

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 20/12/2010

The Council took note of a **report on progress** with recasting the directive concerning waste electrical and electronic equipment. The conclusions of this report may be summarised as follows:

(1) Scope of the Directive - Article 2 paragraphs 2 and 3

(a) WEEE included in the scope: following the re-introduction in the Directive of the two Annexes related to the scope in 2009 (as in the Directive currently enforced), and the simplification of these Annexes, the Presidency presented a compromise text on the "open" scope, where all waste electric and electronic equipment would be covered by the Directive, the Annexes playing an indicative role in this context. A number of exclusions are foreseen, mostly aligned to the compromise text on RoHS2.

Twelve delegations support the Presidency compromise on the "open" scope while twelve other delegations do not agree with this proposal and prefer a "closed" scope, making reference to the list of WEEE contained in the Annexes of the proposal.

The Presidency has drawn the attention to the importance of an appropriate definition of "dependent" (possibly differing from the text in RoHS) as a key element paving the way for a possible compromise package on this issue (open scope/exclusions/definitions).

(b) Exclusions: while most of the new exclusions in the Presidency compromise are aligned to the RoHS text, some differences with the RoHS are foreseen, notably as regards photo-voltaic panels. These would fall under the scope of the Directive. The Presidency approach is generally supported by the delegations agreeing with the "open scope", while other delegations and the Commission note that in the case of a "closed" scope with a positive list in Annex some of the new exclusions would be unnecessary. Most delegations are satisfied with the inclusion of photo-voltaic panels within the scope of the Directive.

(2) Separate collection target: the proposal to set a target for separate collection of WEEE 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 was questioned by a majority of delegations. The Presidency introduced as a compromise a stepwise approach to the separate collection of WEEE: **a 45% target would be achieved after 4 years from the year of entry into force, and a 65% target would be achieved after 6 years of entry into force.** While a majority of delegations can support this approach, several still consider that a longer time period to achieve the 65% target would be necessary.

(3) Role and definition of producer: the Belgian Presidency continued work along the lines of the previous Presidencies who decided, at the request of all delegations, to re-introduce the current meaning of the definition of producer at national level in Article 3. 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.

(4) Register of producers (Articles 16, 16a and 16b): the inter-operational registers proposed by the Commission in Article 16 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 intracommunity transfers of products or WEEE.

The Belgian Presidency further developed the compromise texts aiming at tackling the need for greater harmonization of registration requirements for producers, notably by inserting a new Article 16a on the appointment of legal representatives in the case of producers selling by means of distance communication.

(5) 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);
- **Methodology for calculating the collection rate:** while many delegations consider preferable to calculate this rate on the basis of the total weight of WEEE collected in a given year expressed as a percentage of the average weight of EEE placed on the market in the three preceding years, one delegation is open to the notion of using "WEEE generated" as the basis for this calculation, as advocated by the European Parliament;
- **Recovery targets:** pending an agreement on the scope and the Annexes (IA and IB) establishing the categories of products to be recovered, these targets are still a subject of debate, notably as regards the system of calculation to be used. In addition, four delegations have a reservation on the proposed 5% increase of these targets (Article 11).
- **Information for users:** five delegations object to the provision allowing producers to show the cost for management of WEEE to purchasers (Article 14).

Conclusions: the Council is still discussing collection modalities, the level of the targets as well as which equipment will be covered by the revised law.