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NOTE

from : General Secretariat
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Subject : Proposal for a Directive of the European Parliament and of the Council
on waste electrical and electronic equipment (**WEEE**) - (recast)

Delegations will find attached a compromise text on the Articles and Annexes of the above-mentioned proposal. The Presidency has introduced a number of changes (in bold underline) following the first reading of the proposal and the debates which took place within the WPE discussions. The modifications proposed principally concern the scope of the proposal, de-linked from that on RoHS (re-insertion of Annexes IA and IB), and the implementation of the producer responsibility principle (with consequent changes in the definitions and in the Register).

While a large number of delegations can in principle support a new collection target for WEEE based on the percentage of EEE placed on the national market, the Presidency is aware that difficulties exist on both collection and recovery targets, particularly as regards the achievement of a 65% collection rate in the year 2016. Further discussion of the categories of WEEE (Annex IA) to be collected is necessary, in this context, in order to better understand such difficulties and move forward with the debate.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on waste electrical and electronic equipment (WEEE)

(p.m.: recitals)

Article 1

Subject matter

This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste from electrical and electronic equipments and by reducing overall impacts of resource use and improving the efficiency of such use. [...]

Article 2

Scope

1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in **Annex IA. Annex IB contains an indicative list of products which fall under the categories set out in Annex IA. [...]**
2. This Directive shall apply without prejudice to requirements of Community legislation on safety and health, on chemicals, in particular Regulation (EC)1907/2006 as well as of specific Community waste management or product design legislation.
3. This Directive does not apply to any of the following equipments:
 - (a) Equipment which is necessary for [...] the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes.

- (b) Equipment which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and can fulfill its function only if it is part of that equipment.
- (c) Equipment which is not intended to be placed on the market as a single functional or commercial unit.
- (d) Filament bulbs.
- (e) Implanted [...] **or** infected medical devices.

4. WEEE shall be classified as waste from private households or from users other than private households. The classification of types of WEEE into these categories shall be laid down. This measure designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3). **Waste from EEE used by both private and other than private households shall be considered as WEEE from private households.** [...].

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) ‘electrical and electronic equipment’ or ‘EEE’ means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields [...] and designed for use with a voltage rating not exceeding 1000 Volt for alternating current and 1500 Volt for direct current;
- (b) ‘waste electrical and electronic equipment’ or ‘WEEE’ means electrical or electronic equipment which is waste within the meaning of Article 3(1) of Directive 2008/**98**/EC on waste, including all components, subassemblies and consumables which are part of the product at the time of discarding;

- (c) ‘prevention’ means prevention within the meaning of Article 3 (12) of Directive 2008/98/EC on waste [...];
- (d) ‘re-use’ means re-use within the meaning of Article 3(13) of Directive 2008/98/EC on waste [...];
- (e) ‘preparing for re-use’ means preparing for re-use within the meaning of Article 3(16) of Directive 2008/98/EC on waste;
- (f) ‘recycling’ means recycling within the meaning of Article 3(17) of Directive 2008/98/EC on waste [...];
- (g) ‘recovery’ means recovery within the meaning of Article 3(15) of Directive 2008/98/EC on waste [...];
- (h) ‘disposal’ means disposal within the meaning of Article 3(19) of Directive 2008/98/EC on waste [...];
- (i) ‘treatment’ means treatment within the meaning of Article 3(14) of Directive 2008/98/EC on waste [...];
- (j) ‘producer’ means any natural or legal person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts ¹:
- (i) manufactures [...] electrical and electronic equipment under his own name or trademark, or has electrical and electronic equipment designed or manufactured and markets that electronic equipment under his name or trade mark [...] **within the territory of a Member State,**
 - (ii) resells under his name or trademark equipment produced by other suppliers, a reseller not being regarded as the ‘producer’ if the brand of the producer appears on the equipment, as provided for in subpoint (i), or

¹ OJ L 144, 4.6.1997, p. 19.

- (iii) is established within the Community and places [...] electrical and electronic equipment from a third country on a professional basis onto the[...] **market of a Member State.**

Whoever exclusively provides financing under or pursuant to any finance agreement shall not be deemed a 'producer' unless he also acts as a producer within the meaning of subpoints (i) to (iii);

- (k) 'distributor' means any natural or legal person in the supply chain, who makes an electrical and electronic equipment available on the market [...];
- (l) 'WEEE from private households' means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;
- (m) 'hazardous waste' means hazardous waste within the meaning of Art. 3 (2) of Directive 2008/98/EC on waste;
- [...]
- (n) 'finance agreement' means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place;
- (o) "making available on the market" means any supply of a product for distribution, consumption or use on the market **of a Member State** in the course of a commercial activity, whether in return for payment or free of charge;
- (p) "placing on the market" means the first making available of a product on the [...] market **of a Member State;**
- (q) "remove" means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, preparations and components are contained as an identifiable stream or identifiable part of a stream [...]. A substance, preparation or component is identifiable if it can be monitored to prove environmentally safe treatment;

(r) "collection" means collection within the meaning of Article 3 (10) of Directive 2008/98/EC on waste;

(s) "separate collection" means separate collection within the meaning of Article 3 (11) of Directive 2008/98/EC on waste.

Article 4

Product design

Member States shall, in line with Community product legislation including Directive 2005/32/EC on eco-design, encourage measures to promote the design and production of electrical and electronic equipment notably in view of facilitating [...] re-use, dismantling and recovery of WEEE, its components and materials. These measures shall respect the proper functioning of the internal market. In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment and/or safety requirements.

Article 5

Separate collection

1. Member States shall adopt appropriate measures to minimise the disposal of WEEE in the form of unsorted municipal waste and to achieve a high level of separate collection of WEEE, notably, and as a matter of priority, for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases **and fluorescent lamps containing mercury**.
2. For WEEE from private households, Member States shall ensure that:
 - (a) systems are set up allowing final holders and distributors to return such waste at least free of charge. Member States shall ensure the availability and accessibility of the necessary collection facilities, taking into account in particular the population density;

- (b) when supplying a new product, distributors shall be responsible for ensuring that such waste can be returned to the distributor at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment. Member States may depart from this provision provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder. Member States making use of this provision shall inform the Commission thereof;
- (c) without prejudice to the provisions of (a) and (b), producers are allowed to set up and operate individual and/or collective take-back systems for WEEE from private households provided that these are in line with the objectives of this Directive;
- (d) having regard to national and Community health and safety standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under (a) and (b). Member States shall make specific arrangements for such WEEE.

Member States may provide for specific arrangements for the return of WEEE as under (a) and (b) if the equipment does not contain the essential components or if the equipment contains waste other than WEEE.

3. In the case of WEEE other than WEEE from private households, and without prejudice to Article 13, Member States shall ensure that producers or third parties acting on their behalf provide for the collection of such waste.

[...]

Article 6

Disposal and transport of collected WEEE

1. Member States shall prohibit the disposal of [...]separately collected WEEE **which have not yet undergone treatment as specified in Article 8.**
2. Member States shall ensure that the collection and transport of separately collected WEEE is carried out in a way which [...] **allows optimal conditions for preparing for** re-use, [...] recycling and the confinement of hazardous substances.

Article 7

Collection rate

1. Without prejudice to Article 5(1), Member States shall ensure that producers or third parties acting on their behalf achieve a minimum collection rate of 65%. The collection rate is calculated on the basis of the total weight of WEEE collected in accordance with Articles 5 and 6 in a given year in that Member State, expressed as a percentage of the average weight of electrical and electronic equipment placed on the market in the two preceding years in that Member State. This collection rate shall be achieved annually and starting in 2016.

1a. To document achievement of the minimum collection rate, Member States shall ensure that information on the WEEE returned to collection facilities as referred to in Article 5 paragraph 2(a) and to distributors as referred to in Article 5 paragraph 2(b), as well as separately collected through other channels, is handed over to producers or third parties acting on their behalf.

