

Basic information	
2008/0241(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Waste electrical and electronic equipment (WEEE). Recast Repealing Directive 2002/96/EC 2000/0158(COD) Amended by 2015/0272(COD) Amended by 2023/0025(COD) Subject 3.40.06 Electronics, electrotechnical industries, ICT, robotics 3.70.12 Waste management, domestic waste, packaging, light industrial waste	

Key players			
European Parliament	Committee responsible		Rapporteur
	ENVI Environment, Public Health and Food Safety		FLORENZ Karl-Heinz (PPE) 31/08/2009
	Former committee responsible		Former rapporteur
	ENVI Environment, Public Health and Food Safety		FLORENZ Karl-Heinz (PPE) 31/08/2009
	ENVI Environment, Public Health and Food Safety		
	Former committee for opinion		Former rapporteur for opinion
	JURI Legal Affairs		
	JURI Legal Affairs		
	Council configuration		Meetings
	Date		
Council of the European Union	Justice and Home Affairs (JHA)		3172
	Agriculture and Fisheries		3108
	Environment		3061
	Environment		2968
	Environment		2928

	Environment		3075	2011-03-14
	Environment		3021	2010-06-11
European Commission	Commission DG		Commissioner	
	Environment		POTOČNIK Janez	

Key events			
Date	Event	Reference	Summary
03/12/2008	Legislative proposal published	COM(2008)0810 	Summary
13/01/2009	Committee referral announced in Parliament, 1st reading		
02/03/2009	Debate in Council		
19/10/2009	Resumption of business from the previous parliamentary term		
21/10/2009	Debate in Council		Summary
11/06/2010	Debate in Council		Summary
22/06/2010	Vote in committee, 1st reading		Summary
08/09/2010	Committee report tabled for plenary, 1st reading	A7-0229/2010	
20/12/2010	Debate in Council		Summary
03/02/2011	Decision by Parliament, 1st reading	T7-0037/2011	Summary
03/02/2011	Debate in Parliament		
29/07/2011	Council position published	07906/2/2011	Summary
29/09/2011	Committee referral announced in Parliament, 2nd reading		
04/10/2011	Vote in committee, 2nd reading		
06/10/2011	Committee recommendation tabled for plenary, 2nd reading	A7-0334/2011	Summary
18/01/2012	Debate in Parliament		
19/01/2012	Decision by Parliament, 2nd reading	T7-0009/2012	Summary
19/01/2012	Results of vote in Parliament		
08/06/2012	Act approved by Council, 2nd reading		
04/07/2012	Final act signed		
04/07/2012	End of procedure in Parliament		
24/07/2012	Final act published in Official Journal		

Technical information	
Procedure reference	2008/0241(COD)

Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2002/96/EC 2000/0158(COD) Amended by 2015/0272(COD) Amended by 2023/0025(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 192-p1
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/05641

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE430.635	25/02/2010	
Amendments tabled in committee		PE439.856	19/03/2010	
Amendments tabled in committee		PE439.905	19/03/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0229/2010	08/09/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0037/2011	03/02/2011	Summary
Committee draft report		PE469.957	02/08/2011	
Amendments tabled in committee		PE472.180	13/09/2011	
Committee recommendation tabled for plenary, 2nd reading		A7-0334/2011	06/10/2011	Summary
Text adopted by Parliament, 2nd reading		T7-0009/2012	19/01/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	07906/2/2011	29/07/2011	Summary
Draft final act	00002/2012/LEX	04/06/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0810 	03/12/2008	Summary
Document attached to the procedure	SEC(2008)2933 	03/12/2008	
Document attached to the procedure	SEC(2008)2934 	03/12/2008	
Commission communication on Council's position	COM(2011)0478 	11/08/2011	Summary

Commission response to text adopted in plenary	SP(2012)171	06/03/2012	
Commission opinion on Parliament's position at 2nd reading	COM(2012)0139 	11/04/2012	Summary
Follow-up document	COM(2017)0171 	18/04/2017	Summary
Follow-up document	COM(2017)0172 	18/04/2017	Summary
Follow-up document	COM(2017)0173 	18/04/2017	Summary
Follow-up document	COM(2021)0638 	20/10/2021	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2008)0810	02/08/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1033/2009	11/06/2009	
CofR	Committee of the Regions: opinion	CDR0217/2009	04/12/2009	
EDPS	Document attached to the procedure	N7-0060/2010 OJ C 280 16.10.2010, p. 0016	14/04/2010	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2012/0019 OJ L 197 24.07.2012, p. 0038	Summary
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Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 18/04/2017 - Follow-up document

In accordance with the requirements of Directive 2012/19/EU on Waste Electrical and Electronic Equipment (the "new WEEE Directive"), this Commission report addresses two aspects:

- a review of the scope of the new WEEE Directive, including parameters for distinguishing between large and small equipment;
- a review of the deadlines for achieving the collection targets and consideration of the possible establishment of individual collection targets, in particular for heat exchange equipment, photovoltaic panels, small equipment, small computer equipment and Telecommunications, and lamps containing mercury.

The main findings of the review are as follows:

1) Review of scope: This review is supported by a study that focused on three aspects of the scope of the new WEEE Directive:

(a) changes to the scope of the Directive - transition from the **10 existing categories in Annex I** of the new WEEE Directive, still applicable during the transitional period from 13 August 2012 to 14 August 2018, to the **6 new categories listed in Annex III**: the study concluded that:

- the new Directive covered all categories of equipment which fell within the scope of the old Directive (Directive 2002/96/EC);
- leaving the scope open should address problems arising from Member States' differences in product classification.

Electrical and electronic equipment to be covered by the new Directive from 2018 onwards are domestic lighting equipment and electric vehicles with two wheels that are not type-approved. The inclusion of these product categories should provide environmental, administrative and economic benefits. The move from the current ten categories to six 'open' categories should increase legal certainty and foster greater harmonization in the implementation of the new Directive.

(b) the distinction between large and small equipment: the study concluded that the limit of an external dimension of 50 cm used to distinguish large and small equipment was feasible and reflected the practical constraints of end-of-life operators.

(c) the differences between the open scope of the new WEEE Directive and the scope of Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Directive LSD): the study concludes that the disadvantages associated with the inclusion in the scope of the WEEE Directive of equipment using electricity only for a secondary function outweigh the potential benefits. The difference between the scope of the WEEE Directive and the RoHS Directive is justified in view of the different objectives and nature of the two Directives.

In the light of the conclusions of the study, **no further modification of the scope of the new Directive is justified**. Changes would also be disruptive at a time when the Member States are still in a period of transition and adaptation to the new definitions and the new scope of the WEEE Directive.

2) Deadlines for achieving individual collection targets and collection targets for one or more categories of electrical and electronic equipment: consultations with key stakeholders and the assessment of the collection rate reported by Member States in recent years show that some Member States may have difficulty meeting the collection targets set for 2019.

On the basis of the assessment carried out, the Commission concludes that **it is not justified to review the deadlines** for achieving the current collection target set out in the WEEE Directive **or to revise the collection target calculated based on the quantity of WEEE produced**. The Commission will provide support and advice to the Member States to remedy the difficulties they face in achieving the objectives.

The Commission also concluded that it is **not appropriate to establish individual collection targets** in the WEEE Directive at this stage.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 18/04/2017 - Follow-up document

In accordance with the requirements of Directive 2012/19/EU on waste electrical and electronic equipment (the "new WEEE Directive"), this Commission report examines three issues:

review of recovery targets;

examination of the possibility of setting separate targets for WEEE to be prepared for re-use;

review the methodology for calculating the achievement of recovery targets in order to analyse whether it is possible to set targets based on the products and materials (outputs) resulting from the recovery, recycling and preparation for re-use processes.

The main findings of the review are as follows:

1) Recovery targets: electrical and electronic equipment (EEE), which falls within the scope of the WEEE Directive, is currently classified in 10 'product-oriented' categories. From 15 August 2018, EEE will be classified under 6 "collection-oriented" categories. The recovery targets to be achieved by producers are applicable for each category of EEE.

The analysis focused on a comparison between the level of ambition of the valuation targets applicable to each of the 10 categories between 15 August 2015 and 14 August 2018 and the recovery targets applicable to each of the 6 categories from 15 August 2018.

The analysis concluded that:

- as regards most products, the absolute value of recycling and recovery targets is not affected by the transition from 10 to 6 categories of EEE;

- the change in the categories results in an increase of more than 7% in the mass to be recycled. The recycling targets applicable from 2018 (for 6 categories) are therefore more ambitious than the 2015-2018 targets (for 10 categories);
- the clustering in 6 categories is more suitable at collection and treatment levels.

The Commission concludes that **the revision of the recovery targets in relation to the 6 new categories of EEE is not justified** since these objectives maintain a level of ambition similar to the objectives established under the 10 current categories of EEE.

2) Separate targets for WEEE are to be prepared for re-use: in 2012 approximately 70 000 tonnes of WEEE were declared by the Member States to Eurostat as having been re-used/ prepared for re-use in the EU. However, many Member States have not reported separately the quantities of WEEE re-used/prepared for re-use. With the exception of a few Member States, re-use and preparation for re-use are not well developed at Union level.

The feasibility study showed that there were considerable differences between Member States with regard to the consumption behavior of second-hand products, making it difficult to assess the potential for preparation for re-use in the Union.

In Member States where preparation for re-use is not well developed, a separate objective for preparing for re-use would require **changes to the collection structures** and procedures for testing WEEE at the time of collection and prior to any transfer. The development of a reporting system would also be necessary. This would entail **new obligations for economic operators** and the Member States (for example, in terms of information and monitoring) and a significant increase in the administrative burden.

The Commission therefore concludes that **it is not necessary at this stage to establish in the WEEE Directive separate objectives for WEEE to be prepared for re-use**. However, it encourages the exchange of information between Member States in order to identify good practice.

(3) Methodology for calculating the achievement of recovery targets: on the basis of the evaluation carried out, the Commission concludes that there is **no justification** for replacing the input-based method for the calculation of the achievement of the recovery targets by setting targets on the basis of products and materials resulting the recovery, recycling and preparation for re-use processes (output-based approach).

In the circular economy action plan, the Commission set out to promote the development of European standards for material-efficient recycling of WEEE, as well as of waste batteries and other relevant complex end-of-life products, to increase the recycling of critical raw materials. This approach is seen as more pragmatic than setting mandatory, output-based recycling targets.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 18/04/2017 - Follow-up document

The Commission presented a report on the exercise of the power to adopt delegated acts conferred on it by Directive 2012/19/EU on waste electrical and electronic equipment (WEEE).

To recap, the WEEE Directive gives the Commission the power to adopt delegated acts. **The power to adopt such acts was conferred on the Commission for a period of five years from 13 August 2012** (this may be tacitly extended for periods of identical duration).

With this report, the Commission fulfills the obligation to draw up a report on the exercise of delegation no later than nine months before the end of the five-year period.

Exercise of the delegation: the Commission states that **it has not exercised**, during the past five years, the delegated powers conferred on it under Directive 2012/19 / EU with regard to:

1. the establishment of the transitional adaptations necessary to assist Member States experiencing difficulties in achieving the WEEE collection rates laid down in the Directive: the Directive provides that from 2019 the collection rate applied shall be 65% of the average weight of electrical and electronic equipment (EEE) placed on the market in each Member State during the previous three years or 85% of the WEEE quantity produced annually in each Member State.

It was concluded that the collection target for 2019 was feasible provided that Member States make further efforts to remedy the difficulties encountered. Some Member States have already achieved high collection rates.

On this basis, the Commission concludes that there was no special circumstance justifying the adoption of a delegated act. The Commission will provide **support and guidance to Member States** to help them overcome any difficulties in achieving their objectives through a targeted compliance promotion initiative focusing on the essential requirements of the WEEE Directive.

2) the possible amendment of Annex VII on selective processing requirements to include other processing technologies: the deadline for transposition of the Directive was 14 February 2014. As most Member States transposed the Directive late, 2016 was, in practice, the first year of implementation for all 28 Member States. In these circumstances, it has not been considered necessary to amend Annex VII by means of a delegated act.

(3) Establishment of criteria for the evaluation of equivalent conditions for the treatment of WEEE carried out outside the Union: the Commission requested the European standardization bodies to draw up European standards for the treatment of WEEE, covering in particular Recovery, recycling and preparation for re-use and corresponding to the state of the art.

The Commission has held consultations with the Group of Experts on delegated acts under the Directive and informed the Council and Parliament. As a result of these consultations, **it was considered necessary to await the finalisation of WEEE treatment standards**. These standards should help the operators concerned in the Union to comply with the WEEE Directive and operators outside the Union to prove that the treatment of WEEE is carried out under conditions equivalent to those applied in the Union.

(4) the adaptation of Article 16 (5) and of Annexes IV, VII, VIII and IX to scientific and technical progress: there was no opportunity during the period covered by this report to adapt either Article 16(5) or the annexes to scientific and technical progress.

As part of the circular economy package, the Commission proposed to amend Article 16 (5) in order to simplify the reporting obligations of the Member States and improve the quality of the data.

Conclusion: the Commission indicates that, although it has not exercised its delegated powers over the past five years, it may be required to do so in the future.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 21/10/2009

The Council held a **policy debate** on the proposed recast of two directives concerning electrical and electronic equipment: the WEEE Directive, promoting recycling and recovery of electrical and electronic waste, [and the RoHS Directive](#), intended to eliminate as far as possible the use of hazardous substances in such equipment.

