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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 3.12.2008  
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2008/0241 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on waste electrical and electronic equipment (WEEE)**

(Recast)

{SEC(2008) 2933}  
{SEC(2008) 2934}

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Grounds for and objectives of the proposal**

Directive 2002/96/EC on waste electrical and electronic equipment (WEEE) was adopted on 27 January 2003 and entered into force on 13 February 2003. Member States were required to transpose the requirements of the Directive by 13 August 2004. Neither the drivers nor the rationale for collecting and recycling WEEE have changed since the adoption of the Directive.

The following reasons lead to the proposal to review of the WEEE Directive:

- Experience with the first years of implementation of the WEEE Directive has indicated technical, legal and administrative problems that result in unintentionally costly efforts from market actors and administrations, continuing environmental harm, low levels of innovation in waste collection and treatment, a lack of level playing field or even distortion of competition and unnecessary administrative burden.
- The Commission is committed to developing a better regulatory environment, one that is simple, understandable, effective and enforceable. The Commission Communication implementing the Community Lisbon programme "A strategy for the simplification of the regulatory environment", foresees the review of the WEEE Directive for 2008.
- The WEEE Directive itself foresees the possible revision of the Directive based on the experience of the application of the WEEE Directive. The Directive also sets out for the Commission to propose new mandatory WEEE collection target by 31 December 2008 and new targets for recovery and re-use/recycling, including for the re-use of whole appliances as appropriate, and targets for the products falling under category 8 of Annex IA.

The specific objectives of the review of the WEEE Directive are therefore:

- Reduced administrative costs through the removal of all unnecessary administrative burdens, without lowering the level of environmental protection.
- Improved effectiveness and implementation of the Directive through increased compliance and reduced free-riding.
- Reduced impacts on the environment from the collection, treatment and recovery of WEEE at the levels where the greatest net benefit to society results.

#### **1.2. General context**

The extensive analysis carried out as part of the WEEE review process led to the identification of the following problems related to the application of the WEEE Directive:

- there is lack of clarity on the products covered by the current WEEE Directive and their categorisation, with different interpretations of the current provisions made by different Member States and stakeholders;
- currently approximately 65% of electrical and electronic equipment (EEE) placed on the market is separately collected, but less than half of this is treated and reported according to the requirements of the Directive; the remainder potentially leaks out to substandard treatment and is illegally exports to third countries, among which non-OECD countries. This leads to losses of valuable secondary raw materials and increases the risk of release of hazardous substances into the environment, including substances with high ozone depleting potential and global warming potential<sup>1</sup>. In addition to this, the current collection rate, 4kg/inhabitant per year of WEEE from private households, ("one size fits all") does not reflect the economies of individual Member States and thus leads to sub-optimal targets for some countries and too ambitious targets for others;
- currently there are no targets for the re-use of whole appliances in Directive 2002/96/EC;
- there are no detailed enforcement requirements in Directive 2002/96/EC which result in lack of enforcement of the WEEE Directive in Member States;
- diverging producer registration requirements in Member States can result in economic actors having to comply with 27 different producer registration schemes which causes unnecessary administrative burden;
- indications on substandard treatment of WEEE in the EU and illegal export of WEEE outside the EU.

When nothing is undertaken, the above problems will remain.

### **1.3. Existing provisions in the area of the proposal**

The acts related to the current proposal are Directive 2002/96/EC itself (as amended) and the Decisions adopted by the Commission related to this Directive.

### **1.4. Consistency with the other policies and objectives of the Union**

The objectives of the revised Directive is fully in line with general Community strategies, including the Lisbon Strategy, the Sustainable Development Strategy, the Energy and Climate Package, the 6th Environmental Action Programme and its mid-term review, Integrated Product Policy, the Thematic Strategies on the sustainable use of natural resources and on waste prevention and recycling, the 'Marketing of Products' package, the Commission's recent lead market initiative, and the proposed recast of the Regulation on Substances that Deplete the Ozone Layer.

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<sup>1</sup> COM(2008) 505 and SEC(2008) 2367.

## **2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **2.1. Consultation of interested parties**

#### *Consultation methods, main sectors targeted and general profile of respondents*

Extensive data collection and studies were carried out for the review of the WEEE Directive. Throughout the review process there was continuous information exchange with stakeholders, an SME panel was organised and an on-line public stakeholder consultation was launched. These consultations and studies helped define and analyse a number of specific policy options.

Throughout the consultations that took place in the framework of the review, the responding stakeholders among others were Member States, NGOs, producers of electrical and electronic equipment, consumers, retail and distribution sector, municipalities, treatment operators, recyclers and recovery operators, producer responsibility organisations and national producer registers.

#### *Summary of responses and how they have been taken into account*

Stakeholders have been asked to give opinion on the policy options proposed for the clarification of the scope of the WEEE Directive, revision of the target for collection and for re-use/recovery and recycling of WEEE, producer registration and treatment requirements. The public consultation document as well as a summary of opinions is made publicly available. As opinions relate to the measures proposed, responses have been taken fully into account.

An open consultation was conducted over the internet from 11/04/2008 to 05/06/2008. The Commission received 168 response(s). The results are available on [http://circa.europa.eu/Public/irc/env/weee\\_2008\\_review/library](http://circa.europa.eu/Public/irc/env/weee_2008_review/library).

### **2.2. Collection and use of expertise**

#### *Scientific/expertise domains concerned*

- (1) Information gathering exercise by Bio Intelligence Service. The exercise resulted in an assessment of about 132 WEEE reference documents that were made available online together with a synthesis report. This report provided a systematic overview of the content of these reference documents whilst assessing the possible overlaps, contradictions and gaps in the knowledge related to the information needed for the review. The result served as a direct input for the contractors of the research studies and is available in the CIRCA page [http://circa.europa.eu/Public/irc/env/weee\\_2008/library](http://circa.europa.eu/Public/irc/env/weee_2008/library).
- (2) Four research studies have been carried out to give input to the review; they helped the European Commission generate full understanding of implementation of the Directive, to identify the issues at stake for the review, to complete the information needed to perform an analysis of policy options particularly the development and simplification of the Directive in line with the Communication on better regulation. Issues covered are the producer responsibility obligations, the management of WEEE and the impacts on innovation and competition. Further information on the studies (name of

study, contractor and date) is available at [http://ec.europa.eu/environment/waste/weee/studies\\_weee\\_en.htm](http://ec.europa.eu/environment/waste/weee/studies_weee_en.htm).

- (3) As part of this study contract an expert stakeholder workshop was organised on 15 March 2007. The conclusions of the workshop are available together with the presentations in the CIRCA page [http://circa.europa.eu/Public/irc/env/weee\\_2008\\_ws/home](http://circa.europa.eu/Public/irc/env/weee_2008_ws/home).

#### Methodology used

The information gathering exercise by Bio Intelligence Service systematically screened available literature resulting in a synthesis report. The other studies (by the United Nations University, Ökopol, Arcadis/Ecolas) were research studies. An expert workshop and SME Panel via the European Information Centres Network was part of the research study carried out by United Nations University.