2. Transitional arrangement may be laid down in accordance with the procedure referred to in Article 18(2) to address difficulties faced by a Member State in satisfying these requirements as a result of specific national circumstances.

3. A common methodology shall be established for the calculation of the total weight of electrical and electronic equipment placed on the national market.

This measure designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

4. By 31 December 2012 at the latest the European Parliament and the Council shall re-examine the collection rate and target date referred to in paragraph 1 also in view of setting a possible separate collection target for cooling and freezing equipment, on the basis of a report of the Commission accompanied by a proposal, if appropriate.

[...]

Article 8

Treatment

1. Member States shall ensure that all separately collected WEEE undergoes treatment.
2. Treatment other than preparing for re-use shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex II to this Directive.
3. Member States shall ensure that producers or third parties acting on their behalf set up systems to provide for the recovery of WEEE using best available techniques. The systems may be set up by producers individually or collectively. Member States shall ensure that any establishment or undertaking carrying out collection or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex III.
4. Annex II may be amended in order to introduce other treatment technologies ensuring at least the same level of protection for human health and the environment **and, if necessary, to specify within the treatment process, the steps where removal of substances, preparations and components should take place.**²

Those measures, designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18 (3). The Commission shall evaluate as a matter of priority whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays are to be amended.

5. For the purposes of environmental protection, Member States may set up minimum quality standards for the treatment of collected WEEE.

Member States which opt for such quality standards shall inform the Commission thereof, which shall publish these standards.

² Text suggestion connected to new "removal" definition in Article 3(q).

6. Member States shall encourage establishments or undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No xx/20xx allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

Article 9

Permits and inspections

1. Member States shall ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the competent authorities, in compliance with Article 23 of Directive 2008/xx/EC on waste.
2. The derogation from the permit requirement referred to in Article 24(b) of Directive 2008/98/EC on waste may apply to recovery operations concerning WEEE if an inspection is carried out by the competent authorities before the registration in order to ensure compliance with Article 13 of Directive 2008/98/EC on waste.

The inspection shall verify the following:

- (a) the type and quantities of waste to be treated;
- (b) the general technical requirements to be complied with;
- (c) the safety precautions to be taken.

The inspection shall be carried out at least once a year and the results shall be communicated by the Member States to the Commission.

3. Member States shall ensure that the permit or the registration referred to in paragraphs 1 and 2 includes all conditions necessary for compliance with the requirements of Article 8(2), 8(3) and 8(5) and for the achievement of the recovery targets set out in Article 11.

Article 10

Shipments of WEEE

1. The treatment operation may also be undertaken outside the respective Member State or the Community provided that the shipment of WEEE is in compliance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on the shipments of waste ³.
2. WEEE exported out of the Community in line with Regulation (EC) No 1013/2006 on shipments of waste, and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or Annex IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply ⁴ shall only count for the fulfilment of obligations and targets of Article 11 of this Directive if the exporter can prove that the [...] **preparation for re-use, recycling or recovery operation** took place under conditions that are equivalent to the requirements of this Directive.
3. Detailed rules for the implementation of paragraph 1 and 2, in particular criteria for the assessment of equivalent conditions, shall be laid down.
Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

³ OJ L 190, 12.7.2006, p.1-98. Regulation as last amended by Commission Regulation (EC) No 1379/2007 (OJ L 309, 27.11.2007, p. 7).

⁴ OJ L 316, 4.12.2007, p. 6.

Article 11

Recovery targets

[...]

1. Regarding all WEEE separately collected and sent for treatment in accordance with Articles 8, 9 and 10 or for preparation for re-use, Member States shall ensure that, by 31 December 2011, producers meet the following minimum targets:
 - (a) for WEEE falling under categories 1 and 10 of Annex I [...] A,
 - 85% shall be recovered [...], and
 - 80% shall be prepared for re-use and recycled [...];
 - (b) for WEEE falling under categories 3 and 4 of Annex I [...] A,
 - 80% shall be recovered [...], and
 - 70% shall be prepared for re-use and recycled [...];
 - (c) for WEEE falling under categories 2, 5, 6, 7, 8 and 9 of Annex I [...] A,
 - 75% shall be recovered [...], and
 - 55% shall be prepared for re-use and recycled [...];
 - (d) for gas discharge lamps, 85% shall be prepared for re-use and recycled [...].
2. These targets are calculated as weight percentage of separately collected WEEE that is sent to recovery facilities.

3. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility and/or when entering (input) the recovery or recycling facility.

[...]

4. Member States shall encourage the development of new recovery, recycling and treatment technologies.

Article 12

Financing in respect of WEEE from private households

1. Member States shall ensure that producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). Member States, where appropriate, shall encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.

- 1a. **Where Member States require producers to finance all the cost occurring for collection facilities for WEEE from private households, Member States shall ensure that the WEEE deposited at collection facilities as referred to in Article 5 paragraph 2(a) and to distributors as referred to in Article 5 paragraph 2(b) , as well as separately collected through other channels, are handed over to producers or third parties acting on their behalf free of charge or, for the purposes of preparing for re-use, to appropriate establishments or undertakings.**

2. For products placed on the market later than 13 August 2005, each producer shall be responsible for financing the operations referred to in paragraph 1 relating to the waste from his own products. The producer can choose to fulfil this obligation either individually or by joining a collective scheme.

Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed and that producers clearly mark their products in accordance with Article 15 (2). This guarantee shall ensure that the operations referred to in paragraph 1 relating to this product will be financed. The guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account.

[...]

3. The responsibility for the financing of the costs of the management of WEEE from products placed on the market before 13 August 2005 ("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.

[...]

Article 13

Financing in respect of WEEE from users other than private households

1. Member States shall ensure that the financing of the costs for the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households from products placed on the market after 13 August 2005 is to be provided for by producers.

For historical waste being replaced by new equivalent products or by new products fulfilling the same function, the financing of the costs shall be provided for by producers of those products when supplying them. Member States may, as an alternative, provide that users other than private households also be made, partly or totally, responsible for this financing. For other historical waste, the financing of the costs shall be provided for by the users other than private households.

2. Producers and users other than private households may, without prejudice to this Directive, conclude agreements stipulating other financing methods.

Article 14

Information for users

1. Member States shall ensure that producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the actual costs incurred.
2. Member States shall ensure that users of electrical and electronic equipment in private households are given the necessary information about:
 - (a) the requirement not to dispose of WEEE as unsorted municipal waste and to collect such WEEE separately;
 - (b) the return and collection systems available to them;
 - (c) their role in contributing to re-use, recycling and other forms of recovery of WEEE;
 - (d) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;
 - (e) the meaning of the symbol shown in Annex IV.
3. Member States shall adopt appropriate measures so that consumers participate in the collection of WEEE and to encourage them to facilitate the process of re-use, treatment and recovery.

4. With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark – in accordance with the European standard EN 50419⁵ - electrical and electronic equipment placed on the market with the symbol shown in Annex IV. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.
5. Member States may require that some or all of the information referred to in paragraphs 2 to 4 shall be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale.

Article 15

Information for treatment facilities

1. In order to facilitate the preparation for re-use and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide re-use and treatment information for each type of new EEE placed on the market within one year after the equipment is placed on the market. This information shall identify, as far as it is needed by re-use centres, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).
2. Member States shall ensure that any producer of an electrical or electronic appliance placed on the market is clearly identifiable by a mark on the appliance. Furthermore, in order to enable the date upon which the appliance was placed on the market to be determined unequivocally, a mark on the appliance shall specify that the latter was placed on the market after 13 August 2005. The European Standard EN 50419 shall be applied for this purpose.

⁵ Adopted by CENELEC in March 2006

Article 16

Registration, information and reporting

1. Member States shall draw up a register of producers, including producers supplying electrical and electronic equipment by means of distance communication in accordance with paragraph 2.

