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*****II**

RECOMMENDATION FOR SECOND READING

on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (Recast)
(07906/2/2011 – C7-0250/2011 – 2008/0241(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Karl-Heinz Florenz

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the position of the Council at first reading with a view to the adoption of a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (Recast)
(07906/2/2011 – C7-0250/2011 – 2008/0241(COD))**

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (07906/2/2011 – C7-0250/2011),
 - having regard to the opinion of the European Economic and Social Committee of 11 June 2009¹,
 - having regard to the opinion of the Committee of the Regions of 4 December 2009²,
 - having regard to its position at first reading³ on the Commission proposal to Parliament and the Council (COM(2008)0810),
 - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 66 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A7-0334/2011),
1. Adopts its position at second reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 306, 16.12.2009, p. 39.

² OJ C 141, 29.5.2010, p. 55.

³ Texts adopted, 3.2.2011, P7_TA-PROV(2011)0037.

Amendment 1

Council position

Recital 6

Council position

(6) The purpose of this Directive is to contribute to sustainable production and consumption by, as a first priority, the prevention of WEEE and, in addition, by the re-use, recycling and other forms of recovery of such wastes, so as to reduce the disposal of waste and to contribute to the efficient use of resources . It also seeks to improve the environmental performance of all operators involved in the life cycle of EEE, e.g. producers, distributors and consumers and, in particular, those operators directly involved in the collection and treatment of WEEE. 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 the level of the Union.

Amendment

(6) The purpose of this Directive is to contribute to sustainable production and consumption by, as a first priority, the prevention of WEEE and, in addition, by the re-use, recycling and other forms of recovery of such wastes, so as to reduce the disposal of waste and to contribute to the efficient use of resources ***and the retrieval of critical raw materials***. It also seeks to improve the environmental performance of all operators involved in the life cycle of EEE, e.g. producers, distributors and consumers and, in particular, those operators directly involved in the collection and treatment of WEEE. 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 Union level, ***and European standards for the collection and treatment of WEEE should be developed***.

Justification

Reinstatement of Parliament's first-reading position. The retrieval of critical raw materials is a key aspect of this directive, and specific reference should therefore be made to it. The development of European standards for the collection and treatment of WEEE is also important for effective, environmentally-friendly recycling.

Amendment 2

Council position

Recital 9

Council position

(9) A number of definitions should be included in this Directive in order to specify its scope. However, in the framework of a revision of the scope, the definition of EEE should be improved by clarifying it. Until this will be set in the legislation of the Union, Member States may continue to apply relevant national measures and current established practices, in compliance with Union law.

Amendment

deleted

Justification

Definitions should be laid down in the directive itself and should certainly not lead, as a result of differing national interpretations and practices, to the fragmentation of the internal market.

Amendment 3

Council position

Recital 10

Council position

(10) Ecodesign requirements facilitating the re-use, dismantling and recovery of WEEE should, ***where relevant***, be laid down in the framework of measures implementing Directive 2009/125/EC. In order to optimise re-use and recovery through product design, the whole life-cycle of the product should be taken into account.

Amendment

(10) Ecodesign requirements facilitating the re-use, dismantling and recovery of WEEE should be laid down in the framework of measures implementing Directive 2009/125/EC. In order to optimise re-use and recovery through product design, the whole life-cycle of the product should be taken into account.

Justification

Imposing eco-design requirements on energy-using products not only has a bearing on a product's energy consumption, but also makes for more straightforward re-use, dismantling and recycling of EEE. Ensuring that the design process also covers the recycling phase can lead to more and better recycling and the recovery of raw materials. These criteria from

Directive 2009/125/EC should therefore be incorporated.

Amendment 4

Council position

Recital 13

Council position

(13) Separate collection is a precondition for ensuring specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Union. 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.

Amendment

(13) Separate collection is a precondition for ensuring specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Union. 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, ***municipalities and operators of recovery facilities all*** have an important role in contributing to the success of WEEE collection ***and treatment*** and thus should be subject to the requirements of this Directive.

Justification

Reinstatement of Parliament's first-reading position. Distributors, municipalities and operators of recovery facilities all have an important role to play in ensuring the successful implementation of the directive.

Amendment 5

Council position

Recital 13 a (new)

Council position

Amendment

(13a) In order for the polluter pays principle to be fully applied, Member States must ensure that costs incurred by (local) authorities for the collection of

WEEE are not passed on to taxpayers but are reflected in the product price.

Justification

As a concession to the position of the Council and the Commission, the amendment to Article 12 (1) in the text agreed by Parliament at first reading (AM 47) has been revised and reduced to its essential principle.

Amendment 6

Council position

Recital 14

Council position

(14) In order to attain the chosen level of protection and the harmonised environmental objectives of the Union, 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 the obligations contained in Regulation (EC) No 1005/2009 and Regulation (EC) No 842/2006. Data included in the impact assessment show that 65 % of the EEE placed on the market is already separately collected today, but more than half of this is potentially the object of 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. It is appropriate to lay down minimum requirements for shipments of used EEE suspected to be WEEE, in the application of which

Amendment

(14) In order to attain the chosen level of protection and the harmonised environmental objectives of the Union, 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 the obligations contained in Regulation (EC) No 1005/2009 and Regulation (EC) No 842/2006. Data included in the impact assessment show that 65% of EEE placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports, ***or is treated properly but the amounts treated are not reported.*** This leads to losses of valuable secondary raw materials, environmental degradation **and provision of inconsistent data.** To avoid this, it is necessary to set an ambitious collection target, ***oblige all actors that collect WEEE to ensure it is treated in an***

Member States may have regard to any relevant Correspondents' Guidelines elaborated in the context of the implementation of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

environmentally sound way, and require such actors to report the volumes collected, handled and treated. It is of fundamental importance that Member States ensure that this Directive is effectively enforced, in particular as regards checks on used EEE shipped out of the Union. 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 (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

Justification

Reinstatement of Parliament's first-reading position. The provision of consistent data is important if the directive is to be enforced and its application monitored. All actors involved in collection and treatment must comply with the directive. Supervision of the transport of WEEE is fundamental in order to clamp down on illegal shipments.

Amendment 7

Council position Recital 15 a (new)

Council position

Amendment

(15a) The Scientific Committee on Emerging and Newly Identified Health Risks stated in its opinion on 'Risk Assessment of Products of Nanotechnology' of 19 January 2009 that exposure to nanomaterials that are firmly embedded in large structures, for example in electronic circuits, may occur in the waste phase and during recycling. To control possible risks to human health and the environment from the treatment of WEEE containing nanomaterials, selective treatment may be necessary. It is appropriate for the Commission to assess whether selective treatment should be

applied to relevant nanomaterials.

Justification

Nanomaterials are being used more and more in electrical and electronic equipment. While many applications might not create any problems during treatment, this may well be the case for certain nanomaterials, e.g. carbon nanotubes, some of which are suspected of having asbestos-like properties, or nanosilver. It is better to assess the situation to see whether action is needed than turning a blind eye on it. This is in line with the EP position on the regulatory aspects of nanomaterials of 2009. (Reinstatement of amendment 101 of first reading.)

Amendment 8

Council position

Recital 17

Council position

(17) The recovery, preparation for re-use and recycling of equipment should be counted towards the achievement of the targets laid down in this Directive only if that recovery, preparation for re-use or recycling does not conflict with other Union or national legislation applicable to the equipment.

Amendment

(17) The recovery, preparation for re-use and recycling of equipment should be counted towards the achievement of the targets laid down in this Directive only if that recovery, preparation for re-use or recycling does not conflict with other Union or national legislation applicable to the equipment. ***Ensuring proper recovery and preparation for re-use and recycling of equipment is important for sound resource management and will optimise resource supply.***

Justification

Reinstatement of Parliament's first-reading position. Effective recycling of WEEE is crucial to both environmental protection and the recovery of raw materials.

Amendment 9

Council position

Recital 19

Council position

(19) Users of EEE from private households should have the possibility of returning WEEE at least free of charge. Producers

Amendment

(19) Users of EEE from private households should have the possibility of returning WEEE at least free of charge. Producers

should finance *at least* the collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage *producers to take full responsibility for the WEEE collection in particular by financing the collection of WEEE throughout the entire waste chain, including from private households*, in order to avoid separately collected WEEE becoming the object of suboptimal treatment and illegal exports, *to create a level playing field by harmonising producer financing across the Union and to shift* payment for the collection of this waste from general tax payers to the consumers of EEE, 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 through collective financing schemes to which all producers that exist 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.

should *therefore* finance collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage *all stakeholders handling WEEE to help achieve the objective of this Directive* in order to avoid separately collected WEEE becoming the object of sub-optimal treatment and illegal exports. *In order that* payment for the collection of this waste *be shifted* from general tax payers to the consumers of EEE in line with the 'polluter pays' principle, Member States should encourage producers *to treat all WEEE collected. In order to make proper treatment possible, consumers should have a responsibility to ensure that end-of-life EEE is taken to collection facilities.* 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 through collective financing schemes to which all producers that exist 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. *In the case of products which have a long life cycle and which are now covered by the Directive for the first time, such as photovoltaic modules, the best possible use should be made of existing collection and recovery systems, provided that they meet the requirements laid down in this Directive. In particular, no obstacles should be placed in the way of*

the operation of systems established throughout the Union, given their consistency with the aims of the internal market.

Justification

Reinstatement of Parliament's first-reading position. Existing, proven systems for the collection of WEEE should be retained. In terms of equipment design or environmental benefits, financing collection from households is immaterial, and shifting how the burden is shared does not guarantee a higher collection rate. The consumer's responsibility to play a part in the proper disposal of waste equipment should likewise not be disregarded.

Amendment 10

**Council position
Recital 20**

Council position

Amendment

<i>(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 of WEEE in an environmentally sound way. 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.</i>	<i>deleted</i>
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Justification

Collection and treatment costs should be incorporated into the product price so that there is an incentive to reduce those costs. Flat rates reflect neither the actual costs of a product at the end of its service life nor its environmental impact. In the final analysis, consumers receive no information on recyclability and actual treatment costs.

Amendment 11

Council position Recital 25

Council position

(25) Information about the weight of EEE placed on the market in the Union and the rates of collection, preparation for re-use, including as far as possible preparation for re-use of whole appliances, 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 EEE should be developed to **clarify**, inter alia, **that** this term includes the actual weight of the entire equipment in the form in which it is marketed, including all components, subassemblies, accessories and consumables but excluding packaging, batteries, instructions for use and manuals;

Amendment

(25) Information about the weight of EEE placed on the market in the Union and the rates of collection, preparation for re-use, including as far as possible preparation for re-use of whole appliances, 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 EEE should be developed to **ascertain**, inter alia, **whether** this term includes the actual weight of the entire equipment in the form in which it is marketed, including all components, subassemblies, accessories and consumables but excluding packaging, batteries, instructions for use and manuals;

Amendment 12

Council position Recital 27

Council position

(27) Member States should ensure an adequate flow of information in order to make it possible for this Directive to be implemented in full compliance with internal market requirements, namely with regard to avoiding any repetition of requirements to producers.

Amendment

(27) To reduce existing barriers to the proper functioning of the internal market, administrative burdens should be reduced by standardising registration and reporting procedures and by ensuring that multiple charges are not levied for multiple registrations in individual Member States. In particular, a producer should no longer be required to be established in a Member State in order to be allowed to place EEE on the market in that Member State. Instead, the appointment of a local legal

representative resident in that Member State should be sufficient.

Justification

Experience with the current WEEE Directive has shown that the differing registration and reporting requirements in the 27 Member States have led to increased bureaucracy and unforeseen costs. According to the Commission's impact assessment, annual bureaucracy-related costs of EUR 66 million can be avoided. Accordingly, further progress must be made with the harmonisation of registration and reporting and the interoperability of national registers, in the interests of a functioning internal market. Reinstatement of Parliament's position.

Amendment 13

**Council position
Recital 28**

Council position

(28) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the ***adaptation of Annexes IV, VII, VIII and IX to scientific and technical progress, and of the*** adoption of rules supplementing the rules laid down in this Directive on 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. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of the relevant documents to the European Parliament and to the Council.

Amendment

(28) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission ***in respect of the adoption of transitional provisions on collection rates and the method of determining the volume of waste by weight;*** in respect of the adoption of rules supplementing the rules laid down in this Directive on the technical requirements for collection and the equivalence of waste treatment when waste is shipped out of the Union, ***on the minimum requirements and methodology for calculating the financial guarantees, on the definition of 'very small volume WEEE' and of 'micro enterprises working on a very small surface area'; in respect of the adaptation of Annexes IV, VII, VIII and IX to scientific and technical progress; and in respect of the adoption of more detailed provisions on inspection and monitoring.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and

drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of the relevant documents to the European Parliament and to the Council.

Justification

The recital lists all the delegated acts laid down in the directive. Reinstatement of Parliament's first-reading position.

Amendment 14

Council position

Article 1

Council position

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 electrical and electronic equipment (WEEE) and by reducing **overall** impacts of resource use and improving the efficiency of such use.

Amendment

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 electrical and electronic equipment (WEEE) and by reducing **negative** impacts of resource use and improving the efficiency of such use, **in accordance with Articles 1 and 4 of Directive 2008/98/EC. This Directive requires all operators involved in product life cycles to improve their environmental standards, thereby contributing to sustainable production and recovery.**

Justification

The reference to the principles underpinning the Waste Framework Directive (waste avoidance and hierarchy of waste) was included only in Recital 6. Since the original WEEE directive emphasised the responsibility of all stakeholders to protect the environment, the recast directive should certainly do the same. The 2003 WEEE Directive provides, through a comprehensive life-cycle approach, for improvements to the environmental standards of all operators who deal with EEE or WEEE. This is an aspect of the legislation that ought to be retained and the reference to it should not, therefore, be deleted from Article 1.

Amendment 15

Council position

Article 2 – paragraph 1

Council position

This Directive shall apply to *electrical and electronic equipment (EEE) as follows:*

(a) from ... to ...** (transitional period), to EEE falling within the categories set out in Annex I. Annex II contains an indicative list of EEE which falls within the categories set out in Annex I.*

*(b) from ...***, to EEE falling within the categories set out in Annex III. Annex IV contains an indicative list of EEE which falls within the categories set out in Annex III.*

** OJ: please insert the date of entry into force of this Directive.*

*** OJ: please insert the date- 6 years after the entry into force of this Directive.*

**** OJ: please insert date - 6 years and one day after the date of entry into force of this Directive.*

Amendment

This Directive shall, *subject to paragraph 3*, apply to *all EEE*.

Justification

An 'open' scope results in greater legal certainty - a major aim in revising the directive - since all EEE is included as a matter of principle. The strict categorisation of equipment gave rise to widely differing interpretations in the Member States, something which should be avoided. In addition, in this way account can be taken of new products without this necessitating a revision of the directive.

Amendment 16

Council position

Article 2 – paragraph 3 – introductory part

Council position

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

Amendment

3. This Directive shall not apply to any of

shall not apply to any of the following the following EEE:
EEE:

Justification

Further to the amendment to Article 2(1), in keeping with the principle of the open scope of the directive the legislator must also be able to specify exceptions to the rules.

Amendment 17

Council position

Article 2 – paragraph 3 – point c a (new)

Council position

Amendment

(ca) equipment designed to be sent into space;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 18

Council position

Article 2 – paragraph 3 – point c b (new)

Council position

Amendment

(cb) large-scale stationary industrial tools;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 19

Council position

Article 2 – paragraph 3 – point c c (new)

Council position

Amendment

(cc) large-scale fixed installations, except those parts that are lighting and photovoltaic modules;

Justification

It is important that there would be exclusion for large-scale fixed installations, but there are some parts of those installations that should remain within the scope of the directive. This concerns especially lighting and photovoltaic modules, which can be sold apart from whole installation and their producer does not necessary knows their final usage.

Amendment 20

Council position

Article 2 – paragraph 3 – point c d (new)

Council position

Amendment

(cd) means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 21

Council position

Article 2 – paragraph 3 – point c e (new)

Council position

Amendment

(ce) non-road mobile machinery made available exclusively for professional use;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 22

Council position

Article 2 - paragraph 3 - point c f (new)

Council position

Amendment

(cf) equipment specifically designed solely for the purposes of research and development that is made available only on a business-to-business basis;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 23

Council position

Article 2 - paragraph 3 - point c g (new)

Council position

Amendment

(cg) 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;

Justification

This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(4)).

Amendment 24

Council position

Article 2 – paragraph 4

<i>Council position</i>	<i>Amendment</i>
<i>In addition to the equipment specified in paragraph 3, from ... *, this Directive shall not apply to the following EEE:</i>	<i>deleted</i>
<i>(a) equipment designed to be sent into space;</i>	
<i>(b) large-scale stationary industrial tools;</i>	
<i>(c) large-scale fixed installations;</i>	
<i>(d) means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;</i>	
<i>(e) non-road mobile machinery made available exclusively for professional use;</i>	
<i>(f) equipment specifically designed solely for the purposes of research and development that is only made available on a business to business basis;</i>	
<i>(g) 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.</i>	

**** OJ: please insert the date - 6 years and one day after the date of entry into force of this Directive.***

Justification

Given the open scope of the directive, it is essential that the legislator should also draw up a list of exceptions now. This amendment does not involve a substantive change to the directive, but only a change in the order of the items in the relevant paragraph of Article 2 (see also the amendment to Article 2(3)).

Amendment 25

Council position

Article 2 – paragraph 5

Council position

No later than ...*, the Commission shall review the scope of this Directive **set out in point (b) of paragraph 1, including the parameters to distinguish between large and small equipment in Annex III**, and shall present a report thereon to the European Parliament and to the Council. The report shall be accompanied by a legislative proposal, if appropriate.

* *OJ*: please insert the date - 3 years after the date of entry into force of this Directive.

Amendment

No later than ...*, **and every five years thereafter**, the Commission shall review the scope of this Directive and shall present a report thereon to the European Parliament and to the Council. The report shall be accompanied by a legislative proposal, if appropriate.

* 5 years after the entry into force of this Directive.

Justification

Reinstatement of Parliament's first-reading position.

Amendment 26

Council position

Article 3 – paragraph 1 – point d

Council position

(d)'non-road mobile machinery' 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**;

Amendment

(d) 'non-road mobile machinery' means machinery the operation of which requires either mobility **while working** or continuous or semi-continuous movement between a succession of fixed working locations, **or machinery which is operated without being moved, but which may be equipped in such a way as to enable it to be moved more easily from one place to another**;

Justification

Items of machinery which are identical in terms of their construction, the materials they

contain and their function and differ only in the way they are powered (mains connection or independent power supply) should not be treated differently. In addition, in the case of certain production processes the machinery involved must be mobile, since otherwise the production chain would not work properly or at all. These items of machinery remain stationary during use, however.

Amendment 27

Council position

Article 3 – paragraph 1 – point f

<i>Council position</i>	<i>Amendment</i>
<p>(f) 'producer' means any natural or legal person who, irrespective of the selling technique used, including 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:</p> <p>(i) is established in a Member State and manufactures EEE under his own name or trademark, or has EEE designed or manufactured and markets it under his name or trade mark within the territory of that Member State,</p> <p>(ii) is established in a Member State and resells within the territory of that Member State, under his own name or trade mark, 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 point (i),</p> <p>(iii) is established in a Member State and places on the market of that Member State, on a professional basis, EEE from a third country or from another Member State, or</p> <p>(iv) sells EEE by means of distance communication directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.</p>	<p>(f) 'producer' means any natural or legal person who, irrespective of the selling technique used, including 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:</p> <p>(i) is established in the Union and manufactures EEE under his own name or trademark, or has EEE designed or manufactured and markets it under his name or trade mark within the Union,</p> <p>(ii) is established in the Union and resells within the territory of the Union, under his own name or trade mark, 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 point (i),</p> <p>(iii) is established in the Union and places on the Union market, on a professional basis, EEE from a third country, or</p> <p>(iv) sells EEE by means of distance communication directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.</p>

Justification

According to the Commission impact assessment, adopting the European approach could generate annual savings of €66 million, as a result of a reduction in red tape. Direct distance selling is an important aspect of this issue, and should therefore be looked at more closely. Here again, however, a European approach is needed: manufacturers should only be required to register once. The amendment to Article 17 covers these points. Parliament is calling for distance selling of EEE to be made easier (completion of the internal market in e-commerce [2010/2012(INI)]).

Amendment 28

Council position

Article 3 – paragraph 1 – point j

Council position

(j) '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;

Amendment

(j) 'making available on the market' means any supply of a product for distribution, consumption or use on the **Union** market in the course of a commercial activity, whether in return for payment or free of charge;

Justification

Defining 'making available on the market' at national level will give rise to major bureaucratic obstacles, and therefore also costs, which will severely hamper the proper functioning of the internal market. According to the Commission's impact assessment, if the European approach is taken annual savings of €66 million will be achieved through the avoidance of red tape.

Amendment 29

Council position

Article 3 – paragraph 1 – point k

Council position

(k) '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;

Amendment

(k) 'placing on the market' means the first making available of a product on the **Union** market on a professional basis;

Justification

Defining 'placing on the market' at national level will give rise to major bureaucratic obstacles, and therefore also costs, which will severely hamper the proper functioning of the internal market. According to the Commission's impact assessment, if the European approach is taken annual savings of €66 million will be achieved through the avoidance of red tape.

Amendment 30

Council position

Article 3 – paragraph 1 - point 1

Council position

(1) 'remove' means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, mixtures and components are contained in an identifiable stream or are an identifiable part of a stream. A substance, mixture or component is identifiable if it can be monitored to prove environmentally safe treatment;

Amendment

(1) 'remove' means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, mixtures and components are contained in an identifiable stream or are an identifiable part of a stream ***at the end of the treatment process***. A substance, mixture or component is identifiable if it can be monitored to prove environmentally safe treatment;

Justification

The directive should not stipulate when the substances, etc. are to be removed. What is important is that the substances should be removed and that the best possible environmental results should be achieved in doing so. Some of the substances have to be removed as identifiable parts of a stream, which can only be done at a later treatment stage and not right at the start. Specifying the juncture at which substances have to be removed would hamper the development of new technologies. For this reason, the Commission's original proposal is endorsed.

Amendment 31

Council position

Article 3 – paragraph 1 – point o a (new)

Council position

Amendment

(oa) 'small appliances' means all those appliances which in principle are movable and which, in principle, are not intended to remain in their place of use throughout

their useful life;

Justification

Reinstatement of the definition of ‘small appliances’ from Annex IA of Parliament’s first-reading position. This definition is required in connection with Articles 5(1) and 7(6).

Amendment 32

Council's position

Article 3 – paragraph 1 – o b (new)

Council's position

Amendment

(ob) ‘large appliances’ means all those appliances which are not in principle movable or which are intended in principle to remain in their place of use for the duration of their service life.

Amendment 33

Council position

Article 4

Council position

Amendment

Member States shall, without prejudice to the requirements of Union legislation on product design, including Directive 2009/125/EC, encourage cooperation between producers and recyclers and measures to promote the design and production of EEE, notably in view of facilitating re-use, dismantling and recovery of WEEE, its 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

Member States shall, without prejudice to the requirements of Union legislation on product design, including Directive 2009/125/EC, encourage cooperation between producers and recyclers and measures to promote the design and production of EEE, notably in view of facilitating re-use, dismantling and recovery of WEEE, its components and materials. ***These measures shall respect the proper functioning of the internal market.*** In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding

requirements.

advantages, for example, with regard to the protection of the environment and/or safety requirements. ***Eco-design requirements facilitating re-use, dismantling, recovery of WEEE and reducing hazardous substance emissions shall be established no later than 31 December 2014 in the framework of the implementing measures adopted pursuant to Directive 2009/125/EC.***

Justification

Imposing eco-design requirements on energy-using products not only has a bearing on a product's energy consumption, but also makes for more straightforward re-use, dismantling and recycling. Ensuring that the design process also covers the recycling phase can lead to more and better recycling. Ease of dismantling, improved recyclability, the reduction of harmful emissions and the recovery of secondary raw materials should therefore be encouraged. Reinstatement of Parliament's first-reading position.

Amendment 34

Council position

Article 5 – paragraph 1

Council position

1. ***Member States shall adopt appropriate measures to minimise the disposal of WEEE in the form of unsorted municipal waste and*** to achieve a high level of separate collection of WEEE, notably, and as a matter of priority, for temperature exchange equipment containing ozone-depleting substances and fluorinated greenhouse gases ***and*** for ***fluorescent*** lamps containing mercury.

Amendment

1. To achieve a high level of separate collection of WEEE ***and correct treatment for all types of WEEE***, notably, and as a matter of priority, for temperature exchange equipment containing ozone-depleting substances and fluorinated greenhouse gases, for lamps containing mercury, ***for photovoltaic modules and for small appliances, including small IT and telecommunications devices, Member States shall ensure that all WEEE is separately collected and not mixed with bulky or unsorted household waste.***

Justification

All WEEE must be collected separately: it is not sufficient merely to achieve a high rate of such collection. Priority should be assigned to collecting not only cooling and freezing equipment but also all lamps which contain mercury and photovoltaic modules and small appliances. The latter often contain hazardous substances and also valuable secondary raw

materials, and are regrettably often disposed of with household waste, although this is not permitted. Photovoltaic modules should likewise be collected separately as a matter of priority because of the hazardous substances and valuable secondary raw materials which some of them contain.

Amendment 35

Council position

Article 6 – paragraph 2 – subparagraph 2

Council position

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

Amendment

In order to maximise re-use of whole appliances, Member States shall also ensure that, prior to any further shipment, collection schemes provide for the separation at the collection points of WEEE that is to be prepared for re-use from other separately collected WEEE.

Justification

It is necessary for re-usable appliances to be collected separately so that the waste hierarchy can also be applied under this specific directive, and this is linked to a separate re-use rate referred to in Article 11. Only if it is compulsory for re-usable appliances to be separated from other old appliances at the earliest possible stage will effective re-use be possible.

Amendment 36

Council position

Article 7 – paragraph 1

Council position

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 the Member State concerned, expressed as a percentage of the average weight of EEE placed on the market in the three preceding years in that Member State. A minimum collection rate shall be achieved**

Amendment

1. Without prejudice to Article 5(1), **each Member State** shall ensure that **as of 2016 a minimum of 85% of WEEE generated on its territory is collected.**

*annually and shall evolve from 45 % in the reporting year ... *to 65 % in the reporting year ...**. Until ...***, 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.*

Each Member State shall ensure that as of ... at least 4 kg/capita of WEEE is collected or the same amount of WEEE in weight as was collected in that Member State in 2010, whichever is greater.*

*Member States shall ensure that the volume of WEEE collected is gradually increased during the period from...** to 2016.*

Member States may set more ambitious individual collection rates and shall in such a case report this to the Commission.

The collection rates shall be achieved annually.

*Member States shall present improved collection plans to the Commission no later than ...***

**OJ: Please insert the year - 4 years after the year of entry into force of this Directive.*

*** OJ: Please insert the year - 8 years after the year of entry into force of this Directive.*

****OJ: Please insert the date - 1 January of the year 4 years after the year of entry into force of this Directive.*

** The date of the entry into force of this Directive.*

*** Date 18 months after the entry into force of this Directive.*

Justification

Manufacturers cannot be made responsible for efforts to achieve the collection rate targets, since they have no influence on other actors who collect WEEE. A manufacturer is not a legal person who can meet an overall collection rate target. The Member States are being encouraged to clamp down on illegal shipments. The collection rate should be established on the basis of the amount of waste arising, and not on the basis of the irrelevant factor of the number of new appliances. Due account is taken of the differing life cycles of products in the

Member States. The directive thus takes account of non-saturated markets and appliances with a long life cycle (photovoltaic modules).

Amendment 37

Council position

Article 7 – paragraph 2

Council position

2. In order to establish whether the minimum collection rate has been achieved, Member States shall ensure that ***information concerning the WEEE that is separately collected in accordance with Article 5 is notified to them.***

Amendment

2. In order to establish whether the minimum collection rate has been achieved, Member States shall ensure that ***relevant actors communicate, at no cost to the Member States, in accordance with Article 16 and on an annual basis, information on WEEE that has been:***

– prepared for re-use or sent to treatment facilities by any actor;

– taken to collection facilities in accordance with Article 5(2)(a);

– taken to distributors in accordance with Article 5(2)(b);

– separately collected by producers or third parties acting on their behalf; or

– separately collected by other means.

Justification

Member States are responsible for meeting the collection target and must report the quantity of WEEE collected in accordance with Article 16(5). For that reason, it is important that all separately collected quantities be reported to them. In this context it is necessary to make it clear that reports must be submitted on all quantities and, for example, that quantities which are directly transported to treatment facilities must also be accounted for.

Amendment 38

Council position

Article 7 – paragraph 3

Council position

Amendment

3. The Czech Republic, Latvia, Lithuania, Hungary, Malta, Poland, Romania and Slovakia may, because of their lack of the necessary infrastructure and their low level of EEE consumption, decide to:

deleted

- a) achieve, no later than ...*, a collection rate that is lower than 45 % but higher than 40 % of the average weight of EEE placed on the market in the three preceding years, and**
- b) postpone the achievement of the collection rate referred to in paragraph 1 until a date of their own choice which shall not be later than ...**.**

***OJ: Please insert the date - 4 years after the year of entry into force of this Directive.**

****OJ: Please insert the date - 10 years after the year of entry into force of this Directive.**

Justification

Parliament's calculation method, which takes the waste arising as the key criterion, obviates the need to permit national derogations. The reason for this is that the quantity of waste actually arising in the Member State is the determining factor and the product life cycles, which may differ from one Member State to another, have already been taken into account in this connection.

Amendment 39

Council position

Article 7 – paragraph 4

Council position

Amendment

4. The Commission *may, by means of implementing acts, lay down further*

4. The Commission *shall be empowered to adopt delegated acts in accordance with*

transitional arrangements in order to address difficulties faced by a Member *State* in *satisfying the requirements referred to* in paragraph 1 as a result of specific national circumstances. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).***

Article 20 laying down transitional arrangements for the period ending on 31 December 2015 in order to address difficulties faced by Member *States* in ***adhering to the rates laid down*** in paragraph 1 as a result of specific national circumstances.

Justification

For the transitional period until the new basis of measurement, 'WEEE arising', becomes applicable, derogations from the collection rate must be permitted. This is, exceptionally, permissible because, on account of specific national circumstances, new Member States in particular may have difficulties in achieving the 4 kg figure. However, delegated acts must be used for this purpose, as the underlying act will be modified by these transitional provisions.

Amendment 40

Council position Article 7 – paragraph 5

Council position

5. In order to ensure uniform conditions for the implementation of this Article, the Commission shall, by means of implementing acts, establish a common methodology for the calculation of the total weight of EEE placed on the national market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

Amendment

5. The Commission shall, not later than 31 December 2012, adopt delegated acts in accordance with to Article 20 concerning the establishment of a common methodology for determining the quantity of WEEE generated by weight in each Member State. The methodology shall include detailed rules on its application and calculation methods for verifying compliance with the rates set in paragraph 1.

Justification

The calculation methodology is very relevant to the collection target and thus supplements the underlying act. Delegated acts should therefore be used.

Amendment 41

Council position Article 7 – paragraph 6

Council position

6. On the basis of a report of the Commission accompanied, if appropriate, by a legislative proposal, the European Parliament and the Council shall, by ...*, re-examine the collection rate **of 45 %** and the **related deadline** referred to in paragraph 1 with a view inter alia to **possibly** setting individual collection rates for one or more categories set out in Annex III, particularly for temperature exchange equipment **and for lamps containing mercury**.

Amendment

6. On the basis of a report of the Commission accompanied, if appropriate, by a legislative proposal, the European Parliament and the Council shall, by **31 December 2012**, re-examine the collection rate and the **deadlines** referred to in paragraph 1 with a view inter alia to setting individual collection rates for one or more categories set out in Annex III, particularly for **photovoltaic panels**, temperature exchange equipment, lamps, **including light bulbs, and small appliances, including small IT and telecommunications devices**.

*** OJ: Please insert the date - 3 years from the date of entry into force of this Directive.**

Justification

Photovoltaic panels are a very specific kind of EEE. They are completely different from other large appliances and will require their own collection scheme for proper recycling. It is therefore appropriate to task the Commission to come up with specific collection target for PV panels, rather than keeping them within an overall collection target. (New amendment in light of the inclusion of PV panels in the scope by the Council.)

Amendment 42

Council position

Article 7 – paragraph 7

Council position

7. On the basis of a report of the Commission accompanied, if appropriate, by a legislative proposal, the European Parliament and the Council shall, by ...*, re-examine the collection rate of 65 % and the related deadline referred to in paragraph 1 with a view inter alia to possibly setting individual collection rates for one or more categories set out in

Amendment

deleted

Annex III.

*** OJ: Please insert the date - 7 years for the date of entry into force of this Directive.**

Justification

A review of the collection rate and the deadlines, as well as of separate collection rates, is already provided for by Article 7(6).

Amendment 43

**Council position
Article 8 – paragraph 3**

Council position

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, **where relevant**, best available techniques. The systems may be set up by producers individually or collectively. Member States shall ensure that any establishment or undertaking carrying out collection or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex VIII.

Amendment

3. Member States shall ensure that producers or third parties acting on their behalf set up systems to provide for the recovery of WEEE using best available techniques. The systems may be set up by producers individually or collectively. Member States shall ensure that any establishment or undertaking carrying out collection or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex VIII.

Justification

Best available techniques are always relevant and should be supported in order to improve recycling and create incentives for innovation in collection and treatment. The restrictive phrase in the Council's text could distort competition in the Union, owing to the differences in costs.

Amendment 44

Council position

Article 8 – paragraph 4 – subparagraph 1

Council position

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 concerning the amendment of Annex VII in order to introduce other treatment technologies that ensure at least the same level of protection for human health and the environment ***and, if necessary, to specify, within the treatment process, the steps where removal of substances, mixtures and components should take place.***

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 concerning the amendment of Annex VII in order to introduce other treatment technologies that ensure at least the same level of protection for human health and the environment.

Justification

It should not be specified when substances, etc. have to be removed, as this would prevent any technical innovation. What is relevant is that the substances referred to in Annex III are removed and that the best possible environmental results are achieved in doing so. The development of new recycling technologies would be prevented by laying down when something must be removed. For this reason, the Commission's original proposal is endorsed.

Amendment 45

Council position

Article 8 – paragraph 4 – subparagraph 2

Council position

The Commission shall evaluate, as a matter of priority, whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays need to be amended.

Amendment

The Commission shall evaluate, as a matter of priority, whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays need to be amended. ***The Commission shall evaluate whether amendments to Annex VII are necessary to address relevant nanomaterials.***

Justification

Nanomaterials are being used more and more in electrical and electronic equipment. While

many applications might not create any problems during treatment, this may well be the case for certain nanomaterials, e.g. carbon nanotubes, some of which are suspected of having asbestos-like properties, or nanosilver. It is better to assess the situation to see whether action is needed than turning a blind eye on it. This is in line with the EP position on the regulatory aspects of nanomaterials of 2009. (Reinstatement of amendment 102 of first reading.)

Amendment 46

Council position

Article 8 – paragraph 5 – subparagraph 3

Council position

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 by***

Amendment

The Commission shall, ***not later than...****, ***request the European standardisation organisations to develop and adopt European standards for the collection, storage, transport, treatment, recycling and repair of WEEE as well as its preparation for reuse. Those standards shall reflect the state of the art.***

A reference to the standards shall be published in the Official Journal of the European Union.

The collection, storage, transport, treatment, recycling and repair of WEEE as well as its preparation for re-use shall be conducted with an approach geared to preserving raw materials and shall aim at recycling valuable resources contained in EEE with a view to ensuring a better supply of commodities within the Union.

**** OJ: Please insert the date - 6 years from year of entry into force of this Directive.***

**** 6 months after the entry into force of this Directive.***

Justification

The Council refers to the Waste Framework Directive and the old comitology procedure. Under the Lisbon Treaty, the old comitology procedures are no longer applicable. The new procedures are likewise not as flexible as the process involving the development of standards by standardisation organisations, which can review standards regularly and if appropriate bring them into line with the latest technical developments. This process is shorter.

Amendment 47

Council position

Article 10 – paragraphs 1 and 2

Council position

1. The treatment operation may also be undertaken outside the respective Member State or the Union provided that the shipment of WEEE is in compliance with *applicable Union legislation*¹.

2. WEEE exported out of the Union shall only count towards the fulfilment of obligations and targets set out in Article 11 of this Directive if, in compliance with *applicable Union legislation*, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this Directive.

¹ *Regulation (EC) No 1013/2006. 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).

Amendment

1. The treatment operation may also be undertaken outside the respective Member State or the Union provided that the shipment of WEEE is in compliance with ***Regulation (EC) No 1013/2006 and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or 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***¹.

2. WEEE exported out of the Union shall only count towards the fulfilment of obligations and targets set out in Article 11 of this Directive if, in compliance with ***Regulation (EC) No 1013/2006 and Regulation (EC) No 1418/2007***, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this Directive.

¹ OJ L 316, 4.12.2007, p. 6.

Justification

This is not a substantive amendment, but serves purely to make the provision more comprehensible. The text which previously appeared in the footnote is placed in the body of

the article.

Amendment 48

Council position

Article 10 – paragraph 3

Council position

3. The Commission shall ***be empowered to*** adopt delegated acts in accordance with Article 20 laying down detailed rules supplementing those in paragraph 2 of this Article, in particular the criteria for the assessment of equivalent conditions.

Amendment

3. The Commission shall, ***not later than ...****, adopt delegated acts in accordance with Article 20 laying down detailed rules supplementing those in paragraph 2 of this Article, in particular the criteria for the assessment of equivalent conditions.

**** 18 months after the entry into force of this Directive.***

Justification

Binding deadlines are required for the adoption of the implementing provisions in order to create the requisite legal certainty and enforcement certainty for public authorities and industry. The European Parliament's position at first reading is reinstated.

Amendment 49

Council position

Article 11 – paragraph 1

Council position

1. Regarding all WEEE separately collected ***in accordance with Article 5*** and sent for treatment in accordance with Articles 8, 9 and 10, Member States shall ensure that producers meet the minimum targets ***set out in Annex V***.

Amendment

1. Regarding all WEEE separately collected and sent for treatment in accordance with Articles 8, 9 and 10, Member States shall ensure that producers meet the ***following*** minimum targets ***as from ...****:

(a) for WEEE falling under categories 1 and 4 of Annex III, with the exception of photovoltaic panels,

– 85% shall be recovered,

– 75% shall be recycled and

- 5% shall be prepared for re-use;*
- (b) for WEEE falling under category 2 of Annex III,*
- 80% shall be recovered,*
- 65% shall be recycled and*
- 5% shall be prepared for re-use;*
- (c) for WEEE falling under category 3 of Annex III, with the exception of gas discharge lamps,*
- 75% shall be recovered and*
- 50% shall be recycled;*
- (d) for WEEE falling under category 5 of Annex III,*
- 75% shall be recovered,*
- 50% shall be recycled and*
- 5% shall be prepared for re-use;*
- (e) for WEEE falling under category 6 of Annex III,*
- 85% shall be recovered,*
- 75% shall be recycled and*
- 5% shall be prepared for re-use;*
- (f) for gas discharge lamps, 80% shall be recycled.*
- (g) for photovoltaic panels, 80 % shall be recycled.*

** The date of entry into force of this Directive.*

Justification

The recovery rates are only raised because re-use is incorporated in the rate for the first time. This means that the recovery rate must be nominally increased at the same time, as the Commission proposal indicated. The implementation of the waste hierarchy requires a separate reuse rate. The recovery rates should be indicated in the text of the directive itself and not in the annex. All WEEE separately collected should be recovered, and the position at first reading is therefore reinstated and the reference to Article 5 deleted.

Amendment 50

Council position

Article 11 – paragraph 2

Council position

2. The achievement of the targets shall be calculated, *for each category, by dividing the weight of the WEEE that enters the recovery or recycling/preparing for re-use facility, after proper treatment in accordance with Article 8 (2) with regard to recovery or recycling, by the weight of all separately collected WEEE for each category, expressed as a percentage.*

Preliminary activities including sorting *and* storage prior to recovery shall not count towards the achievement of these targets.

Amendment

2. The achievement of the targets shall be calculated *as the percentage by weight of separately collected WEEE that is sent to recovery facilities and effectively recovered, reused or recycled.*

Preliminary activities including sorting, storage *and pre-processing* prior to recovery shall not count towards the achievement of these targets.

Justification

It should only be possible to count final recovery measures towards the recovery target. This will promote greater recycling efficiency and innovation in recovery and recycling technologies. Pre-processing should not be taken into account in calculating recovery targets, either.

Amendment 51

Council position

Article 11 – paragraph 4

Council position

4. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the weight 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.

Amendment

4. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the weight of *used EEE*, WEEE, their components, materials or substances when leaving (output) the collection facility, entering (input) and leaving (output) the treatment facilities and when entering (input) *and leaving (output as overall percentage)* the recovery or recycling/preparing for re-use facility.

Justification

Targets can currently be met by performing only sorting and pre-processing at an R12 recovery facility and then sending all the sorted WEEE fractions on to real recovery operations at another recovery facility. It should not be permissible to consider only input and output at an R12-13 type of recovery facility for the achievement of the targets. The recovery and recycling achieved at the final recovery facility should be taken into account.

Amendment 52

Council position

Article 11 – paragraph 6

Council position

Amendment

6. On the basis of a report of the Commission accompanied, if appropriate, by a legislative proposal, the European Parliament and the Council shall, by ...*, re-examine the recovery targets referred to in Annex V, Part 3, and re-examine the calculation method referred to in paragraph 2 with a view to analysing the feasibility of setting targets on the basis of products and materials resulting (output) from the recovery, recycling and preparation for re-use processes.

deleted

**** OJ: Please insert the date - 7 years from the date of entry into force of this Directive.***

Justification

As Article 11(2) lays down that recovery rates are to be measured in relation to output, it is not necessary to re-examine whether the output rates should possibly be applied in future. This decision has already been taken in Article 11(2).

Amendment 53

Council position

Article 12 – paragraph 3 – subparagraph 1

Council position

Amendment

3. For products placed on the market later

3. 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 may choose to fulfil this obligation either individually or by joining a collective scheme.

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 may choose to fulfil this obligation either individually or by joining a collective scheme. ***A producer may fulfil its obligation through either one or a combination of these two methods. Collective schemes shall introduce differentiated fees for producers based on how easily products and the critical raw materials they contain can be recycled.***

Justification

Producers should be accorded maximum flexibility as regards ways of financing WEEE operations. It should therefore be possible to comply with the obligation individually or by participating in a collective system, or by means of a combination of both methods. Only producers can influence the design process, and they should therefore be given an incentive to make their products easier to recycle.

Amendment 54

Council position

Article 12 – paragraph 3 – subparagraph 2

Council position

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

Amendment

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 shall ensure that producers clearly mark their products in accordance with Article 15(2). This guarantee shall ensure that the operations referred to in paragraph 1 relating to the 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 financial guarantee in respect of the end of life of products shall be calculated to ensure the internalisation of the real end-of-life costs of a producer's product,***

taking into account treatment and recycling standards referred to in Article 8(5).

Justification

Treatment and recycling standards should be taken into account in calculating the financial guarantee which producers are required to provide to cover the end-of-life costs of their products pursuant to Article 12. In addition, external costs should be internalised so as to maximise individual producer responsibility.

Amendment 55

Council position

Article 12 – paragraph 3 a (new)

Council position

Amendment

3a. In order to make possible a harmonised approach to compliance with the financial guarantee requirements established in paragraph 3, the Commission shall, no later than ...*, adopt delegated acts in accordance with Article 20 concerning the minimum requirements and methodology for calculating the level of these guarantees, and establish guidelines for their verification and auditing.

Those minimum requirements shall ensure at least that:

(a) the guarantee brings about internalisation of the real end-of-life costs of a producer's product, taking into account the treatment and recycling standards;

(b) the costs related to a producer's obligation do not fall on other actors; and

(c) the guarantee will be available in the future and can be utilised to meet the outstanding recycling obligations of a producer in the event of the latter's insolvency.

*** 12 months after the entry into force of this Directive.**

Justification

Harmonised minimum requirements applicable to financial guarantees are needed to allow meaningful checking of guarantees for compliance. Criteria should be set to define how to assess the level of financial guarantees, taking account of recycling and treatment standards, and defining rules to verify them, in order to ensure comparable financial obligations for producers in the various Member States and thus also to make individual producer responsibility a reality.

Amendment 56

Council position

Article 12 – paragraph 5

Council position

Amendment

<i>5. Member States may, where appropriate, encourage producers or third parties acting on their behalf to develop appropriate mechanisms or refund procedures for the reimbursement of contributions to the producers where EEE is transferred for placing on the market outside the territory of the Member State concerned.</i>	<i>deleted</i>
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Justification

Under the Commission and Parliament's European approach, no multiple recycling charges, financial guarantees or even registration fees will arise, as an appliance only has to be registered once, when it is placed on the internal market, and accordingly a guarantee has to be provided or a recycling charge paid only once. No refund procedure is needed, therefore.

Amendment 57

Council position

Article 14 – title and paragraph 1

Council position

Amendment

Information for users

Collection schemes and information for

1. Member States *may require producers 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 best estimate of the actual costs incurred.*

users

1. *In order to raise users' awareness, Member States shall ensure that all distributors of very small volume EEE put in place appropriate collection schemes for very small volume WEEE.*

Such collection schemes shall:

(a) enable end-users to discard very small volume WEEE at an accessible and visible collection point in the retailer's shop;

(b) require retailers to take back very small volume WEEE at no charge;

(c) not involve any charge to end-users when discarding very small volume WEEE, nor any obligation to buy a new product of the same type.

Distributors supplying EEE directly to private households or users other than private households solely by means of distance communication shall only be subject to the obligations under points (b) and (c) of subparagraph 2. The collection scheme put in place by these distributors shall enable end-users to return very small volume WEEE without those users having to incur any charges, including delivery or postal charges.

No later than ...^{}, the Commission shall adopt delegated acts in accordance with Article 20 with respect to a definition of 'very small volume WEEE', taking into account the risk of such waste not being separately collected due to its very small size.*

The obligations in this paragraph shall not apply to micro enterprises operating on a very small surface area. No later than ...^{}, the Commission shall adopt delegated acts in accordance with Article 20 with respect to a definition of 'micro enterprises operating on a very small surface area'.*

** Date 12 months after the entry into force of this Directive.*

Justification

Consumers throw out a large proportion of their small volume WEEE with their household waste, as they are often given no information as to where they can dispose of them or the procedure for returning them is not consumer friendly. This is particularly important since light bulbs are being replaced more and more by energy-saving bulbs, even though these often contain mercury. Norway and Switzerland have proven that compulsory return without a purchase obligation makes a massive contribution to achieving a high collection rate.

Amendment 58

Council position

Article 14 – paragraph 2 – point b

Council position

(b) the return and collection systems available to them;

Amendment

(b) the return and collection systems available to them, ***encouraging the coordination of information serving to identify all available collection points, irrespective of the producers which have set them up;***

Justification

Users of electrical and electronic equipment have to be able to determine which collection points are most convenient. Given that there are several separate collection systems, it might be difficult for users to find a collection point, and they would therefore be deterred from sending their WEEE for recovery. Arrangements accordingly need to be made to coordinate information and thus enable users to find out what collection points are available.

Amendment 59

Council position

Article 14 – paragraph 5

Council position

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

Amendment

5. Member States may require that some or all of the information referred to in paragraphs 2, 3 and 4 shall be provided by producers and/or distributors, e.g. in the instructions for use, at the point of sale ***or through public awareness campaigns.***

Justification

An example should be given to clarify how this information can be put across by producers and how this is done in some Member States.

Amendment 60

Council position

Article 15 – paragraph 1

Council position

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 information about preparation for re-use and treatment in respect of 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 centres which prepare for re-use and 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 centres which prepare for re-use and 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).

Amendment

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 information, ***free of charge***, about preparation for re-use and treatment in respect of 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 centres which prepare for re-use and 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 centres which prepare for re-use and 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).

Justification

The information required should be made available free of charge to ensure environmentally sound treatment that is not dependent on payment; this applies in particular to re-use centres run by NGOs.

Amendment 61

Council position

Article 15 – paragraph 2

Council position

2. Member States shall ensure that *a* producer, **as defined in Article 3(1)(f) (i) and (ii)**, of an EEE that is placed on the market is clearly identifiable by a mark on the EEE. Furthermore, in order to enable the date upon which the EEE was placed on the market to be determined unequivocally, a mark on the EEE shall specify that the latter was placed on the market after 13 August 2005. Preferably, the European Standard EN 50419 shall be applied for this purpose.

Amendment

2. Member States shall ensure that **any** producer of an EEE that is placed on the **Union** market **for the first time** is clearly identifiable by a mark on the EEE. Furthermore, in order to enable the date upon which the EEE was placed on the market to be determined unequivocally, a mark on the EEE shall specify that the latter was placed on the market after 13 August 2005. Preferably, the European Standard EN 50419 shall be applied for this purpose.

Justification

It is difficult to understand why the marking obligation does not apply to all producers. The position from the first reading is reinstated. Under the Council's national producer approach, a new mark is required whenever a product is placed on the market in another Member State. This is a clear impediment to the internal market. Under the European producer approach, this obligation only applies to producers that place the product on the EU internal market for the first time.

Amendment 62

Council position

Article 16 – paragraph 1 – subparagraph 2

Council position

Producers supplying EEE by means of distance communication shall be registered in the Member State that they sell to. Producers supplying EEE by means of distance communication as defined in Article 3(1)(f)(iv) shall be registered through their legal representatives as referred to in Article 17, unless they are already

Amendment

deleted

registered in the Member State that they are selling to.

Justification

Distance selling is an important dimension to trade in the internal market, so it is welcome that the Council devotes particular attention to this aspect [cf. Article 3(1)(f)(iv)]. Whilst this aspect is covered by Parliament's general European approach, it makes sense to provide a concise summary of this point in an Article. A separate article has therefore been introduced dealing with the distance selling of EEE (see the amendment to Article 17).

Amendment 63

Council position

Article 16 – paragraph 2

Council position

2. Member States shall ensure that
- a) each producer **or, in the case of producers as defined in Article 3(1)(f)(iv), each legal representative** is registered as required and has the possibility of entering online in their national register all relevant information reflecting *his* activities in **that Member State**,
 - b) upon registering, each producer **or, in the case of producers as defined in Article 3(1)(f)(iv), each legal representative** provide the information set out in Annex X part A, undertaking to update it as appropriate,
 - c) each producer **or, in the case of producers as defined in Article 3(1)(f)(iv), each legal representative** provide the information set out in Annex X part B.

Amendment

2. Member States shall ensure that
- a) each producer **established on their respective territories** is registered as required and has the possibility of entering online in their national register all relevant information reflecting *its* activities in **all Member States**;
 - b) upon registering, each producer provide the information set out in Annex X part A, undertaking to update it as appropriate;
 - c) each producer provide the information set out in Annex X part B.

The national registers shall be inter-operational, so that the information mentioned in this paragraph can be exchanged between Member States.

Justification

To reduce existing barriers to the operation of the internal market, single registration should be sufficient when the product is placed on the internal market for the first time. This can be done by the producer or his legal representative [cf. amendment to Article 16 (2a) (new)]. As the registers should exchange the necessary information with each other, they need to be

inter-operational.

Amendment 64

Council position

Article 16 – paragraph 2 a (new)

Council position

Amendment

2a. Each Member State shall ensure that a producer, as defined in points (i) to (iii) of Article 3 (1)(f), that places EEE on its market but is not resident on its territory is able to appoint a local legal representative resident in that Member State to be responsible for its obligations under this Directive. Article 17 shall apply to producers as defined in Article 3 (1)(f)(iv).

Justification

The requirement that producers should be legally domiciled in those Member States where they intend to place EEE on the market constitutes an impediment to the internal market and is particularly burdensome for SMEs. For the purposes of enforcement of the directive at Member State level, it is sufficient that a resident agent should be available to assume the producer's obligations under it.

Amendment 65

Council position

Article 16 – paragraph 4

Council position

Amendment

4. Member States shall collect information, including substantiated estimates, on an annual basis, on the quantities and categories of EEE placed on their markets, collected through all routes, prepared for re-use, recycled and recovered within the Member State, and on separately collected **WEEE** exported, by weight.

4. Member States shall collect information, including substantiated estimates, on an annual basis, on the quantities and categories of EEE placed on their markets, collected through all routes **and by any actor including companies, organisations and any other entities involved in separate collection and handling of used EEE**, prepared for re-use, recycled and recovered within the Member State, and on separately collected **used EEE** exported, by weight.

Justification

This amendment extends information requirements to take all used EEE and WEEE flows by 'all actors' into account. It is necessary to help fulfil the aims of amendment on article 7.2. addressing the fact that not all return flows are captured by the official, producer-organised WEEE collection systems.

Amendment 66

Council position
Article 17 – title

Council position

Amendment

Legal representative

Distance selling

Justification

The issue regarding legal representation has already been dealt with in Article 16. Distance selling poses a particular problem and should therefore be dealt with separately.

Amendment 67

Council position
Article 17

Council position

Amendment

Any Member State may ensure that a producer as defined in Article 3(1)(f)(iv), which sells EEE to that Member State from another Member State or a third country, appoints a legal or natural person established on its territory, as the person who is responsible for fulfilling his obligations as producer, pursuant to this Directive on its territory.

No Member State shall require a producer as defined in Article 3(1)(f)(iv), who is established in another Member State, to be established or legally represented in the Member State that it is selling EEE to.

Member States shall ensure that a producer as defined in Article 3 (1)(f)(iv) has the possibility of entering online, in the register of the Member State where it is established, all information required by Article 16 reflecting its activities across all Member States.

Justification

Producers that place EEE on the market by means of distance selling should not be forced to appoint a legal representative in the Member State in which the purchaser of the appliance is resident. The Monti Report (A new strategy for the single market) of 9 May 2010 also mentions the problem of recycling as an obstacle to e-commerce in the Union. In its resolution on completing the internal market for e-commerce (2010/2012(INI)), the European Parliament calls for simplification of the sale of EEE by means of distance selling.

Amendment 68

Council position Article 18

Council position

Member States shall ensure that authorities responsible for implementing this Directive cooperate with each other, in particular to establish an adequate flow of information to ensure that distance sellers comply with the provisions of this 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.

Amendment

Member States shall ensure that authorities responsible for implementing this Directive cooperate with each other, in particular to establish an adequate flow of information to ensure that distance sellers comply with the provisions of this 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.

In particular, the competent authorities of the Member State in which the producer is established shall, at the request of the competent authorities of the Member State in which the WEEE is generated, take the necessary enforcement measures in a proportionate and effective manner that is in accordance with the applicable national and Union legislation to ensure that the producer complies with all the requirements of this Directive.

To this end, the competent authorities of the Member State in which the producer is established shall cooperate fully with the competent authorities of the Member State in which the WEEE is generated. This cooperation shall include, inter alia,

access to the relevant documents and information and carrying out the necessary inspections.

Justification

The European producer approach requires closer cooperation between national authorities than is the case under the Council proposal, in order to ensure effective enforcement of the directive.

Amendment 69

Council position

Article 23

Council position

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 Union in compliance with applicable Union legislation and the operations at treatment facilities in accordance with Directive 2008/98/EC and Annex VII 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 VI and shall monitor such shipments accordingly.

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

Amendment

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

Those inspections shall at least cover ***the reported quantities of EEE placed on the market, in order to check the amount of the financial guarantees required under Article 12(2)***; shipments, in particular exports of WEEE outside the Union in compliance with ***Regulation (EC) No 1013/2006 and Regulation (EC) No 1418/2007***; and the operations at treatment facilities in accordance with Directive 2008/98/EC and Annex VII of this Directive.

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

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

suspected to be WEEE.

4. In order to ensure uniform conditions for the implementation of this Article and of Annex VI, the Commission may, by means of implementing acts, establish additional rules on inspections and monitoring and in particular uniform conditions for the implementation of Annex VI, point 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 20, with regard to the establishment of additional rules on inspections and monitoring and in particular uniform conditions for the implementation of Annex VI, point 2.

Amendment 70

Council position

Article 23 – paragraphs 3 a to 3 d (new)

Council position

Amendment

3a. Member States shall create a national register of acknowledged collection and treatment facilities. Only those facilities whose operators comply with the requirements set out in Article 8(3) shall be admitted to that national register. Member States shall make the contents of the register publicly available.

3b. Facility operators shall submit annual proof of their compliance with this Directive, and shall submit reports to competent authorities in accordance with paragraphs 3c and 3d in order to maintain their status as acknowledged collection or treatment facilities.

3c. Operators of collection facilities shall submit reports annually to enable national authorities to compare the volume of collected WEEE with the volume of WEEE actually transferred to recovery or recycling facilities. WEEE shall be transferred exclusively to acknowledged recovery and treatment facilities.

3d. Operators of treatment facilities shall submit reports annually to competent

authorities to enable national authorities to compare the amount of WEEE taken back from owners or acknowledged collection facilities with the amount of WEEE actually recovered, recycled or, in accordance with Article 10, exported.

Justification

Agreed first reading amendment, the purpose of which is to ensure that Member States and operators provide the information necessary to satisfy all concerned that the legislation is being implemented properly and effectively. Compromises can be agreed with the Council that will simplify the wording and avoiding duplication with other legislation.

Amendment 71

Council position

Article 24 – paragraph 1 – subparagraph 1

Council position

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by* They shall ***immediately*** communicate to the Commission the text of those provisions.

* ***OJ: please insert the date - 18 months after the day of this Directive's publication in the Official Journal of the European Union.***

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by* . They shall ***forthwith*** communicate to the Commission the text of those provisions ***and a correlation table between those provisions and this Directive.***

* 18 months after ***the entry into force of this Directive.***

Justification

Correlation tables set out clearly what the implications of the adoption of any EU directive are for transposition of the latter into the national law of each Member State. The use of such tables increases the transparency and openness of the legislative process and assists the Commission in overseeing the proper application of European law. The European Parliament's position at first reading is reinstated. The Commission had also suggested these correlation tables.

Amendment 72

Council position

Article 24 – paragraph 3 a (new)

Council position

Amendment

3a. In addition to the reviews provided for in Articles 2 and 7, the Commission shall, by ... *, submit a report to the European Parliament and the Council on the experience with the application of this Directive. If appropriate, the report shall be accompanied by a legislative proposal to amend this Directive.

**** Five years after the entry into force of this Directive.***

Justification

The intention is that the directive and its implementation will be subject to broad monitoring in addition to the specific reviews of its scope and of collection rates.

Amendment 73

Council position

Annex I

Council position

Amendment

Annex deleted.

Justification

The 'open' scope results in greater legal certainty - a major aim in revising the directive - since all EEE is included as a matter of principle. The strict categorisation of equipment led to widely differing interpretations in the Member States, which should be avoided. New products can also thereby be taken into account, obviating the need for further revision of the directive to include them in the scope.

Amendment 74

Council position Annex II

Council position

Amendment

Annex deleted

Justification

The 'open' scope results in greater legal certainty - a major aim in revising the directive - since all EEE is included as a matter of principle. The grouping into individual categories led to widely differing interpretations in the Member States, which should be avoided. New products can also thereby be taken into account, obviating the need for further revision of the directive to include them in the scope.

Amendment 75

Council position Annex III

Council position

Amendment

Categories of EEE covered by this Directive

1. Temperature exchange equipment
2. Screens, monitors, **and equipment containing screens having a surface greater than 100 cm²**
3. Lamps
4. **Large equipment (one length greater than 50cm) including household appliances; IT and telecommunication equipment; consumer equipment; luminaires; equipment reproducing sound or images, musical equipment; electrical and electronic tool; toys, leisure and sports equipment; medical devices; monitoring and control instruments; automatic dispensers; equipment for the generation of electric currents. This category does not include equipment included in categories 1 to 3.**

Categories of equipment for the purposes of determining recovery targets laid down in Article 11

1. Temperature exchange equipment
2. Screens **and** monitors
3. Lamps
4. **Large appliances other than cooling appliances and radiators, screens and monitors and lamps.**

5. Small equipment (no length more than 50cm) including household appliances; IT and telecommunication equipment; consumer equipment; luminaires; equipment reproducing sound or images, musical equipment; electrical and electronic tool; toys, leisure and sports equipment; medical devices; monitoring and control instruments; automatic dispensers; equipment for the generation of electric currents. *This category does not include equipment included in categories 1 to 3.*

5. Small appliances other than cooling appliances and radiators, screens and monitors and lamps and IT and telecommunication equipment.

6. Small IT and telecommunications equipment.

Justification

The categories are not relevant for the scope since this is open (AM Article 2(1)). Using centimetre size to distinguish between large and small equipment is an arbitrary distinction. It can also lead to confusion with respect to the definitions of 'large-scale installations' and 'large-scale tools', which can certainly not be considered large if they have a length greater than 50 cm. Given, however, that no other indications of size are mentioned in the directive, there is a fear that use might be made of the centimetre scale in Annex III. A separate category for small ICT equipment makes sense, as these contain many raw materials.

Amendment 76

Council position Annex IV

Council position

Indicative list of EEE which falls within the categories listed in Annex III:

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.

Amendment

Indicative list of EEE which falls within the categories listed in Annex III:

1. Temperature exchange equipment
– Refrigerators

– Freezers
– Equipment which automatically

- dispenses 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.*

2. Screens *and* monitors

- Screens
- Televisions
- LCD photo frames
- Monitors

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 lamps.

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 lamps

4. Large *equipment*

Washing machines, Clothes dryers, Dish washing machines, *Cookers, Electric stoves, Electric hot plates, Luminaires, 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

4. Large *appliances*

– *Large appliances used for cooking and other processing of foods (e.g. electric hot plates, electric ovens, electric stoves, microwaves, fixed coffee machines)*

machines, Large medical devices, Large monitoring and control instruments, ***Large appliances which automatically deliver products and money***, Photovoltaic panels.

– ***Extractor hoods***

– ***Large machines for cleaning (e.g. washing machines, clothes dryers, dish washing machines)***

– ***Large heating appliances (e.g. large heat blowers, electric stoves, systems for heating marble and natural stone, swimming-pool heating systems and other large appliances for heating rooms, beds and seating furniture)***

– ***Large body-care appliances (e.g. solariums, saunas, massage chairs)***

– ***Large IT and telecommunications appliances (e.g. large computer mainframes, servers, fixed network installations and appliances, large printing machines, copying equipment, coin-operated telephones)***

– ***Large sports and leisure appliances (e.g. sports equipment with electrical or electronic components, large coin slot machines)***

– ***Sound or picture reproduction equipment***

– ***Musical equipment (excluding church organs)***

– ***Large luminaires and other appliances for spreading or controlling light***

– ***Large electrical and electronic industrial tools and machinery except large-scale stationary industrial tools and non-road mobile machinery and appliances intended exclusively for professional users (e.g. appliances for knitting and weaving)***

– ***Large appliances for generating or transferring current (e.g. generators, transformers, uninterruptable power supplies (UPS), inverters)***

- Large medical devices
- Large monitoring and control instruments
- *Large measuring instruments and installations (e.g. scales, fixed machines)*
- *Large appliances for automated product sales or dispensing and for the automated provision of simple services (e.g. product dispensers, cash machines, machines for the return of empties, photo machines)*
- Photovoltaic panels

5. Small *equipment*

Vacuum cleaners, Carpet sweepers, Appliances for sewing, Luminaires, 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.

5. Small *appliances*

– *Small appliances used for cooking and other processing of foods (e.g. toasters, hotplates, electric knives, electric kettles, immersion coils, chopping machines, microwaves)*

– *Small cleaning appliances (e.g. vacuum cleaners, carpet sweepers, irons, etc.)*

– *Fans, air fresheners, ventilation equipment*

– *Small heating appliances (e.g. electric blankets)*

– *Clocks, watches, alarm clocks and other time-measuring instruments*

– *Small body-care appliances (e.g. electric shavers, toothbrushes, hairdryers, massage machines)*

- *Cameras (e.g. video cameras)*
- *Consumer electronics appliances (e.g. radios, audio amplifiers, car radios, DVD players, video recorders, hi-fi equipment)*
- *Musical instruments and sound equipment (e.g. amplifiers, mixing desks, headphones and speakers, microphones)*
- *Small luminaires and other appliances for spreading or controlling light*
- *Toys (e.g. model railways, model aircraft, etc.)*
- *Small items of sports equipment (e.g. computers for biking, diving, running, rowing, etc.)*
- *Small leisure appliances (e.g. video games, fishing and golf equipment etc.)*
- *Small electrical and electronic tools including gardening equipment (e.g. drills, saws, pumps, lawn-mowers)*
- *Sewing machines*
- *Small appliances for generating or transferring current (e.g. generators, battery chargers, uninterruptable power supplies (UPS), converters)*
- *Small medical devices including veterinary devices*
- *Small monitoring and control instruments (e.g. smoke detectors, heating regulators, thermostats, movement detectors, monitoring appliances and products, remote handling and control devices)*
- *Small measuring appliances (e.g. scales, display devices, telemeters, thermometers)*
- *Small appliances for automated product sales or dispensing*
- *Small equipment with integrated photovoltaic panels*
- 6. Small IT and telecommunications equipment**
- *Laptops*

- *Notebooks*
- – *Tablets*
- *Small IT and telecommunications appliances (e.g. PCs, printers, pocket calculators, telephones, mobile phones, routers, radio equipment, baby phones, video projectors)*

Justification

The European Parliament's position at first reading is reinstated with the inclusion of the examples listed in the Council position. A separate category for small ICT equipment makes sense, as these contain many raw materials.

Amendment 77

**Council position
Annex V**

Council position

Amendment

Annex deleted

Justification

The recovery rates should be established directly in a separate Article of the Directive in order to produce a comprehensible legal text (cf. the amendment to Article 11(1)). The recovery rates should also include the reuse rates from the moment the Directive enters into force. A separate reuse rate is important for the specific implementation of the waste hierarchy.

Amendment 78

**Council position
Annex VI**

Council position

Amendment

ANNEX VI

ANNEX VI

Minimum requirements for shipments of used EEE ***suspected to be WEEE***

Minimum requirements for shipments of used EEE

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member State

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member State

authorities shall, in cases of used EEE **suspected to be WEEE** request the following to back up this claim:

- a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
- c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC, and
- d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging **or** appropriate stacking of the load.

2. By way of derogation, point 1 (a) and (b) and point 3 **do** not apply where EEE is sent to the producer or third parties acting on his behalf **when** it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and where:

- a) the EEE is sent back as defective for repair under warranty with the intention of re-use,
- b) the used EEE for professional use is sent for refurbishment or repair under a valid **after-sales service maintenance** contract with the intention of re-use, or
- c) the defective used EEE for professional use, such as medical devices or their parts, is sent for root cause analysis under a valid after-sales service maintenance contract, in

authorities shall, in cases of used EEE request the following to back up this claim

- a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
- c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC, and
- d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging **and** appropriate stacking of the load.

2. By way of derogation, point 1 (a) and (b) and point 3 **shall** not apply where EEE is sent to the producer or third parties acting on his behalf **or to third-party facilities for repair or refurbishment, provided that** it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and where:

- a) the EEE is sent back as defective for repair under warranty with the intention of re-use,
- b) the used EEE for professional use is sent under a valid contract for refurbishment or repair with the intention of re-use, or
- c) the defective used EEE for professional use, such as medical devices or their parts, is sent for root cause analysis under a valid after-sales service maintenance contract, in

case such an analysis can only be conducted by the producer or third parties acting on his behalf.

case such an analysis can only be conducted by the producer or third parties acting on his behalf.

This derogation shall apply only to shipments to countries to which Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations applies.

In the event that EEE covered by this derogation cannot be repaired or refurbished, it shall be considered to be WEEE.

3. In order to demonstrate that the items being shipped are used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

3. In order to demonstrate that the items being shipped are used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing

Step 1: Testing

a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.

a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.

b) Results of evaluation and testing shall be recorded.

b) Results of evaluation and testing shall be recorded.

Step 2: Record

Step 2: Record

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

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

b) The record shall contain the following information:

b) The record shall contain the following information:

– Name of item (Name of the equipment if listed in ***Annex II or Annex IV, as appropriate***, and category set out in ***Annex I or Annex III, as appropriate***);

– Name of item (Name of the equipment if listed in Annex IV and category set out in Annex III);

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

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

– Year of Production (if available);

– Year of Production (if available);

- Name and address of the company responsible for evidence of functionality;
- Result of tests as described in step 1 (including date of the functionality test);
- Kind of tests performed.

4. In addition to the documentation requested in points 1 and 3, every load (e. g. shipping container, lorry) of used EEE shall be accompanied by:

- a) a relevant transport document, e.g. CMR or waybill.
- b) a declaration of the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 3 and 4 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 Regulation (EC) No 1013/2006.

- Name and address of the company responsible for evidence of functionality;
- Result of tests as described in step 1 (including date of the functionality test);
- Kind of tests performed.

4. In addition to the documentation requested in points 1 and 3, every load (e. g. shipping container, lorry) of used EEE shall be accompanied by:

- a) a relevant transport document, e.g. CMR or waybill.
- b) a declaration of the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 2, 3 and 4 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging or appropriate stacking of the load, ***which it is the responsibility of the holder of an appliance intended for shipment to provide in each case***, 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 Regulation (EC) No 1013/2006.

Amendment 79

Council position Annex X – point A

Council position

Information for registration and reporting referred to in Article 16

A. Information to be submitted upon registration:

Amendment

Information for registration and reporting referred to in Article 16

A. Information to be submitted upon registration:

1. Name and address of the producer or of the legal representative *in case of producers as defined in Article 3(1)(f) (iv)* (postal code and location, street name and number, country, telephone and fax number, e-mail, as well as a contact person). In the case of a legal representative, also the contact details of the producer that is represented.

2. **National** identification code of the producer, including European tax number or national tax number of the producer (*optional*).

3. Category of EEE set out in Annex **I or Annex III, as appropriate**.

4. Type of EEE (household or other than household equipment).

5. Brand name of EEE (*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. distance selling).

8. Declaration stating that the information provided is true.

1. Name and address of the producer or of the legal representative (postal code and location, street name and number, country, telephone and fax number, e-mail, as well as a contact person). In the case of a legal representative, also the contact details of the producer that is represented.

2. Identification code of the producer, including European tax number or national tax number of the producer.

3. Category of EEE set out in Annex III.

4. Type of EEE (household or other than household equipment).

5. Brand name of EEE.

6. Information on how the producer meets its responsibilities: individual or collective scheme, including information on financial guarantee.

7. Selling technique used (e.g. distance selling).

Justification

To achieve the objective of harmonised registration, it is necessary that the data required for the national registers is identical. This is the reason for rejecting optional data, as this would otherwise result again in having to meet differing requirements in the Member States. The information in the registers must be true per se. A further declaration provides no added value and only means more bureaucracy.

Amendment 80

Council position Annex X – point B

Council position

B. Information to be submitted for reporting:

Amendment

B. Information to be submitted for reporting:

1. **National** identification code of the producer.
2. Reporting period
3. Category of EEE set out in Annex **I or Annex III, as appropriate.**
4. Quantity of EEE placed to the national market, by weight.
5. **(optional)** quantity, by weight, of waste of EEE separately collected, prepared for re-use, recycled, recovered and disposed within the Member State or shipped within or outside the Union.

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

1. Identification code of the producer.
2. Reporting period.
3. Category of EEE set out in Annex III.
4. Quantity of EEE placed to the national market, by weight.
5. Quantity, by weight, of waste of EEE separately collected, prepared for re-use, recycled, recovered and disposed within the Member State or shipped within or outside the Union.

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

Justification

To achieve the objective of harmonised registration, it is necessary that the data required for the national registers is identical. This is the reason for rejecting optional data, as this would otherwise result again in having to meet differing requirements in the Member States.

PROCEDURE

Title	Waste electrical and electronic equipment
References	07906/2/2011 – C7-0250/2011 – 2008/0241(COD)
Date of Parliament's first reading – P number	3.2.2011 T7-0037/2011
Commission proposal	COM(2008)0810 - C6-0472/2008
Receipt of Council position at first reading announced in plenary	29.9.2011
Committee responsible Date announced in plenary	ENVI 29.9.2011
Rapporteur(s) Date appointed	Karl-Heinz Florenz 31.8.2009
Discussed in committee	8.9.2011
Date adopted	4.10.2011
Result of final vote	+: 52 -: 1 0: 5
Members present for the final vote	János Áder, Elena Oana Antonescu, Kriton Arsenis, Sophie Auconie, Pilar Ayuso, Paolo Bartolozzi, Sandrine Bélier, Sergio Berlato, Milan Cabrnock, Nessa Childers, Chris Davies, Bairbre de Brún, Esther de Lange, Anne Delvaux, Bas Eickhout, Edite Estrela, Jill Evans, Karl-Heinz Florenz, Elisabetta Gardini, Gerben-Jan Gerbrandy, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Dan Jørgensen, Karin Kadenbach, Christa Kläß, Holger Kraemer, Jo Leinen, Corinne Lepage, Peter Liese, Kartika Tamara Liotard, Radvilė Morkūnaitė-Mikulėnienė, Miroslav Ouzký, Vladko Todorov Panayotov, Gilles Pargneaux, Antonyia Parvanova, Mario Pirillo, Pavel Poc, Vittorio Prodi, Frédérique Ries, Anna Rosbach, Oreste Rossi, Carl Schlyter, Horst Schnellhardt, Richard Seiber, Theodoros Skylakakis, Claudiu Ciprian Tănăsescu, Salvatore Tatarella, Anja Weisgerber, Åsa Westlund, Sabine Wils
Substitute(s) present for the final vote	Tadeusz Cymański, Matthias Groote, Alojz Peterle, Marianne Thyssen, Marita Ulvskog, Kathleen Van Brempt
Substitute(s) under Rule 187(2) present for the final vote	Arlene McCarthy
Date tabled	6.10.2011