulations, that are not based on an actual risk or not supported, as in this case, by any scientific evidence.

2. Regulation (EU) no 305/2011 of the European Parliament and of the Council of 9 march 2011

In case the above ban is also to be applied to recycled components, such limitation appears in contrast not only with the spirit of the so called "CIRCULAR ECONOMY", but also with the spirit of the above Regulation laying down harmonised conditions for the marketing of construction products.

Provided that "components made of old tyres" are authentic secondary raw materials fit for being used in the construction sector, the above Regulation (see whereas no. 55 and annex 1) intend to foster the use of environmentally compatible raw and secondary materials in construction works.

"(55) The basic requirement for construction works on sustainable use of natural resources should notably take into account the recyclability of construction works, their materials and parts after demolition, the durability of construction works and the use of environmentally compatible raw and secondary materials in construction works."

Annex 1 ("BASIC REQUIREMENTS FOR CONSTRUCTION WORKS") requires, at point 7, a "Sustainable use of natural resources" stating that "The construction works must be designed, built and demolished in such a way that the use of natural resources is sustainable and in particular ensure the following: (...) (c) use of environmentally compatible raw and secondary materials in the construction works."

3. Directive 2008/98/EC of the European Parliament and of the Council of 19 november 2008 on waste and repealing certain directives

In case the above ban is also to be applied to recycled components, such limitation appears in contrast with the very spirit of the waste framework directive aiming at creating a recycling society and a so called "CIRCULAR ECONOMY". For such purpose, the directive provides for end-of-waste criteria specifying when certain waste ceases to be waste and obtains a status of a product (or a secondary raw material). According to Article 6 (1) and (2) of the Waste Framework Directive 2008/98/EC, certain specified waste shall cease to be waste when it has

