

Waste electrical and electronic equipment (WEEE). Recast

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The Council heard a report from the presidency on progress with the recast of the directive on waste electronic and electrical equipment (WEEE).

Key outstanding issues are as follows:

1) Scope of the Directive

a) WEEE included in the scope: following the re-introduction in the Directive of the two Annexes related to the scope (IA and IB from the [RoHS recast proposal](#)), and the simplification of these Annexes:

- eleven delegations prefer to have an open scope, covering waste from all EEE, and consider that the Annexes should not play a role in defining the scope;
- thirteen delegations do not support an open scope and prefer the Presidency compromise on this point while the Commission maintains its proposal which defines the scope via a cross reference to the Annexes of the RoHS Recast proposal.

b) Exclusions: the Presidency has proposed new wording for some exclusions, correlated by definitions, in order to accommodate the requests of delegations notably in relation to large scale stationary industrial tools and large scale fixed industrial installations. While these proposals are generally welcomed, their precise wording is still being discussed, as well as additional suggestions for exclusions notably in relation to means of transport and photo-voltaic panels. The Commission maintains its proposal and considers that means of transport and photovoltaic panels at present are excluded from the scope of the Directive because they do not figure in the categories of EEE listed in the Annex defining the scope.

2) Separate collection target: the proposed target for separate collection of WEEE set at 65% (total weight of WEEE collected in a given year expressed as a percentage of the average weight of EEE placed on the market on the three preceding years) to be achieved annually from 2016 is questioned by a great majority of delegations. In particular:

- fourteen delegations find the collection target too ambitious and not sufficiently realistic. As an alternative, some delegations suggest to achieve this target gradually by, for example, reaching 35-50% in 2016 and 65% in 2020;
- six delegations consider that the target should be referred to the EEE placed on the market for a longer period than 3 years (6 years are suggested);
- two delegations consider that the target could differ for certain categories of WEEE and suggest several criteria to this end. Some delegations could support this approach although other delegations, the Presidency and the Commission consider that more time is needed for data gathering and proposes to come forward with possible collection targets for one or more WEEE categories by the end of 2012;
- some delegations express reservations on the proposed procedure (examination procedure) for defining transitional arrangements. They consider that such provisions should be developed in co-decision;
- lastly, some delegations note that an agreement on the collection target is linked to clarifications of the role of the producer who, according to the Commission proposal, is responsible for achieving the target itself.

3) Role and definition of producer: the Spanish Presidency continued work along the lines of the Swedish Presidency who decided, at the request of all delegations, to re-introduce the current meaning of the definition of producer at national level. Indeed, the definition of producer proposed by the Commission (at EU level) would entail important difficulties for Member States in the implementation of the Directive, notably with respect to the financial responsibility of the producer for the management of WEEE and the achievement of the collection and recovery targets. While the definition of producer, to which all delegations can agree in principle, is still subject of some debate as regards distant sellers and producers not established in the EU, the Commission has a reservation and maintains its original proposal.

Furthermore:

(a) *Financial responsibility and ownership of the waste:* while the principle of financial responsibility of the producer (from the collection point onwards) is already established in the current Directive, the coverage by the producers of all the costs occurring for collection facilities for WEEE from private households is encouraged in the Commission proposal. While some remarks are still outstanding, much progress has been made in clarifying the practical difficulties raised by the proposal as regards the producer (who is financially responsible) and his obligations concerning the collection and recovery of the waste, the link between the producer and the different collection routes for WEEE (official channels and other "parallel" channels), the gathering of information on all the WEEE arising and finally avoidance of double payments for products transferred from a Member State to another Member State.

(b) *Register of producers:* the inter-operational registers proposed by the Commission was criticised by all the delegations who raised a number of practical difficulties, in connection with the proposed definition of producers, as regards, in particular, the actual monitoring of producer's activities across the Member States, monitoring of the quantities of EEE placed on different national markets, and for the transfer of money related to intra-community transfers of products or WEEE.

The Spanish Presidency further developed the compromise texts on administrative cooperation and exchange of information, consistent with the definition of producers at national level on the one hand, and aiming at tackling the need for greater harmonization of requirements to producers in full respect of internal market rules on the other. While the Commission maintains its original proposal, a majority of delegations can support the Presidency's approach.

Other issues:

- **Annexes 1A and 1B on the scope:** while a majority of delegations can accept to reduce the number of categories from 10 to 5, four delegations propose to add a separate category for medical devices (with separate targets for collection and recovery), four delegations suggest to mention photovoltaic panels in Annex 1B (examples of products falling within the categories of Annex 1A) and three delegations ask to further clarify the situation in respect of certain large-scale equipment (used, for example, in schools, hospitals or in supermarkets).
- **Recovery targets:** pending an agreement on the scope and the Annexes (1A and 1B) establishing the product categories, the recovery targets are still subject to scrutiny by many delegations. Five delegations have a reservation on the proposed 5% increase of these targets (Article 11).

Information for users: seven delegations object to the provision allowing producers to show the cost for management of WEEE to purchasers.