Ministers were invited to discuss the scopes of both directives. A majority of delegations supported the idea that the two directives, WEEE and RoHS, could have separate scopes that take account of their different legal bases and objectives. The Commission, on the other hand, underlined that its proposal to maintain the same scopes for both directives and to harmonise them across the EU was intended to improve their implementation and increase legal certainty.

In addition, there was broad support for widening the scope of the RoHS Directive for including all electrical and electronic equipment unless explicitly excluded. Some delegations, however, did not agree and pointed out that the costs of this option for producers were unclear and would need to be the subject of an impact assessment.

Concerning the scope of the WEEE Directive, some ministers pleaded for defining its scope through a minimum list of covered equipment as in the existing legislation. Others were supportive of an open scope that would in principle include all electrical and electronic equipment, like in the case of RoHS, pointing out that this would increase environmental protection.

Ministers' views will guide further work on the two proposals in the months to come.

It is recalled that the WEEE Directive requires Member States to collect waste electrical and electronic equipment separately and establishes targets for its recovery and recycling. The Directive, already implementing the principle of producer responsibility, obliges EU countries to collect annually an average of at least 4kg of electrical and electronic waste per inhabitant.

The RoHS Directive is intended to eliminate as far as possible the use of hazardous substances in electrical and electronic equipment. It prohibits the use of lead, mercury, cadmium, hexavalent chromium as well as certain brominated flame retardants. As it is not always possible to abandon completely these substances, the Directive also provides for a number of applications to be exempted from the ban.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 03/12/2008 - Legislative proposal

PURPOSE: to revise Directive 2002/96/EC on waste electrical and electronic equipment (WEEE) in the light of the experience of the first years of implementation.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 2002/96/EC on waste electrical and electronic equipment (WEEE) entered into force on 13 February 2003. Member States were required to transpose the requirements of the Directive by 13 August 2004. 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 by different Member States and stakeholders;
- currently approximately 65% of electrical and electronic equipment (EEE) placed on the market is collected separately, 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 exported to third countries, including non-OECD countries. This leads to losses of valuable secondary raw materials and increases the risk of release of hazardous substances into the environment;
- 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 the Directive;
- there are no detailed enforcement requirements in the Directive, which results in lack of enforcement in Member States;

- there are diverging producer registration requirements in Member States;
- indications on substandard treatment of WEEE in the EU and illegal export of WEEE outside the EU are highlighted.

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.

The proposed measures are as follows:

Scope: it is proposed to bring Annex IA and IB of Directive 2002/96/EC describing the scope for both the WEEE Directive and the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment ([RoHS Directive](#)) 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.

Clarification of definitions: clarification is proposed on the distinction between WEEE from private households (B2C) and non household WEEE (B2B) by classifying the equipment as either B2C or B2B through the comitology procedure. These actions will contribute to better clarification of which products fall under the WEEE Directive and will further clarify the obligations applying to different producers of equipment.

Collection target: a 65% WEEE collection rate (including B2B equipment) is proposed which is set according to the average quantity of EEE placed on the market in the two preceding years. This target reflects the amounts of WEEE which are currently already collected separately in the Member States and takes the variations in EEE consumption in individual Member States into account. Therefore, it will encourage Member States to target an optimal rate of separate WEEE collection. The proposed collection rate should be achieved annually, starting in 2016. There are certain degrees of flexibility: possible transitional measures for Member States and a re-examination of the rate by the European Parliament and the 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 the re-use of whole appliances in the increased target (by 5%) for recycling combined with re-use. The recycling target for medical devices (category 8 equipment) is proposed to be set at the same level as that for monitoring and control instruments (category 9 equipment).

Producer registration: in order to reduce the administrative burden, the registration and reporting obligations for producers, which are specified by the different national producer registers, should be harmonised, including making the registers interoperable.

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

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 14/04/2010 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the Proposal for a Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).

The EDPS has not been consulted as required by Article 28(2) of Regulation (EC) No 45/2001. Acting on his own initiative, the EDPS has therefore adopted the current opinion based on Article 41(2) of the same Regulation.

The EDPS has no observations on the general objective of the Proposal and fully supports the initiative taken, which is intended to improve environmental-friendly policies in the area of WEEE.

However, the Proposal, as well as the Directive, focuses solely on the environmental risks related to the disposal of WEEE. It does not take into account other additional risks to individuals and/or organisations that may arise from the operations of disposal, reuse or recycling of WEEE, in particular those related to the likelihood of improper acquisition, disclosure or dissemination of personal data stored in the WEEE.

Relevance of the proposal to data protection: in its opinion, the EDPS underlines that electric and electronic equipment (EEE) is a wide product group that includes a diverse set of media capable to store personal data — such as IT and telecommunications equipment (e.g. personal computers, laptops, electronic communication terminals). Developments in electronic storage media are accelerating rapidly, particularly in relation to storage capacity and size, and therefore market forces cause the turnover of EEE (containing large amounts of, often sensitive, personal data) to accelerate similarly. The results being not only that the WEEE 'is considered the fastest growing waste stream in the EU, but also, in the case of inappropriate disposal, that there is an obvious increased risk of loss and dispersion of personal data stored within this type of EEE.

In particular, among the various measures envisaged by the Directive, the EDPS considers it is worth highlighting those designed to **reuse or recycle WEEE**. These measures may place an obligation on producers to provide disposal in the manner prescribed by the Directive. These operations may present a risk, greater than in the past, that those collecting the WEEE or selling and purchasing the used or recycled devices might become aware of any personal data stored within. Such data can often be sensitive or refer to large numbers of individuals.

For all these reasons, the EDPS considers it urgent for all stakeholders (users and producers of EEE) to be made aware of the risks to personal data, especially in the final stage of the EEE life-cycle. At this stage, although the EEE are economically less valuable, they are likely to contain a large amount of personal data and therefore likely to have a high 'intrinsic' value for the data subject and/or others.

Conclusions and recommendations: the EDPS recommends that data protection authorities, in particular through the Article 29 Working Party, and the EDPS are closely involved in initiatives related to the disposal of WEEE, through consultation at a sufficiently early stage before the development of relevant measures.

Considering the context in which personal data are processed, the EDPS advises that the Proposal should include specific provisions:

- stating that the **Directive on WEEE applies without prejudice to Directive 95/46/EC** on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- **prohibiting the marketing of used devices** which have not previously undergone appropriate security measures, in compliance with state-of-the-art technical standards in order to erase any personal data they may contain;
- regarding the principle of '**privacy by design**' or '**security by design**': as far as possible, privacy and data protection should be integrated into the design of electrical and electronic equipment 'by default', in order to allow users to delete — using simple means and free of charge — personal data that may be present on devices in the event of their disposal.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 11/06/2010

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 photo-voltaic 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.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 11/08/2011 - Commission communication on Council's position

The Commission accepted in full, in part or in principle 55 of the 86 amendments adopted by the European Parliament in its first reading. 30 of these 55 amendments are already reflected, at least in part, in the common position.

The Commission accepted amendments, either fully or in principle or in part, which would clarify the context of the proposal or further improve it in line with the objectives set. These include, in particular, the deletion of the link to the scope of the Directive on restrictions of hazardous substances in electrical and electronic equipment (RoHS), to base the collection target on WEEE generated under certain conditions, and to oblige distributors to put in place appropriate collection and awareness schemes for very small WEEE.

The Commission rejected amendments which would alter the nature of the proposal, such as amendments which could lower the level of environmental and human health protection or lead to an unnecessary increase of administrative burdens. It also rejected amendments that go beyond the scope of the recast procedure.

A series of amendments were accepted in full, in part or in principle by the Commission but **not incorporated in the Council's position**. They include significant elements of the text concerning definitions, the collection target, measures to increase awareness and collection, and the adaptation of Comitology provisions to the entry into force of the Treaty on the Functioning of the European Union.

The Commission expressed serious reservations about the Council's position at first reading:

Open scope: the Council proposes that the scope shall in the future, starting six years after entry into force, include all "Large equipment" and "Small equipment". The scope is not limited to a list of closed categories as currently the case, but "open" to any new equipment fulfilling the definitions of the Directive. The Commission considers that equipment falling into the scope of the Directive currently should not be excluded in the future, and that extensions of the scope should be undertaken only if the benefits exceed the costs. As a matter of principle, an assessment in line with the guidelines for impact assessments is needed in order to ensure that these conditions are met.

Definition of categories of WEEE: the Council replaces the current ten categories in the Annex of the Directive by a new set of five categories. The Commission can accept a change of the definition of these categories of WEEE, if it does not lead to a change of ambition level for recycling/recovery, and does not create unnecessary administrative burdens.

Extension of scope to include photovoltaic panels: the Council proposes to extend the scope of the Directive from the date of entry into force to include photovoltaic panels. The Commission has carried out a study to assess the impacts of inclusion under the scope of the WEEE Directive. This study and the comments from stakeholders following it can be used for further consideration on the potential inclusion of photovoltaic panels in the scope of WEEE.

National approach to producer obligations: the Council applies a definition of producer that builds on the concept of national markets. The Commission still considers that a European approach to the producer obligations should be agreed. This applies especially to the obligations of cross-border distance sellers.

Collection target: the Council requires Member States to achieve the collection target of 65% of electrical and electronic equipment placed on the market eight years after entry into force of the Directive. Compared to the Commission proposal, this implies a delay of about four years. For eight Member States, two years of additional flexibility are foreseen. The Commission considers that transitional arrangements to take account of specific

national circumstances, as already included in the Commission proposal, can be further elaborated in the text. The Commission cannot accept to delay the year the collection target needs to be achieved. It can agree to the Council's intention to treat mercury containing fluorescent lamps as priority products for separate collection, for which a dedicated collection target could be established in the future.

Development of standards: the Council requires that the Commission shall develop minimum standards for the treatment of WEEE on the basis of Article 27 of Directive 2008/98/EC. The Commission does in principle see benefits in establishing standards for the treatment of WEEE, and is currently supporting a project developing such standards to be used on a voluntary basis. However, the Commission considers that the new text on standards can be in conflict with those parts of the text not subject to the recast procedure.

Adaptations related to the Treaty on the Functioning of the European Union and other issues: the Council foresees implementing acts for Articles 7, 16, 23 and Annex VI. The Commission considers that these should be delegated acts in line with the Commission proposal. The Council has deleted the reference to a correlation table of transposition, which the Commission considers necessary in order to monitor the transposition of the Directive.

In conclusion, the Commission considers that not all changes introduced by the Council are consistent with the objectives of the Commission's proposal, in particular with regard to resource-efficiency, the need to recover secondary raw materials, and the need to reduce unnecessary administrative burdens. Therefore, **the Commission can not accept the Council's position in its entirety.**

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 29/07/2011 - Council position

The Council unanimously adopted its position at first reading on the revised provisions of the EU rules on waste electrical and electronic equipment (WEEE) such as mobile phones and home appliances.

The European Parliament adopted 86 amendments to the Commission proposal. 33 are acceptable to the Council, which has included them in its position at first reading (wholly, in part, or in principle).

Amongst the amendments accepted by the Council, the following should be noted: (i) the encouragement of eco-design for EEE and the need to develop further eco-design requirements in the framework of Directive 2009/125/EC; (ii) the development of standards for the treatment of WEEE with the inclusion of a reference to the Waste Framework Directive; (iii) as regards Annex II, amendments can be adopted by means of delegated acts although a specific reference to nano-materials is not foreseen; (iv) requirements for shipments, monitoring and inspection of used EEE.

Substantive changes from the Commission's initial proposal focus on the following issues:

Open scope: the Council proposes that the scope shall in the future, starting six years after entry into force, include all "Large equipment" and "Small equipment". This approach is also referred to as an "open scope", because the scope is not limited to a list of closed categories as currently the case, but "open" to any new equipment fulfilling the definitions of the Directive. A number of new exclusions and related definitions would accompany the introduction of the "open scope".

In the transitional period, the scope of the Directive will remain similar to that of the Directive currently enforced (Annexes I and II), with the exception of photovoltaic panels.

Scope: an exclusion to the open scope has been inserted for "equipment specifically designed solely for the purposes of research and development only made available on a business to business basis", similar to the exclusion foreseen in the framework of Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS).

Collection rate: the Commission proposal for a 65% minimum collection rate to be achieved in 2016 was not considered achievable within the given timeframe, given the present rates of separate collection. The Council has therefore opted for a **two-step approach** foreseeing a 45% rate to be achieved after 4 years from entry into force of the Directive, increasing to a 65% collection rate after a further 4 year period. The Council has inserted in the common position a temporary derogation to address particular difficulties in reaching the collection target in a limited number of Member States.

Recovery targets: given the need to foresee a realistic transition period before reaching the new targets and the need for further adaptation following entry into force of the open scope (implying a change from 10 to 5 categories), the targets are spelled out in a new Annex V.

In addition, in order to establish uniform conditions for implementation, additional rules on the calculation methods for the application of the minimum targets are foreseen.

Inspection and monitoring and Annex VI on minimum requirements for shipments of used EEE suspected to be WEEE: provisions as regards the shipment of used EEE suspected to be WEEE are refined to require, in particular, shipments of EEE sent to the producer or third parties acting on their behalf to take place in the framework of a business-to-business transfer agreement.

In addition:

- shipments of used EEE for professional use are allowed to be sent for refurbishment or repair under a valid after-sales service maintenance contract;
- shipments of defective used EEE for professional use are allowed to be sent for root cause analysis under a valid after-sales service maintenance contract, in case such analysis can only be conducted by the producer or third parties acting on their behalf.

Transposition: the proposed addition of a reference to the correlation table has been deleted.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 03/02/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 580 votes to 37, with 22 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast).

