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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)
- Political agreement

Delegations will find attached the Presidency compromise text on the proposed recast of the above-mentioned Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on waste electrical and electronic equipment (WEEE) ¹

(Recast)

(Text with EEA relevance)

Ⓔ 2002/96/EC (adapted) Council

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty [...] on the functioning of the European Union , and in particular Article [...] 192 (1) thereof,

Having regard to the proposal from the European Commission ²,

Having regard to the opinion of the European Economic and Social Committee ³,

Having regard to the opinion of the Committee of the Regions ⁴,

Acting in accordance with the ordinary legislative procedure [...] ,

Whereas:

¹ All delegations have a scrutiny reservation on the Presidency compromise and on provisions mentioning delegated acts. The Commission maintains a formal reservation on all changes made to "white text" which it had not proposed in the recast procedure and on provisions mentioning implementing powers and delegated acts.

² ~~OJ C 365 E, 19.12.2000, p. 184 and OJ C 240 E, 28.8.2001, p. 298.~~ OJ C , , p. .

³ ~~OJ C 116, 20.4.2001, p. 38.~~ OJ C , , p. .

⁴ ~~OJ C 148, 18.5.2001, p. 1.~~ OJ C , , p. .

new

(1) A number of substantial changes are to be made to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁵. In the interests of clarity, that Directive should be recast.

Ⓔ 2002/96/EC

~~(2)~~ (1) The objectives of the Community's environment policy are, in particular, to preserve, protect and improve the quality of the environment, protect human health and utilise natural resources prudently and rationally. That policy is based on the precautionary principle and principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

~~(3)~~ (2) The Community programme of policy and action in relation to the environment and sustainable development (Fifth Environmental Action Programme) ⁶ states that the achievement of sustainable development calls for significant changes in current patterns of development, production, consumption and behaviour and advocates, *inter alia*, the reduction of wasteful consumption of natural resources and the prevention of pollution. It mentions waste electrical and electronic equipment (WEEE) as one of the target areas to be regulated, in view of the application of the principles of prevention, recovery and safe disposal of waste.

⁵ OJ L 37, 13.2.2003, p. 24.

⁶ OJ C 138, 17.5.1993, p. 5.

~~(3) The Commission Communication of 30 July 1996 on review of the Community strategy for waste management states that, where the generation of waste cannot be avoided, it should be re-used or recovered for its material or energy.~~

~~(4) The Council in its Resolution of 24 February 1997 on a Community strategy for waste management⁷ insisted on the need for promoting waste recovery with a view to reducing the quantity of waste for disposal and saving natural resources, in particular by re-use, recycling, composting and recovering energy from waste and recognised that the choice of options in any particular case must have regard to environmental and economic effects but that until scientific and technological progress is made and life-cycle analyses are further developed, re-use and material recovery should be considered preferable where and in so far as they are the best environmental options. The Council also invited the Commission to develop, as soon as possible, an appropriate follow-up to the projects of the priority waste streams programme, including WEEE.~~

~~(5) The European Parliament, in its Resolution of 14 November 1996⁸, asked the Commission to present proposals for Directives on a number of priority waste streams, including electrical and electronic waste, and to base such proposals on the principle of producer responsibility. The European Parliament, in the same Resolution, requests the Council and the Commission to put forward proposals for cutting the volume of waste.~~

⁷ OJ C 76, 11.3.1997, p. 1.

⁸ OJ C 362, 2.12.1996, p. 241.

- (4) This Directive supplements the general EU waste management legislation, such as Directive 2008/xx/EC of the European Parliament and of the Council on waste⁹. It refers to the definitions of the Directive including the definitions of waste and general waste management operations. The definition of collection according to Directive 2008/xx/EC on waste includes the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility. Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005¹⁰ establishes a framework for setting ecodesign requirements for energy using products and enables the adoption of specific eco-design requirements for energy using products which may also be covered by this Directive. Directive 2005/32/EC and the implementing measures adopted pursuant to it are without prejudice to Community waste management legislation. Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment¹¹ requires the substitution of banned substances for all electrical and electronic equipments within its scope.

⁹ OJ C , , p. .

¹⁰ OJ L 191, 22.07.2005, p.29-58.

¹¹ OJ L 37, 13.02.2003, p.19-23.

© 2002/96/EC (adapted)

new

Council

~~(56)~~ [...] .

~~(67)~~ ~~The amount of WEEE generated in the Community is growing rapidly.~~ As the market continues to expand and innovation cycles become even shorter, the replacement of equipment accelerates, making waste electrical and electronic equipment (WEEE) a fast growing waste stream. While Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) contributes effectively to reducing hazardous substances in new EEE, hazardous substances such as mercury, cadmium, lead, hexavalent chromium and polychlorinated biphenyls (PCBs) and ozone depleting substances¹² will still be present in WEEE for many years. The content of hazardous components in electrical and electronic equipment (EEE) is a major concern during the waste management phase and recycling of WEEE is not undertaken to a sufficient extent. A lack [...] of recycling would result in the loss of valuable resources .

~~(8)~~ ~~The objective of improving the management of WEEE cannot be achieved effectively by Member States acting individually. In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level.~~

¹² COM(2008)505 and SEC(2008)2367.

- (7) The purpose of this Directive is, to contribute to sustainable production and consumption by as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the reuse, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste and contribute to the efficient use of resources . It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the collection and treatment of waste electrical and electronic equipment .In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level.
- (8) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level by reason of the scale of the problem, the Community may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Ⓔ 2002/96/EC (adapted)

new

Council

- (9) The provisions of this Directive should apply to products and producers irrespective of the selling technique, including distance and electronic selling. In this connection the obligations of producers and distributors using distance and electronic selling channels should, as far as is practicable, take the same form and should be enforced in the same way in order to avoid other distribution channels having to bear the costs of the provisions of this Directive concerning WEEE for which the equipment was sold by distant or electronic selling.

(10) This Directive should cover all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use. This Directive should apply without prejudice to Community legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Community waste management legislation, in particular Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators¹³ ~~Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances¹⁴~~, and Community product design legislation, in particular Directive [...] 2009/125/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy- [...] related products [...].

Preparing for re-use, recovery and recycling of waste cooling equipment and substances, mixtures or components thereof, should be in accordance with relevant EU-legislation, in particular, Regulation 1005/2009/EC on substances that deplete the ozone layer and Regulation 842/2006/EC on certain fluorinated greenhouse gases.

(10a) Eco-design requirements facilitating re-use, dismantling and recovery of WEEE should, where relevant, be established in the framework of the implementing measures of Directive 2009/125/EC on eco-design.¹⁵ In order to optimize re-use and recovery through product design, the whole life-cycle of the product should be taken into account.

¹³ OJ L 266, 26.9.2006, p.1-14. Directive as amended by Directive 2008/12/EC (OJ L 76, 19.3.2008, p. 39).

¹⁴ ~~OJ L 78, 26.3.1991, p. 38. Directive as amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1).~~

¹⁵ DE reservation on the following sentence.

~~(11) Directive 91/157/EEC needs to be revised as soon as possible, particularly in the light of this Directive.~~

~~(11)~~⁽¹²⁾ The establishment, by this Directive, of producer responsibility is one of the means of encouraging the design and production of electrical and electronic equipment which take into full account and facilitate their repair, possible upgrading, re-use, disassembly and recycling.

~~(12)~~⁽¹³⁾ In order to guarantee the safety and health of distributors' personnel involved in the take-back and handling of WEEE, Member States should, in accordance with national and Community legislation on safety and health requirements, determine the conditions under which take-back may be refused by distributors.

~~(14) Member States should encourage the design and production of electrical and electronic equipment which take into account and facilitate dismantling and recovery, in particular the re-use and recycling of WEEE, their components and materials. Producers should 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.~~

~~(1315)~~ Separate collection is ~~the~~ precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge.

Distributors have an important role in contributing to the success of WEEE collection.

~~(1416)~~ In order to attain the chosen level of protection and harmonised environmental objectives of the Community, Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order to ensure that Member States strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE, particularly for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases, given their high environmental impact and in view of obligations contained in Regulation (EC) 2037/2000 and Regulation (EC) 842/2006¹⁶ from private households. Data included in the impact assessment shows that 65% of electrical and electronic equipment placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports. This leads to losses of valuable secondary raw materials and environmental degradation. To avoid this, it is necessary to set an ambitious collection target.

¹⁶ COM(2008)505 and SEC(2008)2367.

(1517) Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen level of protection of the environment of the Community. Any establishment or undertakings carrying out **collection**, recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. Best available treatment, recovery and recycling techniques should be used provided that they ensure human health and high environmental protection. Best available treatment, recovery and recycling techniques may be further defined in accordance with the procedures of Directive 2008/1/EC ~~96/61/EC~~¹⁷.

(1618) Where appropriate, priority should be given to **preparing for** [...] re-use of WEEE and its components, subassemblies and consumables. Where [...] **this** is not preferable, all WEEE collected separately should be sent for recovery, in the course of which a high level of recycling and recovery should be achieved. In addition, producers should be encouraged to integrate recycled material in new equipment.

¹⁷ OJ L 24, 29.1.2008, p. 8 ~~OJ L 257, 10.10.1996, p. 26-40.~~

new

- (17) The recovery, preparation for re-use and recycling of equipment can be counted into the targets defined in Article 7 of this Directive only if that recovery or preparation for re-use or recycling is not in contradiction to other European and Member States legislation applicable to the equipment.
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Ⓔ 2002/96/EC

new

Council

- (~~1819~~) Basic principles with regard to the financing of WEEE management have to be set at Community level and financing schemes have to contribute to high collection rates as well as to the implementation of the principle of producer responsibility.
- (~~1920~~) Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should ~~therefore~~ finance at least the collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage producers to take full ownership of the WEEE collection in particular by financing the collection of WEEE throughout the whole waste chain, including from private households, in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports, to create a level playing field by harmonising producer financing across the EU, to shift payment for the collection of this waste from general tax payers to the consumers of EEEs in line with the polluter pays principle.

In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants. ~~For a transitional period producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of historical waste. Producers making use of this provision should ensure that the costs mentioned do not exceed the actual costs incurred.~~

- (20) Producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of WEEE. This is in line with the Commission Communication on Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan in particular with regard to smarter consumption and green public procurement.
- (21) Information to users about the requirement not to dispose of WEEE as unsorted municipal waste and to collect WEEE separately, and about the collection systems and their role in the management of WEEE, is indispensable for the success of WEEE collection. Such information implies the proper marking of electrical and electronic equipment which could end up in rubbish bins or similar means of municipal waste collection.

- (22) Information on component and material identification to be provided by producers is important to facilitate the management, and in particular the treatment and recovery or ~~recycling~~, of WEEE.
- (23) Member States should ensure that inspection and monitoring infrastructure enable the proper implementation of this Directive to be verified, having regard, *inter alia*, to Recommendation 2001/331/EC of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States ¹⁸.

(23a) Member States should provide for effective, proportionate and dissuasive penalties to be imposed on natural and legal persons responsible for waste management, where they infringe the provisions of this Directive. Member States may also take action to recover the costs of non-compliance and remedial measures, without prejudice to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.

¹⁸ OJ L 118, 27.4.2001, p. 41.

- (24) Information about the weight ~~or, if this is not possible, the numbers of items~~ of electrical and electronic equipment ~~placed on~~ the market in the Community and the rates of collection, preparation for re-use, including [...] of whole appliances as far as possible, recovery or ~~recycling~~ and export of WEEE collected in accordance with this Directive is necessary to monitor the achievement of the objectives of this Directive.
- For the purposes of calculating collection rates, a common methodology for the calculation of weight of electric and electronic equipment should be developed to clarify, among others, that this term includes the actual weight of the entire equipment in the form in which it is marketed, including all components, subassemblies, accessories¹⁹ and consumables but excluding packaging, batteries, instructions for use and manuals;
- (25) Member States may choose to implement certain provisions of this Directive by means of agreements between the competent authorities and the economic sectors concerned provided that particular requirements are met.

(25a) Member States should ensure an adequate flow of information in order to make possible an implementation of this Directive in full respect of internal market requirements, namely with regard to avoiding any repetition of requirements to producers.

- (26) [...]

¹⁹ NL: delete "accessories".

(27) The measures necessary for ensuring uniform conditions for the implementation of this Directive should be adopted in accordance with Regulation .../ .../ ... of the European Parliament and of the Council [...] laying down [...] the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. The Commission should also be empowered to adopt delegated acts in accordance with Article 290 TFEU for the purposes of [...] adapting [...] annexes [...] IB, [...] III and IV to scientific and technical progress, and of adopting rules supplementing the rules laid down in this Directive as regards the technical requirements for collection and the equivalence of waste treatment when waste is shipped out of the Union. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

new

(28) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.

(29) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex V, Part B.

Ⓔ 2002/96/EC

HAVE ADOPTED THIS DIRECTIVE:

Ⓔ 2002/96/EC

Article 1

new

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.

Ⓒ 2002/96/EC

new

Council

Objectives

~~The purpose of this Directive is, as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the re-use, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the treatment of waste electrical and electronic equipment.~~

Article 2

Scope

1. This Directive shall apply to electrical and electronic equipment as follows:

(a) from [date of entry into force] to [6 years after the date of entry into force] (transitional period) to electrical and electronic equipment falling under the categories set out in Annex A. Annex B contains an indicative list of products which fall under the categories set out in Annex A.

(b) from [6 years after the date of entry into force] to electrical and electronic equipment falling under the categories set out in Annex I A. Annex IB contains an indicative list of products which fall under the categories set out in Annex IA.²⁰ Annex IA [...] provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of this Directive. Annex IB contains a list of products which fall under the categories set out in Annex IA.

²⁰ In relation to the Presidency compromise package (Article 2, Article 3(1)(aa) and Annexes A, B, IA and IB - scope):

IT/LV/LU/UK: the transition period is too short, prefer 8 years.

DE: maintains its proposal to delay the open scope via an additional category in Annex IA which should have 10 categories. Add point 3a(b) in para 3 deleting "industrial" and delete paragraph 3a.

BE/DK/EE/IE/ES/FR/LT/PT/SE/FI: opposed to Article 3(1)(aa) defining "dependent": suggest either its alignment with RoHS or the deletion of this definition.

IT/UK/DE/RO oppose this suggestion, support the present text of Article 3(1)(aa).

NL/LV/AT/FI suggest, in Annex B, an alignment with the existing Directive and not with the Cion original proposal (deletion of "including").

DK/FR: delete the exclusions in Article 2(3) point (ca), adding it to cat. 6 in Annex A and to para 3a.

CZ asks to add the provisions on historical waste in the revision of the Directive (Article 2(4)(a)).

Other delegations/Cion: can support in principle the compromise text.

2. This Directive shall apply without prejudice to requirements of Community legislation on safety and health ~~requirements and~~ , on chemicals, in particular Regulation (EC)1907/2006 as well as of specific Community waste management or product design legislation.

Ⓔ 2002/96/EC (adapted)

new

Council

3. During the transitional period specified in paragraph 1(a), this Directive shall

[...] not apply to any of the following equipments:

(a) Equipment which is necessary for²¹ ~~connected with~~ the protection of the essential interests of the security of Member States, including arms, munitions and war material ~~Shall be excluded from this Directive. This does not, however, apply to products which are not~~ intended for specifically military purposes.

(b) Equipment which is specifically designed and installed as part of another type of equipment that is excluded or does not fall within the scope of this Directive which [...] can fulfill its function only if it is part of that equipment.

new

Council

(c) [...]

(ca) large scale stationary industrial tools;

(cb) [...]

²¹ PT: replace "necessary for" by "directly used for".

- (d) Filament bulbs.
- (e) [...] medical devices and in vitro diagnostic medical devices, where such devices are expected to be infective prior to end of life, and active implantable medical devices.²²

23

3a. In addition to the equipment specified in paragraph 3, from [6 years after the date of entry into force] this Directive shall not apply to the following equipment:

- (a) Equipment designed to be sent into space;
- (b) large scale fixed industrial²⁴ installations;
- (c) means of transport for persons or goods, excluding electric two wheel vehicles which are not type-approved;
- (d) non road mobile machinery made available exclusively for professional use;
- (da) equipment specifically designed solely for the purposes of research and development only made available on a business to business basis;**

²² IE/EL/ES/PL: replace (e) with: "implanted and infected medical devices" as in the original proposal.

²³ DE: exclude PV panels. A majority of delegations opposes this suggestion.

²⁴ BG/DE/IT/RO/SI/UK: delete "industrial" (also in Article 3(1)(ac))
EL/ES/PT oppose this suggestion.

new

Council

4. [...] ²⁵

4a. No later than [4 years after the date of entry into force] the Commission shall review the scope of this Directive entering into force from [6 years after the date of entry into force] and shall present a report thereon to the Council and to the European Parliament accompanied by a legislative proposal, if appropriate.

²⁵ EL: add “For products containing a supplementary distinctive electrical or electronic component, without which the product can still perform its basic function, the provisions of this Directive should apply mutatis mutandis to the electrical or electronic component”.

Article 3

Definitions

1. 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;

(aa) "dependent" means that the electrical and electronic equipment needs electric currents or electromagnetic fields to fulfil its basic function;

(ab) "large scale stationary industrial tools" means a large size assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;

(ac) "large scale industrial fixed installation" means a large size combination of several types of apparatus and, where applicable, other devices, which are assembled, installed by professionals and intended to be used permanently in a pre-defined and dedicated industrial location, and to be de-installed by professionals;

(ad) "non-road mobile machinery made available exclusively for professional use" means machinery, with on-board power source, the operation of which requires either mobility or continuous or semi-continuous movement between a succession of fixed working locations while working, and is only made available for professional use.

(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 ~~1(a) of Directive 75/442/EEC~~, including all components, subassemblies and consumables which are part of the product at the time of discarding;

[...]

new

Council

[...]

© 2002/96/EC (adapted)

new

Council

[...] ²⁶

- (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 ²⁷:
- (i) is established in a Member State and manufactures ~~and sells~~ electrical and electronic equipment under his own name or trademark, or has electrical and electronic equipment designed or manufactured and markets that [...] equipment under his name or trade mark within the territory of that Member State, or ~~brand~~,
- (ii) is established in a Member State and resells within the territory of that Member State under his ~~own brand~~ own 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

²⁶ Definitions (c) to (i), (m), (r) and (s) are replaced by a specific cross reference to Directive 2008/98/EC at the end of Article 3.

²⁷ OJ L 144, 4.6.1997, p. 19.

(iii) is established [...] in a Member State and places on the market of that Member State, on a professional basis, ~~imports or exports~~ electrical and electronic equipment from a third country or from another Member State, [...] ~~into a Member State~~ [...]

(iv) sells electrical and electronic equipment by means of distance communication directly to private households or users, other than private households, in a Member State, and is established in another Member State or in a third country.

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);^{28 29}

(k~~i~~) 'distributor' means any natural or legal person in the supply chain, who makes an electrical and electronic equipment available on the market; without prejudice to coverage of the distributor also by paragraph 1(j) ~~who provides electrical or electronic equipment on a commercial basis to the party who is going to use it~~

(l~~k~~) '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 quantity³⁰, is similar to that from private households . Waste from EEE designed to be used by both private households and users other than private households shall in any case be considered as WEEE from private households³¹ ;

²⁸ Cion: reservation on the changes to the definition of producer and to that of placing on the market (and all consequential changes). Maintains its original proposal (producer at EU level).

²⁹ UK: add a *de minimis* clause whereby Member States may exempt producers placing very small quantities of EEE on the market from the requirements of the Directive, following a procedure of notification and approval by the Commission (5930/11). MT/SI: open to this suggestion. Other delegations/Cion do not support this suggestion.

³⁰ DK/EE/FR/AT/PL/SI: delete "and quantity". ES/LV/LU/NL/MT/PT/SK/UK/Cion: opposed to this suggestion.

³¹ FI/IT/PT: reservation on this addition. The Commission recalls its proposal for a new paragraph 4 in Article 2 (classification to be established via delegated act).

DK/ES/FR: reservation on the addition of "designed to be".

new

Council

[...]

Ⓔ 2002/96/EC

new

Council

~~(l) ‘dangerous substance or preparation’ means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC³² or Directive 1999/45/EC of the European Parliament and of the Council³³.~~

~~(nm)~~ ‘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 ; [...]

³² ~~OJ L 196, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2001/59/EC (OJ L 225, 21.8.2001, p. 1).~~

³³ ~~OJ L 200, 30.7.1999, p. 1. Directive as amended by Commission Directive 2001/60/EC (OJ L 226, 22.8.2001, p. 5).~~

new

Council

- (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 within the territory of a Member State on a professional basis ;
- (q) "remove" means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, [...] mixtures and components are contained as an identifiable stream or identifiable part of a stream [...]. A substance, [...] mixture or component is identifiable if it can be monitored to prove environmentally safe treatment.

[...]

- (sa) 'medical device' means a medical device or accessory within the meaning of, respectively, points (a) or (b) of Article 1(2) of Directive 93/42/EEC and which is electrical and electronic equipment.
- (sb) 'in vitro diagnostic medical device' means an in vitro diagnostic device or accessory within the meaning of, respectively, points (b) or (c) of Article 1(2) of Directive 98/79/EEC and which is electrical and electronic equipment.
- (sc) 'active implantable medical device' means an active implantable medical device within the meaning of point (a) of Article 1(2) of Directive 90/385/EEC and which is electrical and electronic equipment.
2. In addition, the definitions of 'prevention', 're-use', 'preparing for re-use', 'recycling', 'recovery', 'disposal', 'treatment', 'hazardous waste', 'collection' and 'separate collection' laid down in Article 3 of Directive 2008/98/EC on waste shall apply.

Article 4

Product design

Member States shall [...], without prejudice to the requirements of Community legislation on product design including Directive 2005/32/EC on eco-design, encourage cooperation between producers and recyclers and measures to promote the design and production of electrical and electronic equipment notably in view of facilitating ~~which takes into account and facilitates~~ re-use, dismantling and recovery ~~in particular the re-use and recycling~~ of WEEE, ~~its~~ their components and materials. [...] 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 ~~in order~~ to minimise the disposal of WEEE ~~as~~ 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 [...] temperature exchange 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 ~~by the 13 August 2005:~~

- (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.

2a. Member States may designate the operators as referred to in paragraph 2 which are allowed to collect WEEE from private households.

2b. Member States may ensure that the WEEE deposited at collection facilities as referred to in paragraph 2 and paragraph 2a are handed over to producers or third parties acting on their behalf or, for purposes of preparing for re-use³⁴, to designated establishments or undertakings.

3. In the case of WEEE other than WEEE from private households, and without prejudice to Article 139, Member States shall ensure that producers or third parties acting on their behalf provide for the collection of such waste.

~~4. Member States shall ensure that all WEEE collected under paragraphs 1, 2 and 3 above is transported to treatment facilities authorised under Article 6 unless the appliances are reused as a whole. Member States shall ensure that the envisaged reuse does not lead to a circumvention of this Directive, in particular as regards Articles 6 and 7. The collection and transport of separately collected WEEE shall be carried out in a way which optimises reuse and recycling of those components or whole appliances capable of being reused or recycled.~~

³⁴ DE: add "where appropriate". MT/NL/SE open to this suggestion. DK/IE: reservation.

new

Council

Article 6

Disposal and transport of collected WEEE

1. Member States shall prohibit the disposal of [...] separately collected WEEE³⁵ which has 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.

For this purpose, Member States may require that collection schemes or facilities, as appropriate, provide for the segregation of equipment to be prepared for re-use from separately collected WEEE at the collection points.

³⁵ BE/IE/FR/PT: delete the rest of this sentence.

new

Council

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 [...] that 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 ³⁶ in the [...] three preceding years in that Member State. [...] A minimum collection rate shall be achieved annually and [...] shall evolve from 45% in the reporting year [4 years ³⁷ after the year of entry into force] to 65% in the reporting year [8 years after the year of entry into force]. Before [4 years after the year of entry into force], a rate of separate collection of at least four kilograms on average per inhabitant per year of WEEE from private households shall continue to apply.

1a. To document achievement of the minimum collection rate, Member States shall ensure that information on the WEEE separately collected as referred to in Article 5 ³⁸, is notified to the Member States.

³⁶ IE: the target should be based on WEEE arising, not on EEE placed on the market.

³⁷ The Presidency proposes a compromise package covering the scope of the Directive and the collection/recovery targets.

PT: reservation, prefers a longer deadline. BG/LV/PT prefer a horizontal approach to transitional measures. DK: transitional measures should be adopted by delegated acts.

³⁸ BE/ES: should refer to Art. 5(2)(a) and (b) only, and to operators referred to in the Waste Framework Directive (Articles 23, 24 and 26).

2. [...] The Czech Republic, Hungary, Malta, Poland, Romania and Slovakia may, because of their deficit of necessary infrastructure and low level of EEE consumption, decide to:

a) attain, no later than [4 years after the year of entry into force] a target of WEEE collected lower than 45% of the average weight of EEE placed on the market in the three preceding years but shall at least attain [...]40%[...];

b) postpone, at the same time the attainment of the targets referred to in paragraph 1 until a date of their own choice which shall not be later than [10 years after the year of entry into force].

3. In order to ensure uniform conditions for the implementation of this Article, a [...] common methodology shall be established for the calculation of the total weight of electrical and electronic equipment placed on the national market in accordance with the procedure laid down in Article 18(2).³⁹

[...]

4. By [...] [3 years from the date of entry into force] at the latest the European Parliament and the Council shall re-examine the collection rate [...] of 45% and the related deadline referred to in paragraph 1 [...] with a view to also setting [...] possible separate collection [...] targets for one or more categories set out in Annex IA especially for temperature exchange equipment and for mercury containing lamps, [...] on the basis of a report of the Commission accompanied by a proposal, if appropriate.

4a.⁴⁰ By [7 years from the date of entry into force] at the latest the European Parliament and the Council shall re-examine the collection rate of 65% and the related deadline referred to in paragraph 1 with a view to also setting possible separate collection targets for one or more categories set out in Annex IA on the basis of a report of the Commission accompanied by a proposal, if appropriate.

³⁹ Cion: reservation on this provision and on similar ones in Articles 16(3) and 20(3). The Commission considers that these should be delegated acts. As regards paragraph 4, the date of the review should be aligned as far as possible to other reviews foreseen in the text.

⁴⁰ SE: reservation on the mentioning of "possible separate collection targets..." also in paragraph 4a.

Ⓒ 2002/96/EC (adapted)

new

~~5. Without prejudice to paragraph 1, Member States shall ensure that by 31 December 2006 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of WEEE from private households is achieved.~~

~~The European Parliament and the Council, acting on a proposal from the Commission and taking account of technical and economic experience in the Member States, shall establish a new mandatory target by 31 December 2008. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.~~

Article ~~86~~

Proper treatment [...]

1. Member States shall ensure that all separately collected WEEE undergoes proper treatment .

2. Proper treatment [...] other than preparing for re-use and recovery or recycling operations 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 , where relevant⁴¹ . The systems may be set up by producers individually or collectively. Member States shall ensure that any establishment or undertaking carrying out collection⁴² or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex III. ~~producers or third parties acting on their behalf, in accordance with Community legislation, set up systems to provide for the treatment of WEEE using best available treatment, recovery and recycling techniques. The systems may be set up by producers individually and/or collectively. To ensure compliance with Article 4 of Directive 75/442/EEC, the treatment shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex II to this Directive.~~

⁴¹ NL/UK: reservation on the addition of "where relevant".

⁴² UK: delete the reference to collection. SE open to this suggestion.

Ⓔ 2008/34/EC Art. 1.1 (adapted)
Council

4. By means of delegated act to be adopted in accordance with Article 17a, 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 necessary⁴³, to specify within the treatment process, the steps where removal of substances, mixtures and components should take place.

[...] 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.

Ⓔ 2002/96/EC (adapted)
Council

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.

The Commission shall **develop** [...] minimum standards for the [...] treatment, including recovery, recycling and preparing for re-use, of WEEE [...] on the basis of Article 27 of Directive 2008/98/EC on waste by [6 years from year of entry into force]⁴⁴

⁴³ DK: delete "if necessary". SE: open to this suggestion.

⁴⁴ PL: reservation on this provision.

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 1221/2009 [...] ~~761/2001 of the European Parliament and of the Council of 19 March 2001~~ allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

Article 9

Permits [...]

© 2002/96/EC, Art. 6 (adapted)
Council

~~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/[...] 98 /EC on waste ~~. Articles 9 and 10 of Directive 75/442/EEC.~~

2. Exemptions from permit requirements, conditions for exemptions and registration shall be in compliance, respectively, with Articles 24, 25 and 26 of Directive 2008/98/EC on waste.

[...]

~~3. Member States shall ensure that any establishment or undertaking carrying out treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex III.~~

~~43.~~ 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 ~~paragraphs 1 and 2~~ Article 8(2), 8(3) and 8(5) ~~and 3~~ and for the achievement of the recovery targets set out in Article ~~117~~.

Article 10

Shipments of WEEE

Ⓔ 2002/96/EC, Art. 6 (adapted)

new

Council

~~15.~~ 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 [...] applicable Union legislation.⁴⁵ ~~Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community⁴⁶.~~

⁴⁵ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (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). 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 (OJ L 316, 4.12.2007, p. 6).

⁴⁶ ~~OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).~~

2. WEEE exported out of the Community [...] shall only count for the fulfilment of obligations and targets of Article ~~117(1) and (2)~~ of this Directive if in compliance with applicable Union legislation the exporter can prove that the treatment ~~recovery, re-use and/or recycling operation~~ took place under conditions that are equivalent to the requirements of this Directive.

~~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 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)⁴⁷.~~

new

Council

3. Detailed rules [...] supplementing those in paragraph [...] 2, in particular criteria for the assessment of equivalent conditions, shall be laid down by means of delegated act to be adopted in accordance with Article 17a.⁴⁸

[...]

⁴⁷ ~~OJ L 114, 24.4.2001, p. 1.~~

⁴⁸ DK/MT: reservation, this should be the object of an implementing act.

Ⓒ 2002/96/EC (adapted)

new

Council

Article ~~11~~⁷

Recovery targets⁴⁹

~~1. Member States shall ensure that producers or third parties acting on their behalf set up systems either on an individual or on a collective basis, in accordance with Community legislation, to provide for the recovery of WEEE collected separately in accordance with Article 5. Member States shall give priority to the re-use of whole appliances. Until the date referred to in paragraph 4, such appliances shall not be taken into account for the calculation of the targets set out in paragraph 2.~~

~~1~~². Regarding all WEEE separately collected **in accordance with Articles 5 and 6** [...], [...], Member States shall ensure that [...] producers meet the [...] minimum targets [...] set out in Annex IBA.

[...]

⁴⁹ Several delegations: scrutiny reservation on Article 11.
The Presidency proposes a compromise package covering the scope of the Directive and the collection/recovery targets.
ES: asks to separate, in each category, the target for recycling from preparing for re-use.

new

Council

2. These targets are calculated **, for each category,** as [...] **[...] the weight of the WEEE [...] that enters the [...] recovery or recycling/preparing for re-use processes, after proper treatment in accordance with Article 8.1 and 8.2,** over the weight of [...] separately collected **WEEE expressed as a percentage .**

[...] Sorting and [...] storage for the purposes of transport to a treatment facility shall not count towards the achievement of these targets ⁵⁰ .

Ⓔ 2002/96/EC

Council

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 **leaving (output) the collection facility,** entering (input) and leaving (output) the **[...] treatment [...] facilities and** when entering (input) the recovery or recycling **/preparing for re-use** facility.

Ⓔ 2008/34/EC Art. 1.2

~~Detailed rules for monitoring the compliance of Member States with the targets set out in paragraph 2, including specifications for materials, 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 14(3).~~

⁵⁰ **BE/DK/FR/LV/FI:** replace this sentence by: "Storage activities, sorting activities and preliminary operations prior to recovery shall not count towards the achievement of these targets."

Ⓒ 2002/96/EC

new

Council

~~4. The European Parliament and the Council, acting on a proposal from the Commission, shall establish new targets for recovery and re-use/recycling, including for the re-use of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, by 31 December 2008. This shall be done with account being taken of the environmental benefits of electrical and electronic equipment in use, such as improved resource efficiency resulting from developments in the areas of materials and technology. Technical progress in re-use, recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account.~~

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

4a. By [7 years from the date of entry into force] at the latest the European Parliament and the Council shall re-examine the recovery targets referred to in Annex IBA, Part 3, and the calculation method referred to in paragraph 2 with a view to [...] analyse the feasibility to refer the targets to products and materials resulting (output) from the recovery, recycling and preparation for re-use processes, on the basis of a report of the Commission accompanied by a proposal, if appropriate.

Article 12~~8~~

Financing in respect of WEEE from private households

1. Member States shall ensure that, ~~by 13 August 2005,~~ producers provide at least for the financing of the collection ⁵¹, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). [...]

1a. Member States, where appropriate, may encourage producers to finance also the cost occurring for collection of WEEE from private households to collection facilities.

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~~14(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.

~~The costs of collection, treatment and environmentally sound disposal shall not be shown separately to purchasers at the time of sale of new products.~~

⁵¹ EL: add "transport" here and in Article 13(1). BG: open to this suggestion. Other delegations/Cion: reservation.

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

~~Member States shall ensure that for a transitional period of eight years (10 years for category 1 of Annex IA) after entry into force of this Directive, 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.~~

~~4. Member States shall ensure that producers supplying electrical or electronic equipment by means of distance communication also comply with the requirements set out in this Article for the equipment supplied in the Member State where the purchaser of that equipment resides.~~

4a. Member State may encourage⁵², where applicable, producers or third parties acting on their behalf to develop appropriate mechanisms or refund procedures for the reimbursement of contributions to the producers where electrical and electronic equipment is transferred for placing on the market outside the territory of the Member State concerned.⁵³

⁵² LU/NL/PT/Cion: prefer to make this provision mandatory. Other delegations: can agree with the Presidency compromise.

⁵³ Cion: delegated acts should be foreseen to ensure this will be correctly implemented.

Article ~~139~~

Financing in respect of WEEE from users other than private households

1. Member States shall ensure that, ~~by 13 August 2005,~~ 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.

~~Member States shall ensure that, by 13 August 2005, for WEEE from products put on the market before 13 August 2005 (historical waste), the financing of the costs of management is as set out in the third and fourth subparagraphs.~~

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 ~~1410~~

Information for users

1. Member States [...] may require producers to show purchasers ⁵⁴, 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 best estimate of 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.

⁵⁴ EE: replace "purchasers" by "users". Other delegations: agree with the Presidency compromise.

~~32.~~ 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.

~~43.~~ 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 – preferably in accordance with the European standard EN 50419⁵⁵ - electrical and electronic equipment ~~placed~~^{put} on the market ~~after 13 August 2005~~ 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.

~~54.~~ Member States may require that some or all of the information referred to in paragraphs ~~2 to 4~~^{2 to 3} shall be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale.

56

⁵⁵ Adopted by CENELEC in March 2006.

⁵⁶ NL: add "5a. Member States shall ensure that producers report to the public on fulfilment of the obligations of Articles 12(3), 12(4) and 14(1) on an annual basis."

Information for treatment facilities⁵⁷

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 [...] mixtures 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 a [...] producer within the meaning of Article 3 paragraph 1(j) (i) and (ii) of an electrical or electronic appliance placed on the⁵⁸ market after ~~13 August 2005~~ 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. Preferably, the [...] European Standard EN 50419 shall be applied. ~~The Commission shall promote the preparation of European standards for this purpose.~~

⁵⁷ Cion: a Community approach of "producer" is necessary for this Article in order to avoid administrative overburdens.

⁵⁸ BE/DK: add "EU" and delete the new reference to Article 3(1)(J)(i) and (ii).

Registration, information and reporting

new

Council

1. Member States shall , in accordance with paragraph 2, draw up a register of producers, including producers supplying electrical and electronic equipment by means of distance communication ⁵⁹ [...] or their legal representatives as referred to in Article 16a.

Producers supplying electrical and electronic equipment by means of distance communication or their representatives shall be registered in the Member State where they sell to.

That register shall serve for monitoring compliance [...] with the requirements of this Directive.

2. Member States shall ensure that [...]

a) each producer and/or legal representative is registered as required and can enter in their national register all relevant information ⁶⁰ online, reflecting his activities in that ⁶¹ Member State.

b) upon registering, producers provide the information set out in Annex IVa part A, undertaking to update it as appropriate.

c) producers or third parties acting on their behalf provide the information set out in Annex IVa part B,

⁵⁹ CZ/FR/LV/PT: add "and/". AT presents an alternative text for Articles 16 and 16a in 6165/11. Other delegations: can support the compromise text.

⁶⁰ EE: add "preferably".

⁶¹ Cion: replace "that Member State" with "all Member States" and delete the second sentence in paragraph 1.

3. [...] In order to ensure uniform conditions for the implementation of this Article, the format for registration and reporting and the frequency of reporting to the register, shall be established in accordance with the procedure laid down in Article 18(2).⁶² [...]

4. [...]

Ⓔ 2002/96/EC (adapted)

new

Council

~~5.~~ Member States shall ~~draw up a register of producers and~~ collect information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment ~~placed put~~ on their markets, collected through all routes, re-used, recycled and recovered within the Member States, and on ~~separately~~ collected ~~WEEE waste~~ exported, by weight ~~or, if this is not possible, by numbers~~.

~~Member States shall ensure that producers supplying electrical and electronic equipment by means of distance communication provide information on the compliance with the requirements of Article 8(4) and on the quantities and categories of electrical and electronic equipment put on the market of the Member State where the purchaser of that equipment resides.~~

~~Member States shall ensure that the information required is transmitted to the Commission on a two-yearly basis within 18 months after the end of the period covered. The first set of information shall cover the years 2005 and 2006. The information shall be provided in a format which shall be established within one year after the entry into force of this Directive in accordance with the procedure referred to in Article 14(2) with a view to establishing databases on WEEE and its treatment.~~

⁶² EE/FI: delete this paragraph.

~~Member States shall provide for adequate information exchange in order to comply with this paragraph, in particular for treatment operations as referred to in Article 6(5).~~

~~62. Without prejudice to the requirements of paragraph 1, 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/EC⁶³ and Commission Decision 2005/369/EC⁶⁴ or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment⁶⁵. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report.~~ 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 [...] report shall cover the period from [...] [18 months after the date of entry into force] up to the end of the first regular three-year reporting period as specified in Article 5 of Directive 91/692/EEC which falls after that date.

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

⁶³ OJ L 78, 16.3.2004, p. 56.

⁶⁴ OJ L 119, 11.5.2005, p. 13.

⁶⁵ ~~OJ L 377, 31.12.1991, p. 48.~~

Article 16a

Legal representative⁶⁶

Member States **may** [...] ensure that a producer as defined in Art. 3(1)(j)iv, which sells electric or electronic equipment to that Member State from another Member State or a third country, appoints a legal or natural person established on their territory, as the person who is responsible for fulfilling his obligations as producer, pursuant to this Directive, on their territory.

[...]

Article 16b

Administrative cooperation and exchange of information

Member States shall ensure that authorities responsible for implementing this Directive shall cooperate with each other, in particular to establish an adequate flow of information to ensure compliance of distant sellers with the provisions of the Directive and, where appropriate, provide each other and the Commission with information in order to facilitate the proper implementation of this Directive. The administrative cooperation and exchange of information shall take utmost advantage of electronic means of communication.

⁶⁶ Cion: Distance sellers inside the Community market, as defined in Art. 3(1)(j)(iv), should be allowed to register in the Member State where they are established, and should not be required to establish an additional legal seat or legal representative in another Member State into which they are selling.
BE/DE/IE/FR/IT/LU/AT/UK: delete Art. 16a. MT supports the previous text (6948/11) and is opposed to the deletion of Art. 16a. As a compromise, Pres. suggests to replace "shall" by "may".

Article ~~1713~~

Adaptation to scientific and technical progress

~~Any~~ [...] By means of delegated acts in accordance with Article 17a, the Commission may adopt amendments necessary in order to adapt Article 16(6) ~~7(3)~~, Annex IB (in particular with a view to possibly adding luminaires in households, filament bulbs and photovoltaic products, i.e. solar panels), Annex II (in particular taking into account new technical developments for the treatment of WEEE), and [...] Annexes IB, [...], II, III and IV ~~III and IV~~ to scientific and technical progress. When amending Annex II, the exemptions granted under Directive.../...(RoHS) shall be taken into consideration. [...]

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.⁶⁷

⁶⁷ Cion: this paragraph should be deleted, being covered by a (horizontal) recital. In addition, Annex IC should be mentioned in the first paragraph in order for it to be adapted via delegated acts.

Article 17a

Exercise of the delegation

1. The powers to adopt delegated acts referred to in Articles 8(4), 10(3), and 17 shall be conferred on the Commission for a period of 5 years following the entry into force of this Directive. The Commission shall make a report in respect of the delegated powers at the latest 6 months before the end of the 5 year period. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 17b.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 17b and 17c.

Article 17b

Revocation of the delegation

1. The delegation of powers referred to in Article 17a may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Article 17c

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council this period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Ⓔ 2002/96/EC (adapted)

Council

Article ~~1814~~

Committee⁶⁸

1. The Commission shall be assisted by the Committee set up by Article 39 of Directive 2008/ [...] 98 /EC ~~18 of Directive 75/442/EEC~~.

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.

Ⓔ 2008/34/EC Art. 1.4

Council

3. [...]

Ⓔ 2002/96/EC

Article ~~1915~~

Penalties

~~Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.~~

⁶⁸ To be aligned with the new examination procedure when the horizontal comitology Regulation will be adopted.

new

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.

Ⓔ 2002/96/EC

Article ~~2016~~

Inspection and monitoring

~~Member States shall ensure that inspection and monitoring enable the proper implementation of this Directive to be verified.~~

new

Council

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

Those inspections shall at least cover shipments, in particular exports of WEEE outside the Community in [...] compliance with applicable Union legislation 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 [...] suspected to be WEEE are carried out in accordance with the minimum requirements in Annex IC and shall monitor such shipments accordingly.

2a. The costs of appropriate analyses and inspections, including storage costs, of used EEE suspected to be WEEE, may be charged to the producers, third parties acting on their behalf or other persons arranging the shipment of used EEE suspected to be WEEE.

3. In order to ensure uniform conditions for the implementation of this Article and of Annex IC, [...] additional rules on inspections and monitoring may be established in accordance with the procedure laid down in Article 18(2)⁶⁹.

[...]

⁶⁹ Cion: reservation, these should be developed via a delegated act.

Ⓒ 2002/96/EC (adapted)

new

Council

Article ~~21~~¹⁷

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with [...] this Directive by [...] at the latest [*18 months after the day of this Directive's publication in the Official Journal of the European Union*] ~~13 August 2004~~. They shall [...] forthwith communicate to the Commission the text of those provisions [...] ⁷⁰.

When Member States adopt these [...] provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. ~~The methods of making such a reference shall be laid down by the Member States.~~

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.

⁷⁰ Cion: reservation on the deletion of the reference to the correlation table.

2. Member States shall communicate to the Commission ~~the text of all laws, regulations and administrative provisions adopted~~ 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 ~~86(6)~~, ~~14(2)~~~~10(1)~~ and ~~1511~~ 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.

~~4. (a) Greece and Ireland which, because of their overall:~~

~~— recycling infrastructure deficit,~~

~~— geographical circumstances such as the large number of small islands and the presence of rural and mountain areas,~~

~~— low population density, and~~

~~— low level of EEE consumption,~~

~~— are unable to reach either the collection target mentioned in the first subparagraph of Article 5(5) or the recovery targets mentioned in Article 7(2) and which, under the third subparagraph of Article 5(2) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste⁷¹, may apply for an extension of the deadline mentioned in that Article,~~

~~— may extend the periods referred to in Articles 5(5) and 7(2) of this Directive by up to 24 months.~~

~~— These Member States shall inform the Commission of their Decisions at the latest at the time of transposition of this Directive.~~

~~— (b) The Commission shall inform other Member States and the European Parliament of these decisions.~~

⁷¹ ~~OJ L 182, 16.7.1999, p. 1.~~

~~5. Within five years after the entry into force of this Directive, the Commission shall submit a report to the European Parliament and the Council based on the experience of the application of this Directive, in particular as regards separate collection, treatment, recovery and financing systems. Furthermore the report shall be based on the development of the state of technology, experience gained, environmental requirements and the functioning of the internal market. The report shall, as appropriate, be accompanied by proposals for revision of the relevant provisions of this Directive.~~

new

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.

Ⓒ 2002/96/EC

new

Council

Article ~~2318~~

Entry into force

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

Article ~~2419~~

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 (with the exception of all implanted and infected products)

9. Monitoring and control instruments

10. Automatic dispensers

ANNEX IB

~~List of products which shall be taken into account for the purpose of this Directive and which fall under the categories of Annex IA~~

~~1. LARGE HOUSEHOLD APPLIANCES~~

~~Large cooling appliances~~

~~Refrigerators~~

~~Freezers~~

~~Other large appliances used for refrigeration, conservation and storage of food~~

~~Washing machines~~

~~Clothes dryers~~

~~Dish washing machines~~

~~Cooking~~

~~Electric stoves~~

~~Electric hot plates~~

~~Microwaves~~

~~Other large appliances used for cooking and other processing of food~~

~~Electric heating appliances~~

~~Electric radiators~~

~~Other large appliances for heating rooms, beds, seating furniture~~

~~Electric fans~~

~~Air conditioner appliances~~

~~Other fanning, exhaust ventilation and conditioning equipment~~

~~2. SMALL HOUSEHOLD APPLIANCES~~

~~Vacuum cleaners~~

~~Carpet sweepers~~

~~Other appliances for cleaning~~

~~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~~

~~Centralised data processing:~~

~~Mainframes~~

~~Minicomputers~~

~~Printer units~~

~~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~~

~~and other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means~~

~~User terminals and systems~~

~~Faeximile~~

~~Telex~~

~~Telephones~~

~~Pay telephones~~

~~Cordless telephones~~

~~Cellular telephones~~

~~Answering systems~~

~~and other products or equipment of transmitting sound, images or other information by telecommunications~~

~~4. CONSUMER EQUIPMENT~~

~~Radio sets~~

~~Television sets~~

~~Videocameras~~

~~Video recorders~~

~~Hi-fi recorders~~

~~Audio amplifiers~~

~~Musical instruments~~

~~And other 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~~

~~5. LIGHTING EQUIPMENT~~

~~Luminaires for fluorescent lamps with the exception of luminaires in households~~

~~Straight fluorescent lamps~~

~~Compact fluorescent lamps~~

~~High intensity discharge lamps, including pressure sodium lamps and metal halide lamps~~

~~Low pressure sodium lamps~~

~~Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs~~

~~6. ELECTRICAL AND ELECTRONIC TOOLS (WITH THE EXCEPTION OF LARGE SCALE STATIONARY INDUSTRIAL TOOLS)~~

~~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~~

~~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 (WITH THE EXCEPTION OF ALL IMPLANTED AND INFECTED PRODUCTS)~~

~~Radiotherapy equipment~~

~~Cardiology~~

~~Dialysis~~

~~Pulmonary ventilators~~

~~Nuclear medicine~~

~~Laboratory equipment for *in vitro* diagnosis~~

~~Analysers~~

~~Freezers~~

~~Fertilization tests~~

~~Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability~~

~~9. MONITORING AND CONTROL INSTRUMENTS~~

~~Smoke detector~~

~~Heating regulators~~

~~Thermostats~~

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

~~Other monitoring and control instruments used in industrial installations (e.g. in control panels)~~

10. AUTOMATIC DISPENSERS

~~Automatic dispensers for hot drinks~~

~~Automatic dispensers for hot or cold bottles or cans~~

~~Automatic dispensers for solid products~~

~~Automatic dispensers for money~~

~~All appliances which deliver automatically all kind of products~~

ANNEX A

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 and photovoltaic panels
 5. Lighting equipment
 6. Electrical and electronic 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 B

List of products which fall under the Categories listed in Annex A:

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, Videocameras, 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 IA**Categories of electrical and electronic equipment covered by this Directive**⁷²

1. **Temperature exchange equipment**
2. **Screens, [...] monitors, and equipment containing screens having a surface greater than 100 cm²**
3. **Lamps**
4. **Heavy equipment (weighing 15 Kg or more) including:**

Household appliances; IT and telecommunication equipment; consumer equipment, luminaries, equipment reproducing sound or images, musical equipment; electrical and electronic tools; toys, leisure and sports equipment; medical devices; monitoring and control instruments and automatic dispensers, equipment for the generation of electric currents. This category does not include equipment included in categories 1 to 3.

⁷² The Presidency proposes a compromise package covering the scope of the Directive and the collection/recovery targets.

In respect to Annex IA:

DE: asks to introduce 10 categories as in the existing Directive adding an 11th category to cover other EEE.

AT: replace in Categories 4 and 5 the reference to "15 kg" by "50 cm".

NL: add luminaries in cat. 3 and delete them from categories 4 and 5.

FR: modify the reference to equipment generating energy as follows: "equipment for the generation of electric and electronic currents and fields" (cat. 4 and 5).

5. Light equipment (weighing less than 15 Kg) including:

Household appliances; IT and telecommunication equipment; consumer equipment; luminaries, equipment reproducing sound or images, musical equipment; electrical and electronic tool; toys, leisure and sports equipment; medical devices, monitoring and control instruments and automatic dispensers, equipment for the generation of electric currents.
This category does not include equipment included in categories 1 to 3.

ANNEX IB

Examples of products which fall under the Categories listed in Annex 1A:

1. Temperature exchange equipment

Refrigerators, Freezers, Equipment which automatically deliver cold products, Air conditioning equipment, Dehumidifying equipment, Heat pumps. Radiators containing oil and other temperature exchange equipment using other fluids than water for the temperature exchange.

2. Screens, [...] monitors, and equipment containing screens having a surface greater than 100 cm²

Screens, Televisions, LCD photo frames, Monitors, Laptops, Notebooks.

3. Lamps

Straight fluorescent lamps, Compact fluorescent lamps, Fluorescent lamps , High intensity discharge lamps - including pressure sodium lamps and metal halide lamps, Low pressure sodium lamps, LED.

4. Heavy equipment

Washing machines, Clothes dryers, Dish washing machines, Cooking, Electric stoves, Electric hot plates, [...] Luminaries, Equipment reproducing sound or images, Musical equipment (excluding pipe organs installed in churches), Appliances for knitting and weaving, Large computer-mainframes, Large printing machines, Copying equipment, Large coin slot machines, Large medical devices Large monitoring and control instruments, Large appliances which automatically deliver products and money, Photovoltaic panels.

5. Light equipment

Vacuum cleaners, Carpet sweepers, Appliances for sewing, Luminaries, Microwaves, Ventilation equipment, Irons, Toasters, Electric knives, Electric kettles, Clocks, Electric shavers, Scales, Appliances for hair and body care, Personal computers, Printers, calculators, Telephones, Mobile phones, Radio sets, Video cameras, Video recorders, Hi-fi equipment, Musical instruments, Equipment reproducing sound or images, Electrical and electronic toys, Sports equipment, Computers for biking, diving, running, rowing, etc., Smoke detector, Heating regulators, Thermostats, Small Electrical and electronic tools, Small medical devices, Small Monitoring and control instruments, Small Appliances which automatically deliver products, Small equipment with integrated photovoltaic panels.

Minimum recovery targets referred to in Article 11

Part 1: Minimum targets applicable from [date of entry into force] until [3⁷⁴ years after entry into force] with reference to the categories listed in Annex A.

(a) for WEEE falling under each of the categories 1 and 10 of Annex A,

– 80% shall be recovered, and

– 75% shall be recycled;

(b) for WEEE falling under each of the categories 3 and 4 of Annex A,

– 75% shall be recovered, and

– 65% shall be recycled;

(c) for WEEE falling under each of the categories 2, 5, 6, 7, 8 and 9 of Annex A,

– 70% shall be recovered, and

– 50% shall be recycled;

(d) for gas discharge lamps, 80% shall be recycled.

Part 2: Minimum targets applicable from [3 years after entry into force] until [6⁷⁵ years after entry into force] with reference to the categories listed in Annex A.

(a) for WEEE falling under each of the categories 1 and 10 of Annex [...]A,

– 85% shall be recovered , and

– 80% shall be prepared for re-use and recycled;

⁷³ AT: reservation.

⁷⁴ PL suggests 6 years.

⁷⁵ SE suggests 4 years.

(b) for WEEE falling under each of the categories 3 and 4 of Annex [...]A.

– 80% shall be recovered, and

– 70% shall be prepared for re-use and recycled;

(c) for WEEE falling under each of the categories 2, 5, 6, 7, 8 and 9 of Annex [...]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 ⁷⁶.

Part 3: Minimum targets applicable from [6 years after entry into force] with reference to the categories listed in Annex IA.

(a) for WEEE falling under each of the categories 1 and 4 of Annex I A

– 85% shall be recovered, and

– 80% shall be prepared for re-use and recycled;

(b) for WEEE falling under category 2 of Annex I A

– 80% shall be recovered, and

– 70% shall be prepared for re-use and recycled;

⁷⁶ DE: in (d), the target should be equal to 80%.

(c) for WEEE falling under category [...] 5 of Annex I A

– 75% shall be recovered, and

– 55% shall be prepared for re-use and recycled;

(d) for WEEE falling under category 3 of Annex I A [...] 80% shall be recycled.



ANNEX I C

Minimum [...] requirements for shipments of used EEE suspected to be WEEE

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 in cases of used EEE suspected to be WEEE request the following to back up this claim ⁷⁷:
 - 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 destined for direct re-use and fully functional ⁷⁸;
 - 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

⁷⁷ Pres.: proposes to add at the end of recital (14) the following sentence: "**It is appropriate to lay down minimum requirements for shipments of used EEE suspected to be WEEE, in the application of which Member States may have regard to any relevant Correspondents' Guidelines elaborated in the context of the implementation of Regulation 1013/2006 on shipment of waste.**"

⁷⁸ DK: add "and requires no further treatment, additional components or substances prior to re-use". SE: open to this suggestion.

d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging [...] or appropriate stacking of the load.

1a. By way of derogation, paragraph 1 points a) and b) and paragraph 2 do not apply where:

a) electrical and electronic equipment is sent back as defective batches for repair under warranty, or

b) used electrical and electronic equipment is sent for **failure analysis [...]**, refurbishment or repair

with the intention of re-use to the producer or third parties acting on his behalf when this is documented by conclusive proof **that the shipment is taking place in the framework of an audited business-to-business transfer agreement, supported by a legal after-sales service maintenance contract [...]**.⁷⁹

1b. By way of derogation, paragraph 1 points a) and b) do not apply where used electrical and electronic equipment is sent for checking, refurbishment or repair to the producer or third parties acting on their behalf with the intention of re-use when accompanied by documentation demonstrating for each equipment that these conditions are fulfilled.

⁷⁹ NL: add a further derogation as follows: "c) defected parts of medical devices and in vitro diagnostic medical devices for root cause analysis."

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 tested⁸⁰ and the presence of 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.

⁸⁰ BG/DE/LV/AT/SI/UK: delete the rest of this sentence.

b) The record shall contain the following information:

- Name of item (Name of the equipment if possible according to Annex I B [...] and category according to Annex I A: [...])
- Identification Number of the item (type no.) where applicable ;
- Year of Production (if available);
- Name and address of the company responsible for evidence of functionality ⁸¹;
- Result of tests as described in step 1 **(including date of the functionality test)** ;
- Kind of tests performed [...] .

3. In addition to the [...] documentation 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) relevant transport document, e.g. CMR [...]
- b) declaration of the liable person on its responsibility.

⁸¹ AT: add "(name of the authorised and qualified expert performing the functional capability text)".

4. In the absence of a proof that an object is used electrical and electronic equipment and not WEEE through the appropriate documentation required in [...] points 1, 2 and 3 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging or appropriate stacking of the load, Member State authorities shall [...] consider that an item is [...] WEEE and presume that the load comprises an illegal shipment. In these circumstances [...] the load will be dealt with in accordance with Articles 24 and 25 of the Waste Shipment Regulation. [...]

[...] ⁸²

⁸² UK: add "4a. Used EEE that is considered WEEE under point 4 may no longer be considered as WEEE if it is presented for export with the required appropriate documentation or, where it is not presented for export, it is not waste within the meaning of Directive 2008/98/EC.". Many delegations do not support this suggestion.

ANNEX II

Selective treatment for materials and components of waste electrical and electronic equipment referred to in accordance with Article 6(1)(8)(2)

1. As a minimum the following substances, [...] mixtures 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)⁸³,
- 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,

⁸³ OJ L 243, 24.9.1996, p. 31.

- 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,
- 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 ⁸⁴,
- 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 ⁸⁵,
- electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume)

⁸⁴ OJ L 343, 13.12.1997, p. 19.

⁸⁵ OJ L 159, 29.6.1996, p. 1.

These substances, [...] mixtures and components shall be disposed of or recovered in compliance with [...] Directive 2008/98/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 ⁸⁶.
- gas discharge lamps: The mercury shall be removed.

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.

⁸⁶ 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).

Ⓔ 2008/34/EC Art. 1.5 (adapted)

~~4. Acting in accordance with the regulatory procedure with scrutiny referred to in Article 14(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.~~

Ⓔ 2002/96/EC

Council

ANNEX III

Technical requirements ~~referred to in accordance with~~ Article ~~86~~(3)

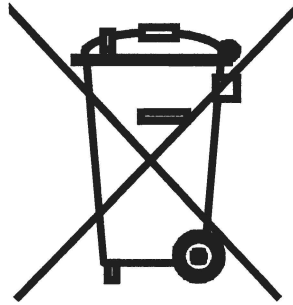
1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/EC):
 - impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,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

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 IVa

Information for registration and reporting referred to in Article 16

A. Information to be submitted upon registration:

1. Name of the producer and address (postal code and location, street name and number, in case of a legal representative **also** the producer that is represented, country, telephone and fax number, e-mail, as well as a contact person).
2. National identification code of the producer, including European tax number or national tax number of the producer (optional).
3. Category of electrical and electronic equipment in accordance with Annex IA of this Directive.
4. Type of electrical and electronic equipment (household or other than household equipment).
5. Brand name of electrical and electronic equipment⁸⁷ (optional).
6. Information on how the producer meets its responsibilities: individual or collective scheme, including information on financial guarantee.
7. Selling technique used (e.g. distant selling).
8. Declaration stating that the information provided is true.

⁸⁷ DE/PT: delete "(optional)".

B. Information to be submitted for reporting:

1. National identification code of the producer.

2. Reporting period.

3. Category of electrical and electronic equipments in accordance with Annex IA of this Directive.

4. ⁸⁸ Quantity of electrical and electronic equipments placed to the national market, by weight.

5. ⁸⁹ (optional) quantity, by weight, of waste of electrical and electronic equipments separately collected, re-used, recycled, recovered and disposed within the Member State or shipped within or outside the EU.

Note: Information set out in points 4 and 5 must be given by category.



⁸⁸ AT: this information should be optional.

⁸⁹ BG/DK/DE/EE/FR/MT/SK: delete "(optional)", this information should be obligatory.
IE/EL/ES/PT/SI: delete point 5 (or keep it as optional).

ANNEX V**Part A****Repealed Directive with its successive amendments****(referred to in Article 22)**

Directive 2002/96/EC on waste electrical and electronic equipment (WEEE)	(OJ L 37, 13.02.2003, p.24)
Directive 2003/108/EC of the European Parliament and of the Council	(OJ L 345, 31.12.2003, p. 106)
Directive 2008/34/EC of the European Parliament and of the Council	(OJ L 81, 20.03.2008, p. 65)

Part B**List of time-limits for transposition into national law****(referred to in Article 22)**

Directive	Deadline for transposition
2002/96/EC	13 August 2004
2003/108/EC	13 August 2004
2008/34/EC	-

ANNEX VI

Correlation table

Directive 2002/96/EC	This Directive
Article 1	-
-	Article 1
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
-	Article 2(3), introductory wording
Article 2(3)	Article 2(3)(a)
Article 2(1) partly	Article 2(3)(b)
-	Article 2(3)(c)
Annex IB, point 5	Article 2(3)(d)
Annex IB, point 8	Article 2(3)(e)
-	Article 2(4)
Article 3(a) to (d)	Article 3(a) to (d)
-	Article 3(e)
Article 3(e)	Article 3(f)
Article 3(f)	Article 3(g)
Article 3(g)	Article 3(h)
Article 3(h)	Article 3(i)
Article 3(i)	Article 3(j)
Article 3(j)	Article 3(k)
Article 3(k)	Article 3(l)
Article 3(l)	-
-	Article 3(m)
Article 3(m)	Article 3(n)

-	Article 3(o) to (s)
Article 4	Article 4
Article 5(1) to (3)	Article 5(1) to (3)
-	Article 6(1)
Article 5(4)	Article 6(2)
Article 5(5)	-
-	Article 7
-	Article 8(1)
Article 6(1), first and second subparagraphs, and (3)	Article 8(2), (3) and (4), first subparagraph and second subparagraph, first sentence
Annex II (4)	Article 8(4), second subparagraph, second sentence
Article 6(1), third subparagraph	Article 8(5)
Article 6(6)	Article 8(6)
Article 6(2)	Article 9 (1) and (2)
Article 6(4)	Article 9(3)
Article 6(5)	Article 10(1) and (2)
-	Article 10(3)
Article 7(1)	-
Article 7(2)	Article 11(1)
-	Article 11(2)
Article 7(3), first subparagraph	Article 11(3)
Article 7(3), second subparagraph	-
Article 7(4)	-
Article 7(5)	Article 11(4)
Article 8(1)	Article 12(1)
Article 8(2), first and second subparagraphs	Article 12(2), first and second subparagraphs

Article 8(2), third subparagraph	-
Article 8(3) first subparagraph	Article 12(3), first subparagraph
Article 8(3) second subparagraph	-
Article 8(4)	-
Article 9(1), first subparagraph	Article 13(1), first subparagraph
Article 9(1), second subparagraph	-
Article 9(1), third subparagraph	Article 13(1), second subparagraph
Article 9(1), fourth subparagraph	Article 13(1), third subparagraph
Article 9(2)	Article 13(2)
-	Article 14(1)
Article 10(1)	Article 14(2)
Article 10(2)	Article 14(3)
Article 10(3)	Article 14(4)
Article 10(4)	Article 14(5)
Articles 11	Articles 15
-	Article 16(1) to (4)
Article 12(1), first subparagraph	Article 16(5)
Article 12(1), second, third and fourth subparagraphs	-
Article 12(2)	Article 16(6)
Article 13	Article 17
Article 14	Article 18
Article 15	Article 19
Article 16	Article 20(1), first subparagraph
-	Article 20(1), second subparagraph
-	Article 20(2) and (3)
Article 17(1) to (3)	Article 21(1) to (3)

Article 17(4)	-
-	Article 22
Article 18	Article 23
Article 19	Article 24
Annex IA	-
Annex IB	-
-	Annex I
Annexes II to IV	Annexes II to IV
-	Annex V
-	Annex VI