#### Main organisations/experts consulted

AEA Technology, Bio Intelligence Service, United Nations University and subcontractors, Ökopol and subcontractors, Ecolas and subcontractors.

#### Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

The advice from the above studies has been summarised in the executive summaries of the studies and have been used at various places in the impact assessment of policy options; the text of the impact assessment refers consequently to the study concerned.

#### Means used to make the expert advice publicly available

Publication of the opinions on the open website [http://circa.europa.eu/Public/irc/env/weee\\_2008\\_review/library](http://circa.europa.eu/Public/irc/env/weee_2008_review/library)

### **2.3. Impact assessment**

Several policy options have been assessed for the revision of the Directive, including the option of taking no action. These options have been evaluated on the basis of their economic, social and environmental impacts and to what degree they contribute to the simplification of the regulatory environment. The options considered relate to two areas: options to improve the effectiveness of the WEEE Directive and options to improve the efficiency of the Directive.

- The following options were considered to improve the effectiveness of the Directive: minimum inspection and enforcement requirements for treatment and waste shipment, collection targets for producers set at 85% of WEEE arising (which equals 65% of EEE placed on the market, which is already currently separately collected) including WEEE from business into the rate, collection of all

environmentally most relevant streams, collection rate expressed in function of the EEE placed on the market. The options on minimum inspection requirement, setting the collection targets for producers at 65% of the EEE placed on the market in the preceding year were found to result in environmentally, economically and social optimal solution in this area. The IA shows that 65% reflects reality as this amount is already being separately collected on average throughout the EU Member States. This rate would include nearly all the large and medium size WEEE which is economic to collect. Data suggests that the collection costs per unit collected remain the same and environmental benefits will increase as more separately collected WEEE would be properly treated.

- The following options were considered to improve the efficiency of the Directive: Clarify the scope of the Directive using a fixed product list as the scope, define the scope in the RoHS Directive while the WEEE Directive would refer to this under 175 of the EC treaty, define categories of equipments as from private household (B2C) or from users other than private households (B2B). The impact assessment concluded that no action in this area was not a viable policy option and clarifying the scope of the WEEE Directive can best be done with a combination of the last two options. This will result in both positive environmental and economic impacts and it will provide clarity for producers, thereby reducing free riding on the market.
- Harmonise producer registration and reduce unnecessary administrative burden through creating inter-operable registers between Member States or an EU register and harmonise registration and reporting requirements. It was found that creating an interoperable national registers and harmonising registration requirements are the most viable options considering the costs occurring and the significant reduction in administrative burden
- It was also considered to include the re-use of whole appliances into the recycling target and set a new target for medical devices. Both these options have proven viable during the impact assessment.

The proposal has been subject to an impact assessment listed in the Commission's Legislative and Work Programme; it is accessible at....

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Summary of the proposed action**

The following main actions are proposed for the revision of the WEEE Directive:

Scope of the WEEE Directive: It is proposed to bring Annex IA and IB of Directive 2002/96/EC describing the scope for both the WEEE and RoHS Directives under the RoHS Directive which is based on Article 95 of Treaty. The WEEE Directive, based on Article 175 of the EC Treaty, will refer to this scope.

Clarify definitions: Clarification is proposed on the division between WEEE from private household and non household WEEE by classifying the equipments as either B2C or B2B equipments through comitology procedure. These actions will

contribute to the further clarification of which products fall under the WEEE Directive and they will further clarify the obligations applying to different equipment producers which will contribute to establishing a level of playing field.

Collection target: a 65% WEEE collection rate (including B2B equipments) is proposed which is set in function of the average amount of EEE placed on the market in the two preceding years. This target reflects the amounts of WEEE which are currently already separately collected in the Member States and takes the variations in EEE consumption in individual Member States into account. Therefore, it will encourage Member States to come to the most optimal separate WEEE collection. The proposed collection rate should be achieved annually, starting in 2016. Several flexibilities are proposed: possible transitional measures for Member States and a re-examination of the rate by the European Parliament and Council in 2012 on the basis of a proposal from the Commission.

Recycling targets: In order to encourage the re-use of whole WEEEs it is proposed to include re-use of whole appliances in the increased (with 5%) target for recycling combined with re-use. The recycling target for medical devices (category 8 equipment) is proposed to be set at the level of those for monitoring and control instruments (category 9 equipment).

Producer Registration: In order to reduce the administrative burden related to the application of the WEEE Directive the harmonisation of the registration and reporting obligations for producers between the national producer registers is proposed including making the registers inter operational.

Enforcement: In order to bridge the implementation gap, it is proposed to set minimum inspection requirements for Member States to strengthen the enforcement of the WEEE Directive. Minimum monitoring requirements are proposed for shipments of WEEE.

### **3.2. Legal basis**

Article 175 of the Treaty.

### **3.3. Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

Environmental protection measures fall within the competence of both the Community and the Member States. The pollution caused by the management of WEEE is of trans-boundary nature. This is particularly true for the pollution of air or water and soil resulting from the incineration, landfilling or improper recycling of WEEE. The objective of improving the management of WEEE therefore cannot be achieved effectively by Member States alone, for this Community action is required. In addition, having different national policies on the management of WEEE hampers the effectiveness of recycling policies. Also, different national registration and



reporting requirements for producers leads to unnecessary administrative burden. For that reason action should be taken on Community level.

The action by Member States alone would result in reduced level of environmental protection and increased financial and administrative burden on economic operators.

Community action will better achieve the objectives of the proposal for the following reason(s).

The transnational nature of the problems related to the review of the WEEE Directive makes them appropriate to be regulated at EU level; harmonisation of requirements for manufacturers and authorities throughout the EU will increase cost-efficiency, foster simplification and achieve higher level of environmental protection across the EU.

Indicators:

- (1) avoidance of internal market problems by creating certainty for economic operators covered by the provisions of the Directive on the meaning of definitions and the scope of the WEEE Directive;
- (2) reaching optimal environmental results by setting minimum collection and recycling targets at appropriate level across the EU;
- (3) reduction of administrative burden by simplified registration and reporting procedures for firms trading in more than one Member State;
- (4) more effective application of the WEEE Directive by strengthened enforcement and monitoring of producers and waste management compliance on the EU level.

The Council and the European Parliament in Directive 2002/96/EC called for the revision of the WEEE collection target, targets for recycling and recovery of WEEE including for the re-use of whole appliances as appropriate and for the products falling under category 8 (medical devices). This review is an integral part of developing a better regulatory environment in the EU. Clarification of the scope and of certain definitions in the Directive, setting targets and working towards interoperational producer registration systems is expected not to be effectively achievable by the Member States acting individually.

The proposal therefore complies with the subsidiarity principle.

### **3.4. Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposal sets out legal requirements for a harmonised Community strategy for the collection and recycling of WEEE but at the same time leaves Member States free to choose the most appropriate national measures to reach the objective of the proposal. As the Directive is based on Article 175 of the Treaty, it leaves scope for further national measures. The measures in the proposed review of the WEEE

Directive tackle the problems encountered during the implementation of Directive 2002/96/EC and the points explicitly indicated by Council and EP for the review.

Cuts in administrative burden:

- reduced administrative burden concerning the registration and reporting for producers marketing products in more than one Member State;
- overall cost savings from harmonised registration and reporting is €66.3 million.

### **3.5. Choice of instruments**

Proposed instruments: directive.

Other means would not be adequate for the following reason(s).

As recent research studies have confirmed that neither the drivers for the problems nor the rationale for collecting and recycling WEEE have changed, the proposed measure is a review of an existing Directive.

## **4. BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

## **5. ADDITIONAL INFORMATION**

### **5.1. Simplification**

The proposal provides for simplification of legislation, simplification of administrative procedures for private parties, by:

- clarifying of the scope of both the WEEE and RoHS Directives which tackle the same kind of equipment;
- harmonising formats and frequencies concerning the registration and reporting for producers.

The proposal is included in the Commission's rolling programme for up-date and simplification of the Community Acquis and its Work and Legislative Programme under the reference 2008/ENV/002.

### **5.2. Review/revision/sunset clause**

The proposal includes a review clause.

### **5.3. Recasting**

The proposal involves recasting.

#### **5.4. Correlation table**

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

#### **5.5. Detailed explanation of the proposal**

The main proposals to recast Directive 2002/96/EC relate to:

Article 2: Scope of the Directive refers to the scope of the RoHS Directive. It is clarified what equipments are exempted from the Directive.

Article 3: Definitions are adapted and new definitions are added to increase legal certainty and coherence with other Community legislation.

Article 7: WEEE a 65% collection rate set in function of the amount of EEE placed on the market in the preceding two years. This collection rate needs to be achieved annually, for the first time in 2016 by producers. Member States may have transitional arrangement granted through comitology in case they have difficulties meeting the rate due to specific national circumstances. The collection rate is proposed to be re-examined by the European Parliament and the Council in 2012, also in view of setting possible separate collection rate for cooling and freezing equipment, on the basis of a report of the Commission.

Article 11: Recovery and recycling targets are modified to include the re-use of whole appliances and the medical devices.

Article 12: Member States, where appropriate, should encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.

Article 14: A visible fee is allowed without time limitation in line with the principles of Sustainable Consumption and Production for all products

Article 16: In order to reduce administrative burden a new provision is added to harmonise the registration of producers and reporting by producers in the EU including by making the national registers interoperable.

Article 20: Minimum inspection requirements are added to improve the application of the WEEE Directive on the EU level.

Annex I of Directive 2002/96/EC is deleted and a new Annex is added establishing minimum monitoring requirements for shipments of WEEE.

Annexes II, III, IV of Directive 2002/96/EC remain unchanged as these are to be updated according to technical and scientific progress on a regular basis through comitology procedure.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on waste electrical and electronic equipment (WEEE)**

(Recast)

(Text with EEA relevance)

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↓ 2002/96/EC (adapted)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ~~in the light of the joint text approved by the Conciliation Committee on 8 November 2002,~~

Whereas:

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↓ new

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

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↓ 2002/96/EC

~~(2)(4)~~ The objectives of the Community's environment policy are, in particular, to preserve, protect and improve the quality of the environment, protect human health and utilise natural resources prudently and rationally. That policy is based on the precautionary

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<sup>2</sup> ~~OJ C 365 E, 19.12.2000, p. 184 and OJ C 240 E, 28.8.2001, p. 298.~~ ☒ OJ C , , p. . ☒

<sup>3</sup> ~~OJ C 116, 20.4.2001, p. 38.~~ ☒ OJ C , , p. . ☒

<sup>4</sup> ~~OJ C 148, 18.5.2001, p. 1.~~ ☒ OJ C , , p. . ☒

<sup>5</sup> OJ L 37, 13.2.2003, p. 24.

principle and principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

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

↓ 2002/96/EC (adapted)

⇒ new

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

~~(4)~~ The Council in its Resolution of 24 February 1997 on a Community strategy for waste management<sup>7</sup> insisted on the need for promoting waste recovery with a view to reducing the quantity of waste for disposal and saving natural resources, in particular by re-use, recycling, composting and recovering energy from waste and recognised that the choice of options in any particular case must have regard to environmental and economic effects but that until scientific and technological progress is made and life-cycle analyses are further developed, re-use and material recovery should be considered preferable where and in so far as they are the best environmental options. The Council also invited the Commission to develop, as soon as possible, an appropriate follow up to the projects of the priority waste streams programme, including WEEE.

~~(5)~~ The European Parliament, in its Resolution of 14 November 1996<sup>8</sup>, asked the Commission to present proposals for Directives on a number of priority waste streams, including electrical and electronic waste, and to base such proposals on the principle of producer responsibility. The European Parliament, in the same Resolution, requests the Council and the Commission to put forward proposals for cutting the volume of waste.

↓ new

(4) This Directive supplements the general EU waste management legislation, such as Directive 2008/xx/EC of the European Parliament and of the Council on waste<sup>9</sup>. It refers to the definitions of the Directive including the definitions of waste and general waste management operations. The definition of collection according to Directive 2008/xx/EC on waste includes the preliminary sorting and preliminary storage of

<sup>6</sup> OJ C 138, 17.5.1993, p. 5.

<sup>7</sup> OJ C 76, 11.3.1997, p. 1.

<sup>8</sup> OJ C 362, 2.12.1996, p. 241.

<sup>9</sup> OJ C , , p. .

waste for the purposes of transport to a waste treatment facility. Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005<sup>10</sup> establishes a framework for setting ecodesign requirements for energy using products and enables the adoption of specific eco-design requirements for energy using products which may also be covered by this Directive. Directive 2005/32/EC and the implementing measures adopted pursuant to it are without prejudice to Community waste management legislation. Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment<sup>11</sup> requires the substitution of banned substances for all electrical and electronic equipments within its scope.

↓ 2002/96/EC (adapted)

⇒ new

~~(56) Council Directive 75/442/EEC of 15 July 1975 on waste<sup>12</sup>~~ ☒ Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste<sup>13</sup> ☒ provides that specific rules for particular instances or supplementing those of Directive ☒ 2006/12/EC ☒ ~~75/442/EEC~~ on the management of particular categories of waste may be laid down by means of individual Directives.

~~(67) The amount of WEEE generated in the Community is growing rapidly.~~ ⇒ As the market continues to expand and innovation cycles become even shorter, the replacement of equipment accelerates, making waste electrical and electronic equipment (WEEE) a fast growing waste stream. While Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS) contributes effectively to reducing hazardous substances in new EEE, hazardous substances such as mercury, cadmium, lead, hexavalent chromium and polychlorinated biphenyls (PCBs) and ozone depleting substances<sup>14</sup> will still be present in WEEE for many years. ⇐ The content of hazardous components in electrical and electronic equipment (EEE) is a major concern during the waste management phase and recycling of WEEE is not undertaken to a sufficient extent. ⇒ A lack or recycling would result in the loss of valuable resources ⇐ .

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

<sup>10</sup> OJ L 191, 22.07.2005, p.29-58.

<sup>11</sup> OJ L 37, 13.02.2003, p.19-23.

<sup>12</sup> OJ L 194, 25.7.1975, p. 47. Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p. 32).

<sup>13</sup> OJ L 114, 27.4.2006, p. 9.

<sup>14</sup> COM(2008)505 and SEC(2008)2367

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↓ new

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

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↓ 2002/96/EC (adapted)  
⇒ new

- (9) The provisions of this Directive should apply to products and producers irrespective of the selling technique, including distance and electronic selling. In this connection the obligations of producers and distributors using distance and electronic selling channels should, as far as is practicable, take the same form and should be enforced in the same way in order to avoid other distribution channels having to bear the costs of the provisions of this Directive concerning WEEE for which the equipment was sold by distant or electronic selling.
- (10) This Directive should cover all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use. This Directive should apply without prejudice to Community legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Community waste management legislation, in particular ~~⊗ Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators<sup>15</sup> ⊗ ~~Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances<sup>16</sup> ⇒~~ , and Community product design legislation, in particular Directive 2005/32/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-using products and~~

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<sup>15</sup> OJ L 266, 26.9.2006, p.1-14. Directive as amended by Directive 2008/12/EC (OJ L 76, 19.3.2008, p. 39).

<sup>16</sup> ~~OJ L 78, 26.3.1991, p. 38. Directive as amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1).~~

amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council. ⇐

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

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

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

~~(14) Member States should encourage the design and production of electrical and electronic equipment which take into account and facilitate dismantling and recovery, in particular the re-use and recycling of WEEE, their components and materials. Producers should not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example with regard to the protection of the environment and/or safety requirements.~~

~~(13)~~<sup>(15)</sup> Separate collection is ~~the~~ precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge. ⇒ Distributors have an important role in contributing to the success of WEEE collection. ⇐

~~(14)~~<sup>(16)</sup> In order to attain the chosen level of protection and harmonised environmental objectives of the Community, Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order to ensure that Member States strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE ⇒, particularly for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases, given their high environmental impact and in view of obligations contained in Regulation (EC) 2037/2000 and Regulation (EC) 842/2006<sup>17</sup> ⇐ ~~from private households.~~ ⇒ Data included in the impact assessment shows that 65% of electrical and electronic equipment placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports. This leads to losses of valuable secondary raw materials and environmental degradation. To avoid this, it is necessary to set an ambitious collection target. ⇐

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<sup>17</sup> COM(2008)505 and SEC(2008)2367



~~(1517)~~ Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen level of protection of the environment of the Community. Any establishment or undertakings carrying out ⇒ collection ⇐, recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. Best available treatment, recovery and recycling techniques should be used provided that they ensure human health and high environmental protection. Best available treatment, recovery and recycling techniques may be further defined in accordance with the procedures of Directive ☒ 2008/1/EC ☒ ~~96/61/EC~~<sup>18</sup>.

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

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↓ new

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

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↓ 2002/96/EC  
⇒ new

~~(1819)~~ Basic principles with regard to the financing of WEEE management have to be set at Community level and financing schemes have to contribute to high collection rates as well as to the implementation of the principle of producer responsibility.

~~(1920)~~ Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should ~~therefore~~ finance ⇒ at least the ⇐ collection from collection facilities, and the treatment, recovery and disposal of WEEE. ⇒ Member States should encourage producers to take full ownership of the WEEE collection in particular by financing the collection of WEEE throughout the whole waste chain, including from private households, in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports, to create a level playing field by harmonising producer financing across the EU, to shift payment for the collection of this waste from general tax payers to the consumers of EEEs in line with the polluter pays principle. ⇐ In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The

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<sup>18</sup> OJ L 24, 29.1.2008, p. 8 ~~OJ L 257, 10.10.1996, p. 26-40.~~

responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants. ~~For a transitional period producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of historical waste. Producers making use of this provision should ensure that the costs mentioned do not exceed the actual costs incurred.~~

- (20) ⇒ Producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of WEEE. This is in line with the Commission Communication on Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan in particular with regard to smarter consumption and green public procurement. ⇐
- (21) Information to users about the requirement not to dispose of WEEE as unsorted municipal waste and to collect WEEE separately, and about the collection systems and their role in the management of WEEE, is indispensable for the success of WEEE collection. Such information implies the proper marking of electrical and electronic equipment which could end up in rubbish bins or similar means of municipal waste collection.
- (22) Information on component and material identification to be provided by producers is important to facilitate the management, and in particular the treatment and recovery or ~~recycling~~, of WEEE.
- (23) Member States should ensure that inspection and monitoring infrastructure enable the proper implementation of this Directive to be verified, having regard, *inter alia*, to Recommendation 2001/331/EC of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States<sup>19</sup>.
- (24) Information about the weight ~~or, if this is not possible, the numbers of items~~ of electrical and electronic equipment ~~placed on~~ the market in the Community and the rates of collection, re-use, including as far as possible 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.
- (25) Member States may choose to implement certain provisions of this Directive by means of agreements between the competent authorities and the economic sectors concerned provided that particular requirements are met.
- (26) The adaptation to scientific and technical progress of certain provisions of the Directive, ~~the list of products falling under the categories set out in Annex IA,~~ the selective treatment for materials and components of WEEE, the technical requirements

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<sup>19</sup> OJ L 118, 27.4.2001, p. 41.

for ⇒ collection, ⇐ storage and treatment of WEEE and the symbol for the marking of EEE should be effected by the Commission under a committee procedure.

- (27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>20</sup>. ⇒ The Commission should be empowered to adapt the annexes and to adopt rules for monitoring compliance. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/96/EC, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ⇐

↓ new

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

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

↓ 2002/96/EC

HAVE ADOPTED THIS DIRECTIVE:

↓ 2002/96/EC

### *Article 1*

↓ new

### **Subject matter**

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

↓ 2002/96/EC

⇒ new

### **Objectives**

<sup>20</sup> OJ L 184, 17.7.1999, p. 23.

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

## Article 2

### Scope

1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in ~~Annex I~~ ~~Annex IA~~ of Directive 20xx/xx/EC (RoHS). ~~provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of this Directive. Annex IB contains a list of products which fall under the categories set out in Annex IA.~~

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

↓ 2002/96/EC (adapted)  
⇒ new

3. ☒ This Directive does not apply to any of the following equipments: ☒

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

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

↓ new

⇒ (c) Equipment which is not intended to be placed on the market as a single functional or commercial unit. ⇐

↓ 2002/96/EC (adapted)

☒ (d) Filament bulbs. ☒

☒ (e) Implanted and infected medical devices. ☒

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↓ new

4. WEEE shall be classified as waste from private households or from users other than private households. The classification of types of WEEE into these categories shall be laid down. This measure designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3). This classification among others shall be based on assessing the share of the equipment sold to private households or businesses.
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↓ 2002/96/EC (adapted)  
⇒ new

### Article 3

#### Definitions

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

(a) 'electrical and electronic equipment' or 'EEE' means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in ⇒ Annex I ⇐ ~~Annex IA~~ ⇐ of Directive 20xx/xx/EC (RoHS) ⇐ and designed for use with a voltage rating not exceeding 1000 Volt for alternating current and 1500 Volt for direct current;

(b) 'waste electrical and electronic equipment' or 'WEEE' means electrical or electronic equipment which is waste within the meaning of Article 3(1) of Directive 2008/xx/EC on waste ~~4(a) of Directive 75/442/EEC~~, including all components, subassemblies and consumables which are part of the product at the time of discarding;

(c) 'prevention' means ⇒ prevention within the meaning of Article 3 (12) of Directive 2008/xx/EC on waste; ⇐ ~~measures aimed at reducing the quantity and the harmfulness to the environment of WEEE and materials and substances contained therein;~~

(d) 're-use' means ⇒ re-use within the meaning of Article 3(13) of Directive 2008/xx/EC on waste ⇐ ~~any operation by which WEEE or components thereof are used for the same purpose for which they were conceived, including the continued use of the equipment or components thereof which are returned to collection points, distributors, recyclers or manufacturers;~~

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↓ new

- (e) 'preparing for re-use' means preparing for re-use within the meaning of Article 3(16) of Directive 2008/xx/EC on waste;

↓ 2002/96/EC (adapted)

⇒ new

(~~fe~~) 'recycling' means ⇒ recycling within the meaning of Article 3(17) of Directive 2008/xx/EC on waste ⇐ ~~the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat;~~

(~~gf~~) 'recovery' means ⇒ recovery within the meaning of Article 3(15) of Directive 2008/xx/EC on waste ⇐ ~~any of the applicable operations provided for in Annex IIB to Directive 75/442/EEC;~~

(~~hg~~) 'disposal' means ⇒ disposal within the meaning of Article 3(19) of Directive 2008/xx/EC on waste ⇐ ~~any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;~~

(~~ih~~) 'treatment' means ⇒ treatment within the meaning of Article 3(14) of Directive 2008/xx/EC on waste ⇐ ~~any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery and/or the disposal of the WEEE;~~

(~~ji~~) 'producer' means any natural or legal person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts<sup>21</sup>:

(i) manufactures ~~and sells~~ electrical and electronic equipment under his own ⇒ name or trademark, or has electrical and electronic equipment designed or manufactured and markets that electronic equipment under his name or trade mark ⇐ ~~brand~~,

(ii) resells under his ~~own brand~~ ☒ name or trademark ☒ equipment produced by other suppliers, a reseller not being regarded as the 'producer' if the brand of the producer appears on the equipment, as provided for in subpoint (i), or

(iii) ⇒ is established within the Community and places ⇐ ~~imports or exports~~ electrical and electronic equipment ⇒ from a third country ⇐ on a professional basis ⇒ onto the Community Market ⇐ ~~into a Member State~~.

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

(~~kj~~) 'distributor' means any ⇒ natural or legal ⇐ person ⇒ in the supply chain, who makes an electrical and electronic equipment available on the market; ⇐ ~~who~~

<sup>21</sup> OJ L 144, 4.6.1997, p. 19.

~~provides electrical or electronic equipment on a commercial basis to the party who is going to use it~~

~~(kk)~~ 'WEEE from private households' means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;

↓ new

(m) 'hazardous waste' means hazardous waste within the meaning of Art. 3 (2) of Directive 2008/XX/EC on waste.

↓ 2002/96/EC

⇒ new

~~(l) 'dangerous substance or preparation' means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC<sup>22</sup> or Directive 1999/45/EC of the European Parliament and of the Council<sup>23</sup>.~~

~~(mm)~~ 'finance agreement' means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place.

↓ new

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

(p) "placing on the market" means the first making available of a product on the Community market;

(q) "remove" means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, preparations and components are contained as an identifiable stream or identifiable part of a stream at the end of the treatment process. A substance, preparation or component is identifiable if it can be monitored to prove environmentally safe treatment.

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

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

<sup>22</sup> ~~OJ L 96, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2001/59/EC (OJ L 225, 21.8.2001, p. 1).~~

<sup>23</sup> ~~OJ L 200, 30.7.1999, p. 1. Directive as amended by Commission Directive 2001/60/EC (OJ L 226, 22.8.2001, p. 5).~~

#### Article 4

##### Product design

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

#### Article 5

##### Separate collection

1. Member States shall adopt appropriate measures ~~in order~~ to minimise the disposal of WEEE ~~as~~ ⇒ in the form of ⇐ unsorted municipal waste and to achieve a high level of separate collection of WEEE ⇒ , notably, and as a matter of priority, for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases. ⇐

2. For WEEE from private households, Member States shall ensure that ~~by the 13 August 2005:~~

(a) systems are set up allowing final holders and distributors to return such waste at least free of charge. Member States shall ensure the availability and accessibility of the necessary collection facilities, taking into account in particular the population density;

(b) when supplying a new product, distributors shall be responsible for ensuring that such waste can be returned to the distributor at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment. Member States may depart from this provision provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder. Member States making use of this provision shall inform the Commission thereof;

(c) without prejudice to the provisions of (a) and (b), producers are allowed to set up and operate individual and/or collective take-back systems for WEEE from private households provided that these are in line with the objectives of this Directive;



(d) having regard to national and Community health and safety standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under (a) and (b). Member States shall make specific arrangements for such WEEE.

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

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

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

↓ new

#### Article 6

### **Disposal and transport of collected WEEE**

1. Member States shall prohibit the disposal of untreated separately collected WEEE.

2. Member States shall ensure that the collection and transport of separately collected WEEE is carried out in a way which optimises re-use and recycling and the confinement of hazardous substances.

↓ new

#### Article 7

### **Collection rate**

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

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

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

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

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

↓ 2002/96/EC (adapted)  
⇒ new

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

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

↓ 2002/96/EC (adapted)  
⇒ new

## *Article 86*

### **Treatment**

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

⊗ 2. Treatment ⊗ ⇒ other than preparing for re-use ⇐ ⊗ shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex II to this Directive.

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

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↓ 2008/34/EC Art. 1.1 (adapted)

4. Annex II may be amended in order to introduce other treatment technologies ensuring at least the same level of protection for human health and the environment.

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

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↓ 2002/96/EC (adapted)

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

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

☒ 6. Member States shall encourage establishments or undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No ~~☒ ☒ xx/20xx ☒ 761/2001 of the European Parliament and of the Council of 19 March 2001~~ ☒ allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS). ☒

☒ Article 9 ☒

### ☒ **Permits and inspections** ☒

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↓ 2002/96/EC, Art. 6 (adapted)

1. Member States shall ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the competent authorities, in compliance with ☒ Article 23 of Directive 2008/xx/EC on waste ~~☒. Articles 9 and 10 of Directive 75/442/EEC.~~

2. The derogation from the permit requirement referred to in Article ☒ 24(b) of Directive 2008/xx/EC on waste ~~☒ 11(1)(b) of Directive 75/442/EEC~~ may apply to recovery operations concerning WEEE if an inspection is carried out by the competent authorities before the registration in order to ensure compliance with Article ☒ 13 of Directive 2008/xx/EC on waste ~~☒. 4 of Directive 75/442/EEC.~~

The inspection shall verify the following:

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

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

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

43. Member States shall ensure that the permit or the registration referred to in paragraphs  1 and  2 includes all conditions necessary for compliance with the requirements of paragraphs ~~1~~  Article 8(2), 8(3) and 8(5)  and ~~3~~ and for the achievement of the recovery targets set out in Article 117.

Article 10

### Shipments of WEEE

↓ 2002/96/EC, Art. 6 (adapted)  
⇒ new

~~15.~~ The treatment operation may also be undertaken outside the respective Member State or the Community provided that the shipment of WEEE is in compliance with  Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on the shipments of waste<sup>24</sup>  ~~Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community<sup>25</sup>.~~

2. WEEE exported out of the Community in line with  Regulation (EC) No 1013/2006 on shipments of waste  ~~Council Regulation (EEC) No 259/93~~,  and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or Annex IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply<sup>26</sup>  ~~Council Regulation (EC) No 1420/1999<sup>27</sup> of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste and Commission Regulation (EC) No 1547/1999<sup>28</sup> of 12 July 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92)39 final does not apply~~, shall only count for the fulfilment of obligations and targets of Article 117(1) and (2) of this Directive if the exporter can prove that the  treatment  recovery, re-use and/or recycling operation took place under conditions that are equivalent to the requirements of this Directive.

<sup>24</sup> OJ L 190, 12.7.2006, p.1-98. Regulation as last amended by Commission Regulation (EC) No 1379/2007 (OJ L 309, 27.11.2007, p. 7).

<sup>25</sup> ~~OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).~~

<sup>26</sup> OJ L 316, 4.12.2007, p. 6

<sup>27</sup> ~~OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation (EC) No 2243/2001 (OJ L 303, 20.11.2001, p. 11).~~

<sup>28</sup> ~~OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 2243/2001.~~

~~6. Member States shall encourage establishments or undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)<sup>29</sup>.~~

↓ new

3. Detailed rules for the implementation of paragraph 1 and 2, in particular criteria for the assessment of equivalent conditions, shall be laid down.

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

↓ 2002/96/EC (adapted)  
⇒ new

#### *Article 11~~7~~*

#### **Recovery ☒ targets ☒**

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

~~1~~2~~~~. Regarding ⇒ all ⇐ WEEE ⇒ separately collected and ⇐ sent for treatment in accordance with Articles ~~6~~8, 9 and 10 ⇒ or for preparation for re-use ⇐, Member States shall ensure that, by 31 December ⇒ 2011 ⇐ ~~2006~~, producers meet the following ⇒ minimum ⇐ targets:

(a) for WEEE falling under categories 1 and 10 of Annex I~~A~~ ⇒ to Directive 20xx/xx/EC (RoHS) ⇐,

– ⇒ 85% shall be recovered ⇐, ~~the rate of recovery shall be increased to a minimum of 80 % by an average weight per appliance~~ and

– ⇒ 80% shall be prepared for re-use and recycled; ⇐ ~~component, material and substance re-use and recycling shall be increased to a minimum of 75 % by an average weight per appliance;~~

(b) for WEEE falling under categories 3 and 4 of Annex I~~A~~ ⇒ to Directive 20xx/xx/EC (RoHS) ⇐,

<sup>29</sup> OJL 114, 24.4.2001, p. 1.

– ~~⇒ 80% shall be recovered, ⇨ the rate of recovery shall be increased to a minimum of 75 % by an average weight per appliance and~~

– ~~⇒ 70% shall be prepared for re-use and recycled; ⇨ component, material and substance re-use and recycling shall be increased to a minimum of 65 % by an average weight per appliance;~~

(c) for WEEE falling under categories 2, 5, 6, 7, ⇨ 8 ⇨ and 9 of Annex IA ⇨ to Directive 20xx/xx/EC (RoHS) ⇨,

– ~~⇒ 75% shall be recovered, ⇨ the rate of recovery shall be increased to a minimum of 70 % by an average weight per appliance and~~

– ~~⇒ 55% shall be prepared for re-use and recycled; ⇨ component, material and substance re-use and recycling shall be increased to a minimum of 50 % by an average weight per appliance;~~

(d) for gas discharge lamps, ⇨ 85% shall be prepared for re-use and recycled. ⇨ ~~the rate of component, material and substance re-use and recycling shall reach a minimum of 80 % by weight of the lamps~~

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⇩ new

2. These targets are calculated as weight percentage of separately collected WEEE that is sent to recovery facilities.

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⇩ 2002/96/EC

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

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⇩ 2008/34/EC Art. 1.2

~~Detailed rules for monitoring the compliance of Member States with the targets set out in paragraph 2, including specifications for materials, shall be established. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).~~

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⇩ 2002/96/EC

⇨ new

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

~~recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account.~~

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

### *Article 12~~8~~*

#### **Financing in respect of WEEE from private households**

1. Member States shall ensure that, ~~by 13 August 2005,~~ producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). Member States, where appropriate, shall encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.

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

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

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

3. The responsibility for the financing of the costs of the management of WEEE from products ~~placed on~~ the market before 13 August 2005 ~~the date referred to in paragraph 1~~ ("historical waste") shall be provided by one or more systems to which all producers, existing on the market when the respective costs occur, contribute proportionately, e.g. in proportion to their respective share of the market by type of equipment.

~~Member States shall ensure that for a transitional period of eight years (10 years for category 1 of Annex IA) after entry into force of this Directive, producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the actual costs incurred.~~

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

*Article ~~139~~*

**Financing in respect of WEEE from users other than private households**

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

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

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

For other historical waste, the financing of the costs shall be provided for by the users other than private households.

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

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*Article ~~1410~~*

**Information for users**

1. ⇒ Member States shall ensure that producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the actual costs incurred. ⇐

~~21.~~ Member States shall ensure that users of electrical and electronic equipment in private households are given the necessary information about:

- (a) the requirement not to dispose of WEEE as unsorted municipal waste and to collect such WEEE separately;
- (b) the return and collection systems available to them;
- (c) their role in contributing to re-use, recycling and other forms of recovery of WEEE;



(d) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;

(e) the meaning of the symbol shown in Annex IV.

~~32~~. Member States shall adopt appropriate measures so that consumers participate in the collection of WEEE and to encourage them to facilitate the process of re-use, treatment and recovery.

~~43~~. With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark ~~⇒~~ – in accordance with the European standard EN 50419<sup>30</sup> - ~~⇐~~ electrical and electronic equipment ~~placed out~~ on the market ~~after 13 August 2005~~ with the symbol shown in Annex IV. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.

~~54~~. Member States may require that some or all of the information referred to in paragraphs ~~2 to 41 to 3~~ shall be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale.

#### *Article ~~1511~~*

##### **Information for treatment facilities**

1. In order to facilitate the ~~⇒~~ preparation for ~~⇐~~ re-use and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide re-use and treatment information for each type of new EEE ~~placed out~~ on the market within one year after the equipment is ~~placed out~~ on the market. This information shall identify, as far as it is needed by re-use centres, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).

2. Member States shall ensure that any producer of an electrical or electronic appliance ~~placed out~~ on the market ~~after 13 August 2005~~ is clearly identifiable by a mark on the appliance. Furthermore, in order to enable the date upon which the appliance was ~~placed out~~ on the market to be determined unequivocally, a mark on the appliance shall specify that the latter was ~~placed out~~ on the market after 13 August 2005. ~~⊗~~ The European Standard EN 50419 ~~⊗~~ shall be applied ~~The Commission shall promote the preparation of European standards~~ for this purpose.

#### *Article ~~1612~~*

##### **~~⇒~~ Registration, ~~⇐~~ information and reporting**

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<sup>30</sup> Adopted by CENELEC in March 2006

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↓ new

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

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

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

The registers shall be inter-operational to exchange such information, including on quantities of electrical and electronic equipment placed on the national market and for the transfer of money related to the intra-Community transfers of products or WEEE.

3. The format for registration and reporting and the frequency of reporting shall be established. Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

4. The register can be operated by collective producer responsibility schemes set up under Article 12(2).

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↓ 2002/96/EC (adapted)

⇒ new

~~54.~~ Member States shall ~~draw up a register of producers and~~ collect information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment ~~placed put~~ on their markets, collected through all routes, re-used, recycled and recovered within the Member States, and on  separately  collected ~~WEEE waste~~ exported, by weight ~~or, if this is not possible, by numbers~~.

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

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

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

~~62. Without prejudice to the requirements of paragraph 1, Member States shall send a report to the Commission on the implementation of this Directive  $\Rightarrow$  and on the information set out in paragraph 5  $\Leftarrow$  at three-year intervals. The implementation report shall be drawn up on the basis of a questionnaire  $\boxtimes$  laid down in Commission Decision 2004/249/EC<sup>31</sup> and Commission Decision 2005/369/EC<sup>32</sup>  $\boxtimes$  or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment<sup>33</sup>. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be made available to the Commission within nine months of the end of the three-year period covered by it.~~

The first three-year report shall cover the period from 20~~xx~~04 to 20~~xx~~06.

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

$\Downarrow$  2008/34/EC Art. 1.3 (adapted)  
 $\Rightarrow$  new

#### Article ~~1713~~

### Adaptation to scientific and technical progress

~~Any~~ Amendments  $\Rightarrow$  may be made if  $\Leftarrow$  ~~which are~~ necessary in order to adapt Article  $\Rightarrow$  16(6)  $\Leftarrow$  ~~7(3), Annex IB (in particular with a view to possibly adding luminaires in households, filament bulbs and photovoltaic products, i.e. solar panels), Annex II (in particular taking into account new technical developments for the treatment of WEEE), and~~  $\Rightarrow$  the  $\Leftarrow$  Annexes ~~III and IV~~ to scientific and technical progress. Those measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article ~~184~~(3).

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

$\Downarrow$  2002/96/EC (adapted)

#### Article ~~1814~~

### Committee

1. The Commission shall be assisted by the Committee set up by Article  $\boxtimes$  39 of Directive 2008/xx/EC  ~~$\boxtimes$  18 of Directive 75/442/EEC.~~

<sup>31</sup> OJ L 78, 16.3.2004, p. 56

<sup>32</sup> OJ L 119, 11.5.2005, p. 13

<sup>33</sup> ~~OJ L 377, 31.12.1991, p. 48.~~

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

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

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↓ 2008/34/EC Art. 1.4

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

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↓ 2002/96/EC

#### *Article ~~1915~~*

#### **Penalties**

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

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↓ new

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

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↓ 2002/96/EC

#### *Article ~~2016~~*

#### **Inspection and monitoring**

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

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↓ new

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

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

2. Member States shall carry out the monitoring of shipments of WEEE in accordance with the minimum monitoring requirements in Annex I.

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

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

↓ 2002/96/EC (adapted)  
⇒ new

## *Article ~~21~~<sup>17</sup>*

### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ⇒ Articles 2, 3, 5, 6, 7, 11, 14, 16, 19, 20 and Annex I ⇐ ~~this Directive~~ by ⇒ at the latest [18 months after the day of this Directive's publication in the Official Journal of the European Union] ⇐ ~~13 August 2004~~. They shall ⇒ forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. ⇐ ~~immediately inform the Commission thereof~~.

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

2. Member States shall communicate to the Commission ~~the text of all laws, regulations and administrative provisions adopted~~ ⇒ the text of the main provisions of national law which they adopt ⇐ in the field covered by this Directive.

3. Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles ~~8(6)~~, ~~14(2)~~~~10(1)~~ and ~~15(1)~~ by means of agreements between the competent authorities and the economic sectors concerned. Such agreements shall meet the following requirements:

- (a) agreements shall be enforceable;
- (b) agreements shall specify objectives with the corresponding deadlines;
- (c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;
- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;

(e) the competent authorities shall ensure that the progress reached under the agreement is examined;

(f) in case of non-compliance with the agreement Member States must implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

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

~~— recycling infrastructure deficit,~~

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

~~— low population density, and~~

~~— low level of EEE consumption,~~

~~— are unable to reach either the collection target mentioned in the first subparagraph of Article 5(5) or the recovery targets mentioned in Article 7(2) and which, under the third subparagraph of Article 5(2) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste<sup>34</sup>, may apply for an extension of the deadline mentioned in that Article,~~

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

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

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

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

↓ new

Article 22

**Repeal**

<sup>34</sup>

~~QJL 182, 16.7.1999, p. 1.~~

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

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

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↓ 2002/96/EC  
⇒ new

Article ~~23~~<sup>18</sup>

### Entry into force

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

Article ~~24~~<sup>19</sup>

### Addressees

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX IA

### Categories of electrical and electronic equipment covered by this Directive

1. Large household appliances

2. Small household appliances

3. IT and telecommunications equipment

4. Consumer equipment

5. Lighting equipment

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

7. Toys, leisure and sports equipment

8. Medical devices (with the exception of all implanted and infected products)

9. Monitoring and control instruments

10. Automatic dispensers



## ANNEX IB

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

### 1. LARGE HOUSEHOLD APPLIANCES

Large cooling appliances

Refrigerators

Freezers

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

Washing machines

Clothes dryers

Dish washing machines

Cooking

Electric stoves

Electric hot plates

Microwaves

Other large appliances used for cooking and other processing of food

Electric heating appliances

Electric radiators

Other large appliances for heating rooms, beds, seating furniture

Electric fans

Air conditioner appliances

Other fanning, exhaust ventilation and conditioning equipment

### 2. SMALL HOUSEHOLD APPLIANCES

Vacuum cleaners

Carpet sweepers

Other appliances for cleaning

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

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

~~Toasters~~

~~Fryers~~

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

~~Electric knives~~

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

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

~~Scales~~

### ~~3. IT AND TELECOMMUNICATIONS EQUIPMENT~~

~~Centralised data processing:~~

~~Mainframes~~

~~Minicomputers~~

~~Printer units~~

~~Personal computing:~~

~~Personal computers (CPU, mouse, screen and keyboard included)~~

~~Laptop computers (CPU, mouse, screen and keyboard included)~~

~~Notebook computers~~

~~Notepad computers~~

~~Printers~~

~~Copying equipment~~

~~Electrical and electronic typewriters~~

~~Pocket and desk calculators~~

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

~~User terminals and systems~~

~~Facsimile~~

~~Telex~~

~~Telephones~~

~~Pay telephones~~

~~Cordless telephones~~

~~Cellular telephones~~

~~Answering systems~~

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

#### ~~4. CONSUMER EQUIPMENT~~

~~Radio sets~~

~~Television sets~~

~~Videocameras~~

~~Video recorders~~

~~Hi-fi recorders~~

~~Audio amplifiers~~

~~Musical instruments~~

~~And other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications~~

#### ~~5. LIGHTING EQUIPMENT~~

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

~~Straight fluorescent lamps~~

~~Compact fluorescent lamps~~

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

~~Low pressure sodium lamps~~

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

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

~~Drills~~

~~Saws~~

~~Sewing machines~~

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

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

~~Tools for welding, soldering or similar use~~

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

~~Tools for mowing or other gardening activities~~

## ~~7. TOYS, LEISURE AND SPORTS EQUIPMENT~~

~~Electric trains or car racing sets~~

~~Hand-held video game consoles~~

~~Video games~~

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

~~Sports equipment with electric or electronic components~~

~~Coin slot machines~~

## ~~8. MEDICAL DEVICES (WITH THE EXCEPTION OF ALL IMPLANTED AND INFECTED PRODUCTS)~~

~~Radiotherapy equipment~~

~~Cardiology~~

~~Dialysis~~

~~Pulmonary ventilators~~

~~Nuclear medicine~~

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

~~Analysers~~

~~Freezers~~

~~Fertilization tests~~

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

## ~~9. MONITORING AND CONTROL INSTRUMENTS~~

~~Smoke detector~~

~~Heating regulators~~

~~Thermostats~~

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

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

## ~~10. AUTOMATIC DISPENSERS~~

~~Automatic dispensers for hot drinks~~

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

~~Automatic dispensers for solid products~~

~~Automatic dispensers for money~~

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

## **ANNEX I**

### **Minimum monitoring requirements for shipments of WEEE**

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

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

#### **Step1: Testing**

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

#### **Step2: Record**

- a) The record should be fixed securely but not permanently on either the electrical and electronic equipment itself (if not packed) or on the packaging so it can be read without unpacking the equipment.
- b) The record shall contain the following information:

- Name of item (Name of the equipment according to Annex II and category according to Annex I of Directive 20xx/xx/EC (RoHS));
  - Identification Number of the item (type no.);
  - Year of Production (if available);
  - Name and address of the company responsible for evidence of functionality;
  - Result of tests as described in step 1;
  - Kind of tests performed.
3. In addition to the document requested in point 1, every load (e. g. shipping container, lorry) of used electrical and electronic equipment should be accompanied by a:
- a) CMR document,
  - b) declaration of the liable person on its responsibility.
4. In the absence of appropriate documentation required in point 1 and 3 and packaging, Member State authorities shall presume that an item is hazardous WEEE and presume that the load comprises an illegal shipment. In these circumstances the relevant competent authorities will be informed and the load will be dealt with in accordance with Articles 24 and 25 of the Waste Shipment Regulation. In the majority of cases those responsible for the shipment will have to take back the waste to the country of dispatch at their own expense and may be liable to a criminal sanction. In those Member States where the burden is on the state authorities to prove the items are WEEE rather than electrical and electronic equipment, absence of the appropriate documentation and packaging is likely to lead to significant delays to the onward transport of the waste whilst the necessary investigations are carried out to establish the status of the items being shipped.

## ANNEX II

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

1. As a minimum the following substances, preparations and components have to be removed from any separately collected WEEE:

- polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)<sup>35</sup>,
- mercury containing components, such as switches or backlighting lamps,
- batteries,
- printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres,
- toner cartridges, liquid and pasty, as well as colour toner,
- plastic containing brominated flame retardants,
- asbestos waste and components which contain asbestos,
- cathode ray tubes,
- chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC),
- gas discharge lamps,
- liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps,
- external electric cables,
- components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances<sup>36</sup>,
- components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the

<sup>35</sup> OJ L 243, 24.9.1996, p. 31.

<sup>36</sup> OJ L 343, 13.12.1997, p. 19.



health of workers and the general public against the dangers arising from ionising radiation<sup>37</sup>,

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

These substances, preparations and components shall be disposed of or recovered in compliance with Article 4 of Council Directive 75/442/EEC.

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

- cathode ray tubes: The fluorescent coating has to be removed,
- equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer<sup>38</sup>.
- gas discharge lamps: The mercury shall be removed.

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

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↓ 2008/34/EC Art. 1.5 (adapted)

~~4. Acting in accordance with the regulatory procedure with scrutiny referred to in Article 14(3), the Commission shall evaluate as a matter of priority whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays are to be amended.~~

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↓ 2002/96/EC

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<sup>37</sup> OJ L 159, 29.6.1996, p. 1.

<sup>38</sup> OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 2039/2000 (OJ L 244, 29.9.2000, p. 26).

### ANNEX III

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

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/EC):

- impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,
- weatherproof covering for appropriate areas.

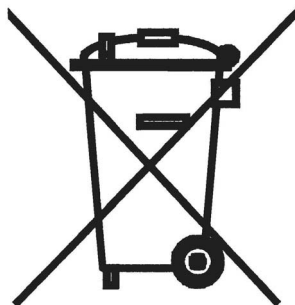
2. Sites for treatment of WEEE:

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

## ANNEX IV

### **Symbol for the marking of electrical and electronic equipment**

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



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

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

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

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

## ANNEX VI

### Correlation table

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

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

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

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



**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

**1. NAME OF THE PROPOSAL:**

Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) **repealing Directive 2002/96/EC**

**2. BUDGET LINES:**

Chapter and Article:

Amount budgeted for the year concerned:

**3. FINANCIAL IMPACT**

- Proposal has no financial implications
- Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€million to one decimal place)

Budget line	Revenue <sup>39</sup>	12 month period, starting dd/mm/yyyy	[Year n]
Article ...	<i>Impact on own resources</i>		
Article ...	<i>Impact on own resources</i>		

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article ...					

<sup>39</sup> Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs.

Article ...					
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**4. ANTI-FRAUD MEASURES**

**5. OTHER REMARKS**