That register shall serve for monitoring compliance with the financing obligations under Articles 12 and 13.

2. Member States shall ensure that any producer on their territory can enter in their national register all relevant information **online**, including reporting requirements and fees, reflecting its activities [...].

[...]

3. The format for registration and reporting, **including information on quantities of electrical and electronic equipment placed on the national market, categories and frequency of reporting**, shall be established. Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

4. [...]

5. Member States shall collect information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment placed on their markets, collected through all routes, re-used, recycled and recovered within the Member State, and on separately collected WEEE exported, by weight [...].

[...]

6. [...] Member States shall send a report to the Commission on the implementation of this Directive and on the information set out in paragraph 5 at three-year intervals. The implementation report shall be drawn up on the basis of a questionnaire laid down in Commission Decision 2004/249/EC⁶ and Commission Decision 2005/369/EC⁷ The report shall be made available to the Commission within nine months of the end of the three-year period covered by it.

The first three-year report shall cover the period from 20xx to 20xx.

The Commission shall publish a report on the implementation of this Directive within nine months after receiving the reports from the Member States.

Article 17

Adaptation to scientific and technical progress

Amendments may be made if necessary in order to adapt Article 16(6) [...] and the Annexes to scientific and technical progress. Those measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

Before the annexes are amended the Commission shall, *inter alia*, consult producers of electrical and electronic equipment, recyclers, treatment operators and environmental organisations and employees' and consumer associations.

Article 18

Committee

1. The Commission shall be assisted by the Committee set up by Article 39 of Directive 2008/98/EC.

⁶ OJ L 78, 16.3.2004, p. 56

⁷ OJ L 119, 11.5.2005, p. 13

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 19

Penalties

[...]

The Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 21 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 20

Inspection and monitoring

[...]

1. Member States shall carry out appropriate inspections and monitoring to verify the proper implementation of this Directive.

Those inspections shall at least cover exports of WEEE outside the Community in accordance with the Waste Shipment Regulation and the operations at treatment facilities in accordance with Directive 2008/98/EC on waste and Annex II of this Directive.

2. Member States shall [...] **ensure that** shipments of **used EEE are carried out** in accordance with the minimum [...] requirements in Annex IC **and shall monitor such shipments accordingly.**

3. Additional rules on inspections and monitoring may be laid down.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3)

Article 21

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3, 5, 6, 7, 11, 14, 16, 19, 20 and Annex I by at the latest [18 months after the day of this Directive's publication in the Official Journal of the European Union]. They shall forthwith communicate to the Commission the text of those **measures** [...].

When Member States adopt these measures, they shall contain a reference to this Directive or **shall** be accompanied by such reference on the occasion of their official publication. [...] They shall also include a statement that references in existing laws, regulations and administrative provisions to the directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission [...] the text of the main provisions of national law which they adopt in the field covered by this Directive.

3. Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 8 (6), 14(2) and 15 by means of agreements between the competent authorities and the economic sectors concerned. Such agreements shall meet the following requirements:

(a) agreements shall be enforceable;

- (b) agreements shall specify objectives with the corresponding deadlines;
- (c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;
- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall ensure that the progress reached under the agreement is examined;
- (f) in case of non-compliance with the agreement Member States must implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

Article 22

Repeal

Directive 2002/96/EC as amended by the Directives listed in Annex V Part A is repealed with effect from the day after the date mentioned in Article 21, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directive set out in Annex V Part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

Article 23

Entry into force

This Directive shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Article 24

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX IA

Categories of electrical and electronic equipment covered by this Directive

- 1. Large household appliances**
 - 2. Small household appliances**
 - 3. IT and telecommunications equipment**
 - 4. Consumer equipment**
 - 5. Lighting equipment**
 - 6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)**
 - 7. Toys, leisure and sports equipment**
 - 8. Medical devices**
 - 9. Monitoring and control instruments including industrial monitoring and control instruments**
 - 10. Automatic dispensers**
-

ANNEX IB

[...] Products which fall under the Categories listed in Annex IA:

1. Large household appliances, including

Washing machines

Clothes dryers

Dish washing machines

Large household appliances used for refrigeration, conservation and storage of food, such as:

Large cooling appliances, Refrigerators, Freezers

Large household appliances used for cooking and other processing of food, such as:

Cooking, Electric stoves, Electric hot plates,

Microwaves

Large appliances for heating rooms, beds, seating furniture, such as:

Electric heating appliances, Electric radiators,

Fanning, exhaust ventilation and conditioning equipment such as:

Electric fans

Air conditioner appliances

2. Small household appliances, including

Appliances for cleaning, such as vacuum cleaners, carpet sweepers

Appliances used for sewing, knitting, weaving and other processing for textiles

Irons and other appliances for ironing, mangling and other care of clothing

Toasters

Fryers

Grinders, coffee machines and equipment for opening or sealing containers or packages

Electric knives

Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances

Clocks, watches and equipment for the purpose of measuring, indicating or registering time

Scales

3. IT and telecommunications equipment, including

Products and equipment for the collection, storage, processing, presentation or communication of information by electronic means, such as: centralised data processing (Mainframes, Minicomputers, Printer units) and personal computing (Personal computers (CPU, mouse, screen and keyboard included), Laptop computers (CPU, mouse, screen and keyboard included), Notebook computers, Notepad computers, Printers, Copying equipment, Electrical and electronic typewriters, Pocket and desk calculators)

Products or equipment of transmitting sound, images or other information by telecommunications, such as User terminals and systems, Facsimile, Telex, Telephones, Pay telephones, Cordless telephones, cellular telephones, Answering systems

4. Consumer equipment, including products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications, such as Radio sets, Television sets, Video cameras, Video recorders, Hi-fi recorders, Audio amplifiers, Musical instruments (excluding pipe organs installed in churches)

5. Lighting equipment, including

lighting or equipment for the purpose of spreading or controlling light, such as Luminaires for fluorescent lamps, Straight fluorescent lamps, Compact fluorescent lamps, High intensity discharge lamps, including pressure sodium lamps and metal halide lamps, Low pressure sodium lamps

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools), including

Drills

Saws

Sewing machines

Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials

Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses

Tools for welding, soldering or similar use

Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

7. Toys, leisure and sports equipment, including

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running, rowing, etc.

Sports equipment with electric or electronic components

Coin slot machines

8. Medical devices (MD):

– Electrical equipment within the scope of Directive 93/42/EEC

– Electrical equipment within the scope of Directive 98/79/EC

9. Monitoring and control instruments, including

Smoke detector

Heating regulators

Thermostats

Measuring, weighing or adjusting appliances for household or as laboratory equipment

Industrial monitoring and control instruments

10. Automatic dispensers, including all appliances which deliver automatically all kind of products, such as automatic dispensers for hot drinks, automatic dispensers for hot or cold bottles or cans, automatic dispensers for solid products, automatic dispensers for money

ANNEX IC

Minimum [...] requirements for shipments of used EEE

1. In order to distinguish between electrical and electronic equipment and WEEE, where the holder of the object claims that he intends to ship or is shipping used electrical and electronic equipment and not WEEE, Member State authorities shall request the following to back up this claim:
 - a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the electrical and electronic equipment which states that the equipment is for direct re-use and fully functional;
 - b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 2;
 - c) a declaration made by the holder who arranges the transport of the electrical and electronic equipment that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC on waste, and
 - d) sufficient packaging to protect the shipped products from damage during transportation, loading and unloading.
2. In order to demonstrate that the items being shipped are used electrical and electronic equipment rather than WEEE, Member States shall require the following steps for testing and record keeping for used electrical and electronic equipment to be carried out:

Step 1: Testing

- a) Functionality [...] **shall** be tested and hazardous substances [...] **shall** be evaluated. The tests [...] **to** be conducted depend on the kind of electrical and electronic equipment. For most of the used electrical and electronic equipment a functionality test of the key functions is sufficient.
- b) Results of evaluation and testing [...] **shall** be recorded.

Step 2: Record

a) The record [...] **shall** be fixed securely but not permanently on either the electrical and electronic equipment itself (if not packed) or on the packaging so it can be read without unpacking the equipment.

b) The record shall contain the following information:

– Name of item (Name of the equipment according to Annex II and category according to Annex IA [...]);

– Identification Number of the item (type no.);

– Year of Production (if available);

– Name and address of the company responsible for evidence of functionality;

– Result of tests as described in step 1;

– Kind of tests performed.

3. In addition to the documents requested in points 1 **and 2**, every load (e. g. shipping container, lorry) of used electrical and electronic equipment [...] **shall** be accompanied by a:

a) CMR document,

b) declaration of the liable person on its responsibility.

4. In the absence of **the** appropriate documentation required in points **1, 2** and 3 and **of appropriate** packaging, Member State authorities shall [...] **consider** that an item is [...] WEEE and presume that the load comprises an illegal shipment. In these circumstances the relevant competent authorities will be informed and the load will be dealt with in accordance with Articles 24 and 25 of the Waste Shipment Regulation. In the majority of cases those responsible for the shipment will have to take back the waste to the country of dispatch at their own expense and may be liable to a criminal sanction. In those Member States where the burden is on the state authorities to prove **that** the items are WEEE rather than electrical and electronic equipment, absence of the appropriate documentation and packaging is likely to lead to significant delays to the onward transport of the waste whilst the necessary investigations are carried out to establish the status of the items being shipped.

ANNEX II

Selective treatment for materials and components of waste electrical and electronic equipment referred to in Article 8(2)

1. As a minimum the following substances, preparations and components have to be removed from any separately collected WEEE:
 - polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) ⁸,
 - mercury containing components, such as switches or backlighting lamps,
 - batteries,
 - printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres,
 - toner cartridges, liquid and pasty, as well as colour toner,
 - plastic containing brominated flame retardants,
 - asbestos waste and components which contain asbestos,
 - cathode ray tubes,
 - chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC),
 - gas discharge lamps,
 - liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps,
 - external electric cables,

⁸ OJ L 243, 24.9.1996, p. 31.

- components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances ⁹,
- components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation ¹⁰,
- electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume)

These substances, preparations and components shall be disposed of or recovered in compliance with Article 4 of **Directive 2006/12/EC of the European Parliament and of the Council**.

2. The following components of WEEE that is separately collected have to be treated as indicated:

- cathode ray tubes: The fluorescent coating has to be removed,
- equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer ¹¹.
- gas discharge lamps: The mercury shall be removed.

⁹ OJ L 343, 13.12.1997, p. 19.

¹⁰ OJ L 159, 29.6.1996, p. 1.

¹¹ OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 2039/2000 (OJ L 244, 29.9.2000, p. 26).

3. Taking into account environmental considerations and the desirability of re-use and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound re-use and recycling of components or whole appliances is not hindered.
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ANNEX III

Technical requirements referred to in Article 8 (3)

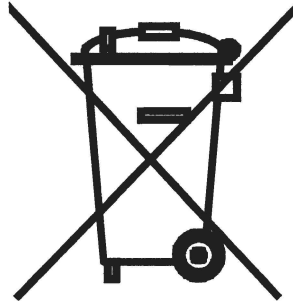
1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/EC):
 - impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,
 - weatherproof covering for appropriate areas.

 2. Sites for treatment of WEEE:
 - balances to measure the weight of the treated waste,
 - impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,
 - appropriate storage for disassembled spare parts,
 - appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste,
 - equipment for the treatment of water in compliance with health and environmental regulations.
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ANNEX IV

Symbol for the marking of electrical and electronic equipment

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.



ANNEX V

(omissis)

ANNEX VI

(omissis)