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) amending the Commission's proposal as follows:

Purpose and scope: Parliament reintroduced in the recitals of the Directive a reference to the principles of Directive 2008/98/EC on waste which lays down, among other things, an environmentally friendly five-stage waste hierarchy. The Directive should contribute to sustainable production and recovery by requiring all operators involved in product life cycles to improve their environmental standards.

The Directive should apply to **all electrical and electronic equipment**. It should not apply to:

- large-scale fixed installations;
- large-scale stationary industrial tools;
- non-road mobile machinery intended exclusively for professional users;
- means of transport for persons or goods;
- photovoltaic modules.

No later than five years after the entry into force of the Directive, and every five years, thereafter, the Commission shall submit a report examining the scope of this Directive to the European Parliament and the Council, in particular whether **photovoltaic modules should be included in its scope**. The report on photovoltaic modules shall assess in particular effective collection and recycling rates achieved. Where appropriate, on the basis of that report, the Commission shall submit a proposal.

Separate collection: Member States shall ensure that household WEEE, in particular mercury-containing lamps, and small appliances, is separately collected and not mixed with bulky or unsorted household waste, and that untreated WEEE is not sent to landfill or incineration.

Elimination and transport of collected WEEE: Parliament considers that effective follow-up is required in order to avoid the elimination of WEEE that is not collected and sorted separately.

In order to maximise re-use of whole appliances, Member States shall ensure that collection schemes provide for the segregation of reusable appliances from separately collected WEEE at the collection points, prior to any transportation.

Collection rate: Parliament considers that Member States should ensure that, as of 2016, a minimum of 85% of WEEE that is generated in the Member State is collected (the Commission proposed a figure of 65%).

Each Member State shall ensure that **as of 2012 at least 4 kg/capita of WEEE** is collected or the same amount of WEEE in weight as was collected in that Member State in 2010, whichever is greater.

Member States shall ensure that the volume of WEEE collected is gradually increased during the years 2012 to 2016. Member States may set more ambitious individual collection targets and shall in such a case report this to the Commission.

The collection targets shall be achieved annually. Member States shall present their improvement plans to the Commission no later than 18 months after the entry into force of the Directive.

To establish that the minimum collection rate has been achieved, Member States shall ensure that **information on WEEE** that has been: i) prepared for re-use or sent to treatment facilities by any actor, ii) taken to collection facilities; iii) taken to distributors; iv) separately collected by producers or third parties acting on their behalf, or v) **separately collected via other means is communicated to the Member States free of charge on an annual basis**.

By 31 December 2012 at the latest, the Commission shall adopt, by means of delegated acts, a common methodology to determine the amount of WEEE generated by weight in each Member State. This shall include detailed rules on the application and calculation methods for verifying compliance with the targets.

Treatment: the Commission shall ensure that harmonised standards are developed for the collection, storage, transport, treatment, recycling and repair of WEEE as well as preparation for re-use. To that end, the Commission shall in particular, within 12 months of entry into force of this Directive, commission the European Committee for Standardisation to take the necessary steps.

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

The Commission shall adopt, by means of delegated amendments to Annex II. The Commission shall evaluate whether amendments to Annex II are necessary to address relevant nanomaterials.

Shipments of WEEE: Parliament considers that exporters must submit, before and after shipments, conclusive evidence that treatment and recovery standards in the country of reception are equivalent.

Member States shall not permit the shipment of any item of EEE intended for re-use unless it has been certified by an identified individual or corporate body to be in full working order and bears a label to this effect.

Recycling and re-use targets: Parliament proposes a simplified system involving **six categories of WEEE** instead of 10. Depending on the category to which it belongs, **75% to 85% of WEEE should be recovered and 50% to 75% recycled**.

According to the Members, reusable equipment should be separated from other electrical and electronic waste and a **target of 5% for re-use** should apply to the appropriate categories.

Storage, sorting and pre-processing operations at recovery facilities shall not be included in calculating whether the targets have been met.

Costs relating to WEEE from households: to increase the collection rate, it is important to have local authorities, or any other operators required by law to act as collection points, **organise awareness-raising campaigns, door-to-door collection events** and other activities designed to collect as much as possible.

The costs associated with these actions should be fully covered according to the **polluter pays principle**, the polluters being the producers, retailers and consumers, but not the general taxpayers.

An amendment stipulates that the financial guarantee in respect of the end of life of products should be calculated to ensure the internalisation of the real end-of-life costs of a producer's product, taking into account treatment and recycling standards. In order to make possible a harmonised approach to compliance with the financial guarantee requirements, the Commission shall, no later than 12 months after the entry into force of the Directive, establish the minimum requirements and methodology for calculating the level of these guarantees, and establish guidelines for their verification and auditing.

Information for users: in order to raise users' awareness, Member States shall ensure that distributors put in place appropriate collection and awareness schemes for very small volume waste. Such collection schemes shall: a) enable end-users to discard this kind of waste at an accessible and visible collection point in the retailer's shop; b) require retailers to take back very small volume WEEE at no charge when supplying very small volume EEE; c) not involve any charge to end-users when discarding this waste, nor any obligation to buy a new product of the same type. The last two points shall apply to distance sellers.

Registration, information and reports: to reduce barriers to the operation of the internal market, administrative burdens should be reduced by standardising registration and reporting and by preventing multiple charges for multiple registrations in individual Member States.

A producer should no longer be required to have a legal seat in a Member State in order to be allowed to place EEE on the market in that Member State; rather, the appointment of a local legal representative resident in that Member State should be sufficient.

Identification of economic operators: Member States shall put in place systems to ensure that information is obtained to enable regulatory authorities, producers and distributors to identify: (a) any economic operator who has supplied them with EEE; (b) any economic operator to whom they have supplied EEE.

Inspection and control: Member States shall create a **national register** of acknowledged collection and treatment facilities. Only those facilities whose operators comply with the requirements set out in Article 8(3) shall be admitted to that national register. The contents of the register shall be made public.

Facility operators shall submit annual proof of their adherence to the requirements of the Directive in order to maintain their status as acknowledged treatment facilities.

Report: the Commission shall, by five years after the entry into force of this Directive, submit a report to the European Parliament and the Council based on experience with the application of this Directive. If appropriate, the report shall be accompanied by proposals to amend this Directive.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 06/10/2011 - Committee recommendation tabled for plenary, 2nd reading

The Committee on the Environment, Public Health and Food Safety adopted the recommendation for second reading contained in the report drafted by Karl-Heinz FLORENZ (EPP, DE) on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (Recast).

The Committee reinstated a fair number of amendments adopted by the European Parliament at first reading. It recommends that the position at second reading of the European Parliament should amend the Council position as follows:

Purpose and scope: Parliament reintroduced in the recitals of the Directive a **reference to the principles of Directive 2008/98/EC** on waste which lays down, among other things, an environmentally friendly five-stage waste hierarchy. The Directive should contribute to sustainable production and recovery by requiring all operators involved in product life cycles to improve their environmental standards.

The Directive should apply to **all electrical and electronic equipment**. It should not apply to large-scale fixed installations, **except those parts that are lighting and photovoltaic modules**.

No later than five years after the entry into force of the Directive, and every five years, thereafter, the Commission shall submit a report examining the scope of this Directive. Where appropriate, on the basis of that report, the Commission shall submit a legislative proposal.

Definitions: Members amended the definitions, in particular to take account of the impact assessment carried out by the Commission according to which the adoption of a European approach could generate annual savings of €66 million, as a result of a reduction in red tape.

Product design: these measures shall respect the proper functioning of the internal market. **Eco-design requirements** facilitating re-use, dismantling, recovery of WEEE and reducing hazardous substance emissions shall be established no later than **31 December 2014** in the framework of the implementing measures adopted pursuant to Directive 2009/125/EC.

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

Elimination and transport of collected WEEE: in order to maximise re-use of whole appliances, Member States shall ensure that collection schemes provide for the segregation of reusable appliances from separately collected WEEE at the collection points, **prior to any transportation**.

Collection rate: Parliament considers that Member States should ensure that, **as of 2016, a minimum of 85% of WEEE that is generated in the Member State is collected** (the Council opted for a two-step approach foreseeing a 45% rate to be achieved after 4 years from entry into force of the Directive, increasing to a 65% collection rate after a further 4 year period).

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

Member States shall ensure that the volume of WEEE collected is **gradually increased until 2016**. They may set more ambitious individual collection targets and shall in such a case report this to the Commission. The collection targets shall be achieved annually. Member States shall present their improvement plans to the Commission no later than 18 months after the entry into force of the Directive.

To establish that the minimum collection rate has been achieved, Member States shall ensure that information on WEEE that has been: i) prepared for re-use or sent to treatment facilities by any actor, ii) taken to collection facilities; iii) taken to distributors; iv) separately collected by producers or third parties acting on their behalf, or v) separately collected via other means is communicated to the Member States **free of charge on an annual basis**. Members propose deleting the national derogations.

The Commission shall be empowered to adopt delegated acts in accordance with Article 20 laying down **transitional arrangements for the period ending on 31 December 2015** in order to address difficulties faced by Member States in adhering to the rates laid down in Directive.

By 31 December 2012 at the latest, the Commission shall adopt, by means of delegated acts, a **common methodology to determine the amount of WEEE generated by weight in each Member State**. This shall include detailed rules on the application and calculation methods for verifying compliance with the targets.

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

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

The Commission shall request the European standardisation organisations to develop and adopt European standards for the collection, storage, transport, treatment, recycling and repair of WEEE as well as its preparation for reuse.

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

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

Transfers of WEEE: Members want to lay down **binding deadlines** (18 months after the entry into force of the Directive) for the adoption of the implementing provisions in order to create the requisite legal certainty and enforcement certainty for public authorities and industry.

Recovery, recycling and re-use targets: the minimum targets must be met by producers from the date of entry into force of the Directive.

Members propose a system involving **six categories of WEEE**. Depending on the category to which it belongs, **75% to 85% of WEEE should be recovered and 50% to 75% recycled**. A specific target of **80%** is set for photovoltaic panels and discharge lamps.

According to the Members, reusable equipment should be separated from other electrical and electronic waste and a **target of 5%** for re-use should apply to the appropriate categories.

The achievement of the targets shall be calculated as the percentage by weight of separately collected WEEE that is sent to recovery facilities and effectively recovered, reused or recycled. Preliminary activities including sorting, storage and pre-processing prior to recovery shall not count towards the achievement of these targets.

Financing in relation to WEEE from households: producers should be accorded maximum flexibility as regards ways of financing WEEE operations. For this reason, Members consider that it must be possible to comply with the obligation individually or by participating in a collective system, or by means of a combination of both methods. Collective schemes shall introduce **differentiated fees** for producers based on how easily products and the critical raw materials they contain can be recycled.

An amendment stipulates that the **financial guarantee in respect of the end of life of products** shall be calculated to ensure the internalisation of the real end-of-life costs of a producer's product, taking into account treatment and recycling standards referred to in the Directive. The Commission shall define, no later than 12 months following the entry into force of the Directive, the minimum requirements and methodology for calculating the level of these guarantees, and establish guidelines for their verification and auditing.

Collection systems and information for users: in order to raise users' awareness, Member States shall ensure that all distributors of very small volume EEE put in place appropriate collection schemes for **very small volume WEEE**. Such collection schemes shall: (a) enable end-users to discard very small volume WEEE at an accessible and visible collection point in the retailer's shop; (b) require retailers to take back very small volume WEEE at no charge; (c) not involve any charge to end-users when discarding very small volume WEEE, nor any obligation to buy a new product of the same type. The last two points also apply to distributors supplying EEE by means of distance selling.

Information for treatment installations should be provided **free of charge** to ensure environmentally sound treatment that is not dependent on payment.

Registration, information and reports: to reduce barriers to the operation of the internal market, Members consider that a **single registration** should be sufficient when the product is placed on the internal market for the first time. This registration may be undertaken either by the producer or his representative. Accordingly, further progress must be made with the harmonisation of registration and reporting and the interoperability of national registers, in the interests of a functioning internal market.

Members stress that a producer should no longer be required to be established in a Member State in order to be allowed to place EEE on the market in that Member State. Instead, the appointment of a local legal representative resident in that Member State should be sufficient.

Distance selling: Members consider that a producer who sells EEE at a distance **should not be required** to appoint a representative in the Member State where his customer resides.

Inspection and control: Member States shall create a **national register** of acknowledged collection and treatment facilities. Only those facilities whose operators comply with the requirements set out in the Directive shall be admitted to that national register. The contents of the register shall be made public. Facility operators shall submit annual proof of their adherence to the requirements of the Directive in order to maintain their status as acknowledged treatment facilities.

Report: the Commission shall, by five years after the entry into force of this Directive, submit a report to the European Parliament and the Council based on experience with the application of this Directive. If appropriate, the report shall be accompanied by proposals to amend this Directive.

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.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 19/01/2012 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council's position in first reading with a view to the adoption of a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE.)

Parliament adopted its position on second reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement negotiated between Parliament and Council. They amend the Council position as follows:

Purpose: it is clarified that the 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 equipment (WEEE) and by reducing overall impacts of resource use and improving the efficiency of such use **in accordance with Articles 1 and 4 of Directive 2008/98/EC, thereby contributing to sustainable development.**

Scope: the Directive shall apply to all EEE six years after the date of entry into force of the Directive. All EEE shall be classified within the categories set out in Annex III. Annex IV contains a non-exhaustive list of EEE which falls within the categories set out in Annex III (open scope). The Directive **shall not apply large-scale fixed installations, except any equipment which is not specifically designed and installed as part of these installations.** This applies, for example, to lighting equipment and photovoltaic panels.

3 years after **the Commission shall review the scope of this Directive**, including the parameters to distinguish between large and small equipment in Annex III, and shall present a report thereon to the European Parliament and to the Council. The report shall be accompanied by a legislative proposal, if appropriate.

Product design: Member States shall take appropriate measures so that **the eco-design requirements facilitating re-use and treatment of WEEE** established in the framework of Directive 2009/125/EC are applied.

Separate collection: Member States shall adopt appropriate measures to minimise the disposal of WEEE in the form of unsorted municipal waste, to ensure the correct treatment of all collected WEEE and to achieve a high level of separate collection of WEEE, notably, and as a matter of priority, for temperature exchange equipment containing ozone-depleting substances and fluorinated greenhouse gases, fluorescent lamps containing mercury, photovoltaic modules and for small equipment as referred to in category 5 of Annex III .

For WEEE from private households: Member States shall ensure that distributors provide for the collection, **at retail shops with sales areas relating to EEE of minimum 400 m², or in their immediate proximity, of very small WEEE (no external dimension more than 25 cm)** free of charge to end-users and with no obligation to buy an EEE of equivalent type, unless an assessment shows that alternative existing collection schemes are likely to be at least as effective. Such assessments shall be available to the public. WEEE collected will be properly treated.

Disposal and transport of collected WEEE: in order to maximise preparing for re-use, Member States shall promote that, prior to any further transfer, collection schemes or facilities, as appropriate, provide for the separation at the collection points of WEEE that is to be prepared for re-use from other separately collected WEEE, in particular by granting access for personnel from re-use centres .

Collection rate: each Member State shall ensure the implementation of the **producer responsibility principle** and, on that basis, that a minimum collection rate is achieved annually. The **minimum collection rate shall be of 45 %** calculated on the basis of the total weight of WEEE collected in a given year in the Member State concerned, expressed as a percentage of the average weight of EEE placed on the market in the three preceding years in that Member State. Member States shall ensure that the volume of WEEE collected evolves gradually during the period up to 7 years after entry into force of the Directive, unless the final collection rate is already achieved.

From 2019 the minimum collection rate to be achieved annually shall be 65% of EEE placed on the market in the three preceding years, or alternatively 85% of WEEE generated on its territory.

Four years after entry into force of the Directive, a rate of separate collection of at least **four kilograms** on average per inhabitant per year of WEEE from private households or the same amount of average weight of WEEE that was collected in that Member State in the three preceding years, whichever is greater, shall continue to apply. Member States may set more ambitious separate collection rates and shall in such a case report this to the Commission.

In order to establish whether the minimum collection rate has been achieved, Member States shall ensure that information concerning the WEEE that is separately collected is transmitted to the Member States free of charge including at least information on WEEE that has been: (i) received by collection and treatment facilities, and (ii) received by distributors, separately collected by producers or third parties acting on their behalf.

Ten Member States: Bulgaria, the Czech Republic, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovakia and Slovenia may, because of their lack of the necessary infrastructure and their low level of EEE consumption, decide to: achieve a collection rate that is lower than 45 % but higher than 40 % of the average weight of EEE placed on the market in the three preceding years, and postpone the achievement of the final collection rate until a date of their own choice which shall **not be later 9 years after entry into force of the Directive**.

3 years after entry into force of the Directive, the Commission shall establish a **common methodology for the calculation of the total weight of EEE** placed on the national market and a common methodology for the calculation of the quantity of WEEE generated by weight in each Member State. At the same time, it shall present a **report on the re-examination of the deadlines related to the collection** and on possibly setting individual collection rates for one or more categories set out in Annex III, particularly for temperature exchange equipment, photovoltaic panels, small equipment, including small IT and telecommunication equipment and for lamps containing mercury. The report shall, if appropriate, be accompanied by a legislative proposal.

If the Commission considers, based on an impact study, that the collection rate based on WEEE generated requires revision, it shall submit a legislative proposal to the European Parliament and the Council.

Proper treatment: the Commission is invited to evaluate whether amendments to Annex VII are necessary to address **nanomaterials** contained in EEE.

The Commission shall, not later than 6 months after entry into force of the Directive, request the European standardisation organisations to **develop European standards** for the treatment, including recovery, recycling and preparing for re-use, of WEEE. These standards shall reflect the state of art. In order to ensure uniform conditions for the implementation of this provision, the Commission may, by means of implementing acts, adopt **minimum quality standards** based in particular on the standards developed by the European standardisation organisations.

Shipments of WEEE: the amended text states that the treatment operation may also be undertaken **outside the respective Member State or the Union** provided that the shipment of WEEE is in compliance with Regulation (EC) No 1013/2006 and Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/ to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply.

Recovery targets: Member States shall also ensure that records on the weight of products and materials when leaving (output) the recovery or recycling/preparing for re-use facility are kept.

Financing in respect of WEEE from private households: Member States shall take the necessary measures to ensure that appropriate mechanisms or refund procedures are developed for the **reimbursement of contributions to the producers** where EEE is transferred for placing on the market outside the territory of the Member State concerned. Such procedures may be developed by producers or third parties acting on their behalf.

3 years after entry into force of the Directive the Commission is invited to report on the possibility to develop criteria to incorporate the real end-of-life costs in the financing of WEEE by producers, and submit a legislative proposal to the European Parliament and the Council if appropriate.

Information for users: Member States shall ensure that users of EEE in private households are given the necessary information about: the return and collection systems available to them, encouraging the coordination of information on the available collection points irrespective of the producers or other operators which have set them up.

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

Information for treatment facilities: producers must provide information, free of charge, about preparation for re-use and treatment in respect of each type of new EEE placed, for the first time on the EU market within one year after the equipment is placed on the market.

Registration, information and reporting: in order to fulfil the obligations pursuant to the Directive in a given Member State, **a producer must be established in that Member State**. By exception, to reduce existing barriers to the proper functioning of the internal market and administrative burdens, Member States should allow producers that are not established on their territory, but that are established in another Member State, to **appoint an authorised representative** to be responsible for fulfilling the obligations of that producer under this Directive. In addition, administrative burdens will be reduced by **simplifying registration and reporting procedures** and by ensuring that duplicate charges are not levied for registrations within individual Member States.

Administrative cooperation and exchange of information: Member States shall ensure that authorities responsible for implementing this Directive cooperate with each other, in particular to establish an adequate flow of information to ensure that producers comply with the provisions of this Directive. The administrative cooperation and exchange of information, notably between national registers, shall include electronic means of communication. Cooperation shall include, inter alia, access to the relevant documents and information including results of any inspections, subject to the provisions of the data protection law enforced in the Member State of the authority that is being requested to cooperate.

Inspections: these shall at least cover: information reported in the framework of the register of producers; and shipments, in particular exports of WEEE outside the Union in compliance with Regulation (EC) No 1013/2006, and Commission Regulation (EC) No 1418/2007 and the operations at treatment facilities in accordance with Directive 2008/98/EC and Annex VII of this Directive.

Delegated acts and implementing acts: a Statement of the European Parliament concerning the use of implementing acts is annexed to the resolution. In it, the European Parliament declares that the provisions of this Directive regarding delegated and implementing acts are the result of a delicate compromise, which in some cases departs from Parliament's position in first reading. In order to achieve a second reading agreement, the European Parliament has therefore accepted implementing acts instead of delegated acts in certain specific cases. It underlines, however, that those provisions shall not be taken or used as a precedent for regulating similar situations in future legislative acts.

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 11/04/2012 - Commission opinion on Parliament's position at 2nd reading

The Commission accepts the amendment adopted by the European Parliament in second reading on the basis of a compromise text agreed by the Council and the European Parliament.

The amendment containing this compromise package concerns essentially:

- the establishment of new collection targets per Member State seven years after entry into force, with an intermediate target four years after entry into force;
- the take-back of small WEEE at large retail shops unless alternative schemes can be shown to be at least as effective;
- the widening of the scope to include all electrical and electronic equipment, six years after entry into force, with additional exemptions, and after a review to be carried out by the Commission;
- the harmonisation of registration and reporting requirements, while acknowledging that these requirements are in principle national to allow for effective enforcement;
- the introduction of minimum requirements for shipments of used equipment which are suspected to be illegal waste shipments, including reversal of the burden of proof, and specific derogations.

The Commission underlines that the minimum requirements for shipments should not hinder the legal trade of used equipment. Where there is a suspicion that the shipment is de facto an

illegal shipment of waste, Annex VI gives Member States the legal instrument to clarify the situation.

The Commission adopted **four declarations** on:

- **Product design:** the Commission will, if and when introducing new or reviewing the implementing measures adopted pursuant to Directive 2009/125/EC on products also covered by the WEEE Directive, take into account the parameters for re-use and recycling as set out in Annex 1 part 1 of the Directive 2009/125/EC, and assess the feasibility of introducing requirements on re-usability, easy dismantling and recyclability of such products.
- **Specific derogations from the collection targets:** the Commission underlines that high collection targets of WEEE are important for a resource-efficient Europe and that the transitional arrangements can only be applied in exceptional circumstances. The difficulties faced and the specific circumstances on which they are based must be objective, well documented, and verifiable.
- **Nanomaterials:** where specific nanomaterials have been shown to pose risks to human health or the environment, the Commission will assess whether specific treatment may be necessary and amend Annex VII as appropriate.
- **The use of implementing acts:** the Commission considers that the powers conferred on the Commission in Articles 7(5) and 23(4) should be delegated powers, in order to properly reflect the nature of the powers conferred, in accordance with Article 290 of the Treaty on the Functioning of the EU. The Commission reserves its right to avail itself of the legal remedies provided by the Treaty with a view to seeking clarification by the Court on the issue of delimitation between Articles 290 and 291.

Waste electrical and electronic equipment (WEEE). Recast

PURPOSE: to lay down more ambitious targets for the collection and recycling of waste electrical and electronic equipment.

LEGISLATIVE ACT: Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).

CONTENT: following an agreement with the European Parliament at second reading, the Council adopted a Directive regarding waste electrical and electronic equipment which seeks to:

- improve the collection, re-use and recycling of waste electronic equipment so as to reduce the disposal of waste and to contribute to the rational use of resources;
- limit illegal exports of these wastes from the EU and to improve the environmental performances of all the operators concerned, such as producers, distributors and consumers, throughout the lifecycle of EEEs.

The Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of WEEE and by reducing overall impacts of resource use and improving the efficiency of such, thereby contributing to sustainable development.

The main features of the Directive are as follows:

Product design: Member States shall take the appropriate measures to ensure that the **ecodesign** requirements facilitating re-use and treatment of WEEE established in the framework of Directive 2009/125/EC are applied

Collection rate:

- From **2016**, the minimum collection rate shall be **45 %** calculated on the basis of the total weight of WEEE collected in **a given year** in the Member State concerned. From **2019**, the minimum collection rate to be achieved annually shall be **65 %** of the average weight of EEE placed on the market in the three preceding years in the Member State concerned, or alternatively 85 % of WEEE generated on the territory of that Member State .
- Certain EU Member States where consumers use less electronic equipment (Bulgaria, the Czech Republic, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia) are accorded some margin for manoeuvre to reach these objectives.
- **Until 31 December 2015**, a rate of separate collection of **at least 4 kilograms** on average **per inhabitant** per year of WEEE from private households or the same amount of weight of WEEE as was collected in that Member State on average in the three preceding years, whichever is greater, shall continue to apply. Member States may set more ambitious rates for separate collection of WEEE and shall in such a case report this to the Commission.

Separate collection: the Council extended the scope of application of the legislative provisions in force in order to cover electrical and electronic equipment, such as photovoltaic panels, temperature exchange equipment containing ozone-depleting substances and fluorinated greenhouse gases, fluorescent lamps containing mercury, which will have to be collected separately and treated correctly within six years of the entry into force of the new Directive (15 August 2018). The Commission may propose amendments having analysed the impact of the extended scope on business and the environment.

For WEEE from private households, Member States shall ensure that:

- **systems** are set up allowing final holders and distributors to return such waste at least free of charge;
- distributors provide for the collection, at **retail shops** with sales areas relating to EEE of **at least 400m²**, or in their immediate proximity, of very small WEEE (no external dimension more than 25cm) free of charge to end-users and with no obligation to buy EEE of an equivalent type, unless an assessment shows that alternative existing collection schemes are likely to be at least as effective;
- producers are allowed to set up and to 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.

Producer responsibility: the establishment, by this Directive, of producer responsibility is one of the means of encouraging design and production of EEE which take into full account and facilitate its repair, possible upgrading, re-use, disassembly and recycling.

Inspection and monitoring: Member States shall carry out appropriate inspections and monitoring to verify the proper implementation of this Directive. Those inspections shall at least cover: a) information reported in the framework of the register of producers; b) shipments, in particular exports, of WEEE outside the Union; c) the operations at treatment facilities.

ENTRY INTO FORCE: 13/08/2012.

TRANSPOSITION: 14/02/2014.

DELEGATED ACTS: the Commission may adopt delegated acts in order to assist Member States that experience difficulties in achieving collection rates, to take into account technical and scientific progress and to supplement the provisions on recovery targets. The power to adopt such acts is conferred on the Commission for a period of **five years as of 13 August 2012** (a period that may be tacitly extended for an identical duration, unless the European Parliament or the Council objects). The European Parliament or the Council may express their opposition to a delegated act within a period of two months of its notification by the Commission (and this period of two months may be extended by a further two months). If the European Parliament or the Council makes an objection, the delegated act does not enter into force.