P7_TA(2011)0037

Waste electrical and electronic equipment ***I

European Parliament legislative resolution of 3 February 2011 on the proposal for a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast) (COM(2008)0810 - C6-0472/2008 - 2008/0241(COD))

(Ordinary legislative procedure: recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2008)0810),
- having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0472/2008),
- having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),
- having regard to Article 294(3) and Article 192(1) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 11 June 2009¹,
- having regard to the opinion of the Committee of the Regions of 4 December 2009²,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
- having regard to the letter of 3 April 2009 from the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 87(3) of its Rules of Procedure,
- having regard to Rules 87 and 55 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0229/2010),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of

OJ C 306, 16.12.2009, p. 39.

² OJ C 141, 29.5.2010, p. 55.

³ OJ C 77, 28.3.2002, p. 1.

the existing texts, without any change in their substance,

- 1. Adopts the position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
- 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
- 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2008)0241

Position of the European Parliament adopted at first reading on 3 February 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

Whereas:

OJ C 306, 16.12.2009, p. 39.

² OJ C 141, 29.5.2010, p. 55.

Position of the European Parliament of 3 February 2011.

- (1) A number of substantial changes are to be made to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)¹. In the interests of clarity, that Directive should be recast.
- (2) The objectives of the Union's environment policy are, in particular, to preserve, protect and improve the quality of the environment, protect human health and utilise natural resources prudently and rationally. That policy is based on the precautionary principle and the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.
- (3) The Community programme of policy and action in relation to the environment and sustainable development (Fifth Environmental Action Programme)² states that the achievement of sustainable development calls for significant changes in current patterns of development, production, consumption and behaviour and advocates, *inter alia*, the reduction of wasteful consumption of natural resources and the prevention of pollution. It mentions waste electrical and electronic equipment (WEEE) as one of the target areas to be regulated, in view of the application of the principles of prevention, recovery and safe disposal of waste.

¹ OJ L 37, 13.2.2003, p. 24.

² OJ C 138, 17.5.1993, p. 5.

- (4) This Directive supplements the general EU waste management legislation, such as Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste¹. It refers to the definitions of that Directive including the definitions of waste and general waste management operations. The definition of collection according to Directive 2008/98/EC includes the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility. Directive 2009/125/EC of the European Parliament and of the Council² establishes a framework for setting ecodesign requirements for energy-related products and enables the adoption of specific eco-design requirements for energyrelated products which may also be covered by this Directive. Directive 2009/125/EC and the implementing measures adopted pursuant to it are without prejudice to Union waste management legislation. Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment³ requires the substitution of banned substances for all electrical and electronic equipment (EEE) within its scope.
- (5) Directive 2008/98/EC provides that specific rules for particular instances, or supplementing those of that Directive, on the management of particular categories of waste may be laid down by means of individual Directives.
- As the market continues to expand and innovation cycles become even shorter, the replacement of equipment accelerates, making WEEE a fast growing waste stream. While Directive 2002/95/EC contributes effectively to reducing hazardous substances in new EEE, hazardous substances such as mercury, cadmium, lead, hexavalent chromium and polychlorinated biphenyls (PCBs) and ozone-depleting substances will still be present in WEEE for many years. The content of hazardous components in EEE is a major concern during the waste management phase and recycling of WEEE is not undertaken to a sufficient extent. A lack of recycling would result in the loss of valuable resources.

OJ L 312, 22.11.2008, p. 3.

OJ L 285, 31.10.2009, p. 10.

³ OJ L 37, 13.2.2003, p. 19.

- (7) The purpose of this Directive is to contribute to sustainable production and consumption through, as a first priority, the prevention of WEEE, and in addition, through the re-use, recycling and other forms of recovery of WEEE so as to reduce the disposal of waste and contribute to the efficient use of resources *and the retrieval of strategic raw materials*. It also seeks to improve the environmental performance of all operators involved in the life cycle of EEE, such as producers, distributors and consumers and in particular those operators directly involved in the collection and treatment of WEEE. In particular, different national applications of the 'producer responsibility' principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Union level *and harmonised standards for the collection and handling of WEEE should be developed*.
- (8) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can be better achieved at Union level by reason of the scale of the problem, the Union may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (9) The provisions of this Directive should apply to products and producers irrespective of the selling technique, including distance and electronic selling. In this connection the obligations of producers and distributors using distance and electronic selling channels should, as far as is practicable, take the same form and should be enforced in the same way in order to avoid other distribution channels having to bear the costs resulting from this Directive concerning WEEE for which the equipment was sold by distance or electronic selling.

(10)This Directive should cover all EEE used by consumers and EEE intended for professional use. This Directive should apply without prejudice to Union legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Union waste management legislation, in particular Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators¹, and Union product design legislation, in particular Directive 2005/32/EC. Large-scale fixed installations should be excluded from the scope of this Directive because they are permanently installed and operated at a particular location, are assembled and disassembled by specialist personnel and therefore represent a controlled waste stream. Large-scale stationary industrial tools installed for operation at a specific location should also be excluded from the scope of this Directive. Mobile machinery operated exclusively by professional users should likewise be excluded because it too is disassembled and disposed of by specialist personnel and it therefore represents a controlled waste stream. Photovoltaic modules, which are also installed and removed by specialist personnel and are instrumental in achieving renewableenergy targets, thus helping to reduce CO₂, should also be excluded. Furthermore, the solar industry has concluded a voluntary environmental agreement with the aim of recycling 85% of photovoltaic modules. The Commission should assess whether that agreement is achieving at least equivalent results as compared to this Directive and whether it covers all photovoltaic modules placed on the market, and it should, if appropriate, on the basis of a report, submit a proposal to include photovoltaic modules in the scope of the Directive.

- (11) The establishment, by this Directive, of producer responsibility is one of the means of encouraging the design and production of EEE which take into full account and facilitate their repair, possible upgrading, re-use, disassembly and recycling.
- In order to guarantee the safety and health of distributors' personnel involved in the take-back and handling of WEEE, Member States should, in accordance with national and Union legislation on safety and health requirements, determine the conditions under which take-back may be refused by distributors.
- (13) Separate collection is a precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Union. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge. Distributors, *municipalities and recyclers all* have an important role in contributing to the success of WEEE collection *and treatment and thus should be subject to the requirements of this Directive*.

In order to attain the chosen level of protection and harmonised environmental (14)objectives of the Union, Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order to ensure that Member States strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE, particularly for cooling and freezing equipment containing ozone-depleting substances and fluorinated greenhouse gases, given their high environmental impact and in view of obligations contained in Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer¹ and Regulation (EC) No 842/2006of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases². Data included in the impact assessment show that 65% of EEE placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports, or is treated properly but the amounts treated were not reported. This leads to losses of valuable secondary raw materials, environmental degradation and provision of inconsistent data. To avoid this, it is necessary to set an ambitious collection target, to oblige all actors that collect WEEE to ensure it is treated in an environmentally sound way, and to require such actors to report the volumes collected, handled and treated. It is of fundamental importance that Member States ensure that this Directive is effectively enforced, in particular as regards checks on used EEE shipped out of the Union.

OJ L 286, 31.10.2009, p. 1.

² OJ L 161, 14.6.2006, p. 1.

- (15) Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen level of protection of the environment of the Union. Any establishment or undertakings carrying out collection, recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. Best available treatment, recovery and recycling techniques should be used provided that they ensure human health and high environmental protection. Best available treatment, recovery and recycling techniques may be further defined in accordance with the procedures of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control¹.
- (16) The Scientific Committee on Emerging and Newly Identified Health Risks, in its opinion on 'Risk Assessment of Products of Nanotechnology' of 19 January 2009, stated that exposure to nanomaterials that are firmly embedded in large structures, for example in electronic circuits, may occur in the waste phase and during recycling. To control possible risks to human health and the environment from the treatment of WEEE containing nanomaterials, selective treatment may be necessary. It is appropriate for the Commission to assess whether selective treatment should be applied to relevant nanomaterials.
- Where appropriate, priority should be given to the re-use of WEEE and its components, subassemblies and consumables. Where re-use is not preferable, all WEEE collected separately should be sent for recovery, in the course of which a high level of recycling and recovery should be achieved. In addition, producers should be encouraged to integrate recycled material in new equipment.

OJ L 24, 29.1.2008, p. 8.

- (18) The recovery, preparation for re-use and recycling of equipment may count towards achievement of the targets laid down in this Directive only if that recovery or preparation for re-use or recycling does not conflict with other Union and national legislation applicable to the equipment. Ensuring proper recovery and preparation for re-use and recycling of equipment is important for sound resource management and will optimise the resources supply.
- (19) Basic principles with regard to the financing of WEEE management have to be set at Union level and financing schemes have to contribute to high collection rates as well as to the implementation of the principle of producer responsibility.
- Users of EEE from private households should have the possibility of returning (20)WEEE at least free of charge. Producers should *therefore* finance collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage all stakeholders handling WEEE to help achieve the objective of this Directive in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports. *In order that* payment for the collection of this waste be shifted from general tax payers to the consumers of EEE in line with the 'polluter pays' principle, Member States should encourage producers to treat all WEEE collected. In order to make proper treatment possible, consumers should have a responsibility to ensure that end-of-life EEE is taken to collection facilities. In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer or third party acting on its behalf should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants.

- (21) Information to users about the requirement not to dispose of WEEE as unsorted municipal waste and to collect WEEE separately, and about the collection systems and their role in the management of WEEE, is indispensable for the success of WEEE collection. Such information implies the proper marking of EEE which could end up in rubbish bins or similar means of municipal waste collection.
- (22) Information on component and material identification to be provided by producers is important to facilitate the management, and in particular the treatment and recovery or recycling, of WEEE.
- (23) Member States should ensure that inspection and monitoring infrastructure enable the proper implementation of this Directive to be verified, having regard, *inter alia*, to Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States¹.
- Information about the weight of EEE placedon the market in the Union and the rates of collection, re-use, including as far as possible re-use of whole appliances, recovery or recycling and export of WEEE collected in accordance with this Directive is necessary to monitor the achievement of the objectives of this Directive.
- (25) Member States may choose to implement certain provisions of this Directive by means of agreements between the competent authorities and the economic sectors concerned provided that particular requirements are met.

OJ L 118, 27.4.2001, p. 41.

- To reduce barriers to the proper functioning of the internal market, administrative burdens should be reduced by standardising registration and reporting procedures and by preventing multiple charges for multiple registrations in individual Member States. In particular, 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. Instead, the appointment of a local legal representative resident in that Member State should be sufficient. For practical enforcement of this legislation it must be possible for Member States to identify the producer that is responsible for the product and trace back the supply chain from the final distributor. Member States should ensure that a distributor making EEE available for the first time on the territory of a Member State (intra-Union trade) either concludes an agreement with the producer or takes care of the registration of that equipment and the financing of the management of the waste from that equipment.
- In order to adapt the provisions of this Directive to technical and scientific progress and to adopt other necessary measures, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of transitional arrangements, the adaptation of annexes, detailed rules for verifying and monitoring compliance, the minimum requirements and methodology for calculating the level of financial guarantees, the definition of 'very small volume WEEE and of 'micro enterprises operating on a small surface area', the format for registration and reporting, the frequency of reporting and amendments to the rules concerning reports on the implementation of this Directive.
- (28) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.
- (29) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex VI, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1 Subject matter

This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of WEEE and by reducing overall negative impacts of resource use and improving the efficiency of such use, in accordance with Articles 1 and 4 of Directive 2008/98/EC. This Directive requires all operators involved in product life cycles to improve their environmental standards, thereby contributing to sustainable production and recovery.

Article 2 Scope

- 1. This Directive shall, subject to paragraph 3, apply to *all EEE* .
- 2. This Directive shall apply without prejudice to requirements of Union legislation on safety and health, on chemicals, in particular Regulation (EC) 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency¹ as well as of specific Union waste management or product design legislation.
- 3. This Directive shall not apply to :
- (a) EEE which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes.
- (b) EEE which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and that can fulfill its function only if it is part of that equipment.

OJ L 396, 30.12.2006, p. 1.

- (c) large-scale fixed installations;
- (d) large-scale stationary industrial tools;
- (e) non-road mobile machinery intended exclusively for professional users;
- (f) means of transport for persons or goods;
- (g) photovoltaic modules.
- (h) filament bulbs.
- (i) implanted and infected medical devices.

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

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

Article 3 Definitions

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

- (a) 'electrical and electronic equipment' or 'EEE' means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields *which is* designed for use with a voltage rating not exceeding 1000 volts for alternating current and 1500 volts for direct current;
- (b) 'waste electrical and electronic equipment' or 'WEEE' means electrical or electronic equipment which is waste within the meaning of Article 3(1) of Directive 2008/98/EC, including all components, subassemblies and consumables which are part of the product at the time of discarding;
- (c) 'medical device' means EEE falling within the scope of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices¹ or Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices²;
- (d) 'prevention' means prevention within the meaning of Article 3(12) of Directive 2008/98/EC;
- (e) 're-use' means re-use within the meaning of Article 3(13) of Directive 2008/98/EC;
- (f) 'preparing for re-use' means preparing for re-use within the meaning of Article 3(16) of Directive 2008/98/EC:
- (g) 'recycling' means recycling within the meaning of Article 3(17) of Directive 2008/98/EC;

¹ OJ L 169, 12.7.1993, p. 1.

² OJ L 331, 7.12.1998, p. 1.

- (h) 'recovery' means recovery within the meaning of Article 3(15) of Directive 2008/98/EC;
- (i) 'disposal' means disposal within the meaning of Article 3(19) of Directive 2008/98/EC;
- (j) 'treatment' means treatment within the meaning of Article 3(14) of Directive 2008/98/EC;
- (k) 'producer' means any natural or legal person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts¹:
 - (i) manufactures EEE under his own name or trademark, or has EEE designed or manufactured and places that electronic equipment on the market under his name or trade mark,
 - (ii) resells under his name or trademark equipment produced by other suppliers, a reseller not being regarded as the 'producer' if the brand of the producer appears on the equipment, as referred to in subpoint (i), or
 - (iii) is established within the Union and places EEE from a third country on a professional basis on the Union Market.

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

(l) 'distributor' means any natural or legal person in the supply chain, who makes an EEE available on the market:

OJ L 144, 4.6.1997, p. 19.

- (m) 'WEEE from private households' means WEEE that comes from private households, or from commercial, industrial, institutional or other sources, which, because of its nature and quantity, is similar to WEEE from private households, and WEEE which may have been used as EEE by both private households and users other than private households;
- (n) 'hazardous waste' means hazardous waste within the meaning of Article 3(2) of Directive 2008/98/EC.
- (o) 'finance agreement' means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place.
- (p) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (q) 'placing on the market' means the first making available of a product on the Union market;
- (r) 'remove' means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, preparations and components are contained as an identifiable stream or identifiable part of a stream at the end of the treatment process. A substance, preparation or component is identifiable if it can be monitored to prove environmentally safe treatment;
- (s) 'collection' means collection within the meaning of Article 3(10) of Directive 2008/98/EC;

- (t) 'separate collection' means separate collection within the meaning of Article 3(11) of Directive 2008/98/EC;
- (u) 'large-scale fixed installations' means a particular combination of several types of apparatus and, where applicable, other devices, assembled and installed permanently at a predefined location. It does not include lighting products;
- (v) 'large-scale stationary industrial tools' means an assembly of machines, equipment, and/or components, designed to be used together in industry to perform a specific task, which are installed by specialised personnel and they are permanently located during their phase of use;
- (w) 'non-road mobile machinery' means machinery the operation of which requires either mobility while working or continuous or semi-continuous movement between a succession of fixed working locations, or machinery which is operated without being moved, but which may be equipped in such a way as to enable it to be moved more easily from one place to another;
- (x) 'means of transport' means a vehicle used for transporting people or cargo, such as cars, busses, trucks, trams, trains, ships and aeroplanes;
- (y) 'photovoltaic modules' means only photovoltaic modules which are intended for use in a system designed, assembled and installed for permanent operation at a specified location for power generation for public, commercial and private purposes.

Article 4 Product design

Member States shall, in line with Union product legislation including *Directive 2009/125/EC*, encourage *cooperation between producers and recyclers and* measures *to be taken* to promote the design and production of EEE notably in view of facilitating re-use, dismantling and recovery of WEEE, its components and materials. These measures shall respect the proper functioning of the internal market. In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment and/or safety requirements. *Eco-design requirements facilitating re-use, dismantling, recovery of WEEE and reducing hazardous substance emissions shall be established no later than 31 December 2014 in the framework of the implementing measures adopted pursuant to Directive 2009/125/EC.*

Article 5 Separate collection

- 1. To achieve a high level of separate collection of WEEE and correct treatment for all types of WEEE, notably the cooling and freezing equipment containing ozone-depleting substances and fluorinated greenhouses gases, mercury-containing lamps, and small appliances, Member States shall ensure that all WEEE is separately collected and not mixed with bulky or unsorted household waste, and that untreated WEEE is not sent to landfill or incineration.
- 2. For WEEE from private households, Member States shall ensure that:

- (a) systems are set up allowing final holders and distributors to return such waste at least free of charge. Member States shall ensure the availability and accessibility of the necessary collection facilities, taking into account in particular population density;
- (b) when supplying a new product, distributors shall be responsible for ensuring that such waste can be returned to the distributor at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment. Member States may depart from this provision provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder. Member States making use of this provision shall inform the Commission thereof;
- (c) without prejudice to the provisions of points (a) and (b), producers are allowed to set up and operate individual and/or collective take-back systems for WEEE from private households provided that these are in line with the objectives of this Directive;
- (d) having regard to national and Union health and safety standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under points (a) and (b). Member States shall make specific arrangements for such WEEE.

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

3. In the case of WEEE other than WEEE from private households, and without prejudice to Article 13, Member States shall ensure that producers or third parties acting on their behalf provide for the collection of such waste.

Article 6 Disposal and transport of collected WEEE

- 1. Member States shall prohibit the disposal of separately collected untreated WEEE *and monitor enforcement of that prohibition*.
- 2. Member States shall ensure that the collection and transport of separately collected WEEE is carried out in a way which optimises re-use and recycling and the confinement of hazardous substances. In order to maximise re-use of whole appliances, Member States shall also ensure that collection schemes provide for the separation of re-usable appliances from separately collected WEEE at the collection points, prior to any transportation.

Article 7 Collection *targets*

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

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 improvement plans to the Commission no later than ...*.

- 2. In order to establish that the minimum collection rate has been achieved, Member States shall ensure that relevant actors communicate, at no cost to the Member States, in accordance with Article 16 and on an annual basis, information on WEEE that has been:
- (a) prepared for re-use or sent to treatment facilities by any actor;
- (b) taken to collection facilities in accordance with Article 5(2)(a);
- (c) taken to distributors in accordance with Article 5(2)(b);
- (d) separately collected by producers or third parties acting on their behalf; or
- (e) separately collected by other means.
- 3. Transitional arrangements may be laid down in respect of the period until 31 December 2015, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, to address difficulties faced by Member States in meeting the targets set out in paragraph 1 as a result of specific national circumstances;
- 4. By 31 December 2012 at the latest the Commission shall adopt, by means of

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

delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, a common methodology for determining the amount of WEEE generated by weight in each Member State. The methodology shall include detailed rules on the application and calculation methods for verifying compliance with the targets set out in paragraph 1.

5. On the basis of a report of the Commission accompanied, if appropriate, by a proposal, the European Parliament and the Council shall, by 31 December 2012 at the latest, re-examine the collection rate, and target dates referred to in paragraph 1 inter alia with a view to possibly setting a separate collection target for cooling and freezing equipment, *lamps*, *including filament bulbs*, *and small appliances*.

Article 8 Treatment

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

The Commission shall, not later than...*, request the European Standardisation Organisations to develop and adopt European standards for the collection, storage, transport, treatment, recycling and repair of WEEE as well as preparation for re-use. Those standards shall reflect the state of the art.

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 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 the Union.

- 2. Treatment other than preparing for re-use shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex III.
- 3. Member States shall ensure that producers or third parties acting on their behalf set up systems to provide for the recovery of WEEE using best available techniques. The systems may be set up by producers individually or collectively. Member States shall ensure that any establishment or undertaking carrying out collection or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex IV.

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

- 4. In order to introduce other treatment technologies that ensure at least the same level of protection for human health and the environment, the Commission shall adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, amendments to Annex III. 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 III are necessary to address relevant nanomaterials.
- 5. For the purposes of environmental protection, Member States may set up minimum quality standards for the treatment of collected WEEE.

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

6. Member States shall encourage establishments or undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community ecomanagement and audit scheme (EMAS)¹.

Article 9 Permits and inspections

- 1. Member States shall ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the competent authorities, in compliance with Article 23 of Directive 2008/98/EC.
- 2. The derogation from the permit requirement referred to in Article 24(b) of Directive 2008/98/EC may apply to recovery operations concerning WEEE if an inspection is carried out by the competent authorities before the registration in order to ensure compliance with Article 13 of that Directive.

OJ L 342, 22.12.2009, p. 1.

The inspection shall verify the following:

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

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

3. Member States shall ensure that the permit or the registration referred to in paragraphs 1 and 2 includes all conditions necessary for compliance with the requirements of Article 8(2), 8(3) and 8(5) and for the achievement of the recovery targets set out in Article 11.

Article 10 Shipments of WEEE

- 1. The treatment operation may also be undertaken outside the respective Member State or the Union provided that the shipment of WEEE is in compliance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste¹.
- 2. WEEE exported out of the Union in line with Regulation (EC) No 1013/2006 and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or Annex IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply² shall count towards the fulfilment of obligations and targets set out in of Article 11 of this Directive only if the exporter can prove, by submitting conclusive evidence prior to shipment, that recovery, preparation for re-use and recycling will take place under conditions that are equivalent to the requirements of this Directive. After recovery, preparation for re-use or recycling has taken place, compliance with those equivalent conditions shall be confirmed.

OJ L 190, 12.7.2006, p. 1.

OJ L 316, 4.12.2007, p. 6.

- 3. Member States shall not permit the shipment of any item of EEE intended for re-use unless it has been certified by a competent identified individual or corporate body to be in full working order and it bears a label to this effect.
- 4. In order to allow treatment operations to be undertaken outside the Union with an equivalent level of protection, the Commission shall, not later than ...*, adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, detailed rules in respect of paragraphs 1 and 2, in particular criteria for the assessment of equivalent conditions.

Article 11 Recovery targets

- 1. Regarding all WEEE separately collected and sent for treatment in accordance with Articles 8, 9 and 10 or for preparation for re-use, Member States shall ensure that, by 31 December 2011, producers meet the following minimum targets:
- (a) for WEEE falling under categories 1 and 4 of Annex IA,
 - 85% shall be recovered,
 - **75**% shall be recycled *and*
 - 5% shall be prepared for re-use;
- (b) for WEEE falling under category 2 of Annex IA,
 - 80% shall be recovered,
 - 65% shall be recycled and

^{* 18} months from the date of entry into force of this Directive.

- 5% shall be prepared for re-use;
- (c) for WEEE falling under category 3 of Annex IA,
 - 75% shall be recovered and
 - 50% shall be recycled;
- (d) for WEEE falling under category 5 of Annex IA,
 - 75% shall be recovered,
 - 50% shall be recycled and
 - 5% shall be prepared for re-use;
- (e) for WEEE falling under category 6 of Annex IA,
 - 85% shall be recovered,
 - 75% shall be recycled and
 - 5% shall be prepared for re-use;
- (f) for gas discharge lamps, 80% shall be recycled.
- 2. These targets are calculated as weight percentages of separately collected WEEE that is sent to recovery facilities and effectively recovered, re-used and recycled. Storage, sorting and pre-processing operations at recovery facilities shall not be included in the calculation of whether the targets have been met.

- 3. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of **used EEE**, WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility **and** when entering (input) **and leaving (output as overall percentage)** the recovery or recycling facility.
- 4. Member States shall encourage the development of new recovery, recycling and treatment technologies.

Article 12 Financing in respect of WEEE from private households

1. Member States shall ensure producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). In addition, Member States, where appropriate, shall ensure that, to improve the collection of WEEE, sufficient financial resources are raised in accordance with the 'polluter pays' principle (where the polluters are to be considered to be the retailers, consumers and producers, but not the general tax payers) at the moment of sale of new EEE to cover the cost of collection of WEEE from households, including the cost of running the collection facilities and associated awareness-raising campaigns on the management of WEEE. These financial resources shall be available only to operators legally obliged to collect WEEE.

Where such operators' costs are fully covered by the financial resources raised in accordance with the first subparagraph, those operators, whether municipalities or private collection points, shall hand over all the WEEE collected to producer responsibility schemes.

The financing of the collection of WEEE from households for removal to collection facilities shall not fall under the individual producer responsibility for financing provided for in paragraph 2.

Additional rules on the calculation methods regarding the costs of collection and collection facilities may be laid down by Member States.

2. For products placed on the market later than 13 August 2005, each producer shall be responsible for financing the operations referred to in paragraph 1 relating to the waste from his own products. The producer may choose to fulfil this obligation either individually or by joining a collective scheme. A producer may fulfil its obligation through either one, or a combination, of these methods. Collective schemes shall introduce differentiated fees for producers based on how easily products and the strategic raw materials they contain can be recycled.

Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed and shall ensure that producers clearly mark their products in accordance with Article 15(2). This guarantee shall ensure that the operations referred to in paragraph 1 relating to the product will be financed. The guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account. The financial guarantee in respect of the end of life of products shall be calculated to ensure the internalisation of the real end-of-life costs of a producer's product, taking into account treatment and recycling standards referred to in Article 8.

3. In order to make possible a harmonised approach to compliance with the financial guarantee requirements established in paragraph 2, the Commission shall, no later than ...*, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, establish the minimum requirements and methodology for calculating the level of these guarantees, and establish guidelines for verifying and auditing them.

Those minimum requirements shall ensure at least that:

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

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

- b) the costs related to a producer's obligation do not fall on other actors, and
- c) the guarantee will be present in the future and can be utilised to resolve the outstanding recycling obligations of a producer in the event of the latter's insolvency.
- 4. The responsibility for the financing of the costs of the management of WEEE from products placed on the market before 13 August 2005 (hereinafter 'historical waste') shall be provided by one or more systems to which all producers, existing on the market when the respective costs occur, contribute proportionately, e.g. in proportion to their respective share of the market by type of equipment.
- 5. Member States shall ensure that producers or third parties acting on their behalf report to them on the financing and costs of the systems for collection, treatment and disposal and on the efficiency of those systems on an annual basis.

Article 13 Financing in respect of WEEE from users other than private households

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

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

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

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

Article 14 *Collection schemes and* information for users

- 1. In order to raise users' awareness, Member States shall ensure that distributors 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 when supplying very small volume EEE;
- (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.

Member States shall also ensure that points (b) and (c) apply to distance sellers, that is, natural or legal persons who, by means of distance communication in accordance with Directive 97/7/EC, place, or make available, EEE on the market. The collection scheme put in place by distance sellers shall enable end-users to return very small volume WEEE without those users having to incur any charges, including delivery or postal charges.

No later than ...* the Commission shall adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, a definition of 'very small volume WEEE', taking into account the risk of such waste not being separately collected due to its very small size.

The obligations in this paragraph shall not apply to micro enterprises operating on a very small surface area. No later than ...* the Commission shall adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, for the purpose of this Directive, a definition of 'micro enterprises operating on a very small surface area'.

- 2. Member States shall ensure that users of EEE in private households are given the necessary information about:
- (a) the requirement not to dispose of WEEE as unsorted municipal waste and to collect such WEEE separately;
- (b) the return and collection systems available to them, encouraging the coordination of information serving to identify all available collection points, irrespective of the producers which have set them up;
- (c) their role in contributing to re-use, recycling and other forms of recovery of WEEE;
- (d) the potential effects on the environment and human health as a result of the presence of hazardous substances in EEE;
- (e) the meaning of the symbol shown in Annex V.
- 3. Member States shall adopt appropriate measures to promote the participation of consumers in the collection of WEEE and to encourage them to facilitate the process of reuse, treatment and recovery.

^{* 12} months after entry into force of this Directive.

- 4. With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark in accordance with European standard EN 50419¹ EEE placed on the market with the symbol shown in Annex V. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the EEE.
- 5. Member States may require that some or all of the information referred to in paragraphs 2 to 4 be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale, *or through public-awareness campaigns*.

Article 15 Information for treatment facilities

- 1. In order to facilitate *the use* and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, *re-use*, *preparation for re-use*, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide, *free of charge*, re-use and treatment information for each type of new EEE placed on the market within one year after the equipment is placed on the market. This information shall identify, as far as it is needed by re-use centres, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media, such as CD-ROM or online services.
- 2. Member States shall ensure that any producer of EEE placed on the market is clearly identifiable by a mark on the equipment. Furthermore, in order to enable the date upon which the equipment was placed on the market to be determined unequivocally, a mark on the equipment shall specify that the latter was placed on the market after 13 August 2005. European Standard EN 50419 shall be applied for this purpose.

Adopted by CENELEC in March 2006.

Article 16 Registration, information and reporting

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

That register shall serve to monitor compliance with the financing obligations under Articles 12 and 13.

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

The registers shall be inter-operational to exchange such information, including on quantities of EEE placed on the national market, *as well as information enabling* the transfer of money relating to the intra-Union transfers of products or WEEE.

- 3. Each Member State shall ensure that a producer that places EEE on its market but is not resident on its territory is able to appoint a local legal representative resident in that Member State to be responsible for its obligations under this Directive.
- 4. In order to ensure the smooth functioning of the registration, information and reporting system, the Commission shall adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, measures establishing the format for registration and reporting and the frequency of reporting. The format for registration and reporting shall include, at least, the following information:

- (a) the quantity of EEE placed on the national market;
- (b) the types of equipment;
- (c) the brands;
- (d) the categories;
- (e) the guarantee, where applicable.
- 5. It shall be possible for the register to be operated by collective producer responsibility schemes set up under Article 12(2).
- 6. Member States shall collect information, including substantiated estimates, on an annual basis on the quantities and categories of EEE placed on their markets, collected through all routes, re-used, recycled and recovered within the Member State, and on separately collected WEEE exported, by weight.
- 7. Member States shall send a report to the Commission on the implementation of this Directive and on the information set out in paragraph 5 at three-year intervals. The implementation report shall be drawn up on the basis of a questionnaire laid down in Commission Decision 2004/249/EC of 11 March 2004 concerning a questionnaire for Member States reports on the implementation of Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)¹ and Commission Decision 2005/369/EC of 3 May 2005 laying down rules for monitoring compliance of Member States and establishing data formats for the purposes of Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment². The report shall be made available to the Commission not later than nine months after the end of the three-year period covered by it.

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

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

OJ L 78, 16.3.2004, p. 56.

OJ L 119, 11.5.2005, p. 13.

Article 17 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.

Article 18 Adaptation to scientific and technical progress

In order to adapt Article 16(7) and the Annexes to scientific and technical progress, the Commission may adopt delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21.

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

Article 19 Exercise of the delegation

1. The power to adopt delegated acts referred to in Articles 7, 8, 10, 12, 14, 16, 18 and 23 shall be conferred on the Commission for an indeterminate period of time.

- 2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- 3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 20 and 21.

Article 20 Revocation of the delegation

- 1. The delegation of power referred to in Articles 7, 8, 10, 12, 14, 16, 18 and 23 may be revoked at any time by the European Parliament or by the Council.
- 2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.
- 3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Article 21 Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council that period shall be extended by two months.

2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and enter into force on the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to the delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 22 Penalties

The Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 24 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 23 Inspection and monitoring

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

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

- 2. Member States shall ensure that shipments of used EEE suspected of being WEEE are carried out in accordance with the minimum requirements in Annex II and shall monitor such shipments accordingly.
- 3. In order to ensure the proper functioning of inspections and monitoring, the Commission may adopt, by means of delegated acts in accordance with Article 19 and subject to the conditions of Articles 20 and 21, additional rules on inspections and monitoring \blacksquare .
- 4. Member States shall create a national register of acknowledged collection and treatment facilities. Only those facilities whose operators comply with the requirements set out in Article 8(3) shall be admitted to that national register. Member States shall make the contents of the register publicly available.
- 5. Facility operators shall submit annual proof of their compliance with this Directive to competent authorities, and shall submit reports to competent authorities in accordance with paragraphs 6 and 7 in order to maintain their status as acknowledged treatment facilities.
- 6. Operators of collection facilities shall submit reports annually to competent authorities to enable national authorities to compare the volume of collected WEEE with the volume of WEEE actually transferred to recovery or recycling facilities. WEEE shall be transferred exclusively to acknowledged recovery and treatment facilities.
- 7. Operators of treatment facilities shall submit reports annually to competent authorities to enable national authorities to compare the amount of WEEE taken back from owners or acknowledged collection facilities with the amount of WEEE actually recovered, recycled or, in accordance with Article 10, exported.
- 8. Member States shall ensure that WEEE is handed over exclusively to registered and acknowledged collection, recovery or recycling facilities.

Article 24 Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3, 5, 6, 7, 11, 14, 16, 22, 23 and Annex II by at the latest ...*. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 12(2) so that each producer finances only the operations relating to the waste from its own products placed on the market after 13 August 2005, and that the appropriate financial guarantees, as required by Article 12(2), are provided.

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

- 2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
- 3. Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 8(6), 14(2) and 15 by means of agreements between the competent authorities and the economic sectors concerned. Such agreements shall meet the following requirements:
- (a) agreements shall be enforceable;
- (b) agreements shall specify objectives with the corresponding deadlines;

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

- (c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;
- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall ensure that the progress reached under the agreement is examined;
- (f) in the event of non-compliance with the agreement, Member States must implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.
- 4. In addition to the re-examinations provided for in Articles 2 and 7, the Commission shall, by ...*, 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.

Article 25 Repeal

Directive 2002/96/EC as amended by the Directives listed in Part A of Annex VI is repealed with effect from ...**, except for Article 5(5) thereof, which is repealed with effect from 31 December 2011, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Part B of Annex VI. References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

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

^{** 18} months plus 1 day after the entry into force of this Directive.

Article 26 Entry into force

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

Article 27 Addressees

This Directive is addressed to the Member States.

Done at

For the European Parliament The President For the Council The President

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

- (1) Cooling appliances and radiators,
- (2) Screens and monitors,
- (3) Lamps,
- (4) Large appliances other than cooling appliances and radiators, screens and monitors and lamps. Large appliances are all those appliances which are not in principle movable or which are intended in principle to remain in their place of use for the duration of their service life,
- (5) Small appliances other than cooling appliances and radiators, screens and monitors and lamps and IT and telecommunication equipment. Small appliances are all those appliances which are in principle movable and which are not intended in principle to remain in their place of use for the duration of their service life,
- (6) Small IT and telecommunications equipment.

Non-exhaustive list of appliances that fall into the categories in Annex IA

<i>1</i> .	Cooling	appliances	and	radiators

- Refrigerators
- Freezers
- Appliances for the automatic dispensing or sale of cold products
- Air-conditioning appliances
- Oil-containing radiators and other heat-exchange devices using heat-transfer media other than water (e.g. heat pumps and dehumidifiers)

2. Screens and monitors

- Screens
- Television sets
- Digital picture frames
- Monitors

3. Lamps

- Straight fluorescent lamps
- Compact fluorescent lamps
- High-intensity discharge lamps, including pressure sodium lamps and metal halide lamps

- Low-pressure sodium lamps
- LED lamps

4. Large appliances

- Large appliances used for cooking and other processing of foods (e.g. hot plates, ovens, stoves, microwaves, fixed coffee machines)
- Extractor hoods
- Large machines for cleaning (e.g. washing machines, clothes dryers, dishwashers)
- Large heating appliances (e.g. large heat blowers, electric stoves, systems for heating marble and natural stone and other large appliances for heating rooms, beds and seating furniture)
- Large body-care appliances (e.g. solariums, saunas, massage chairs)
- Large IT and telecommunications appliances (e.g. mainframes, servers, fixed network installations and appliances, printers, copiers, coin-operated telephones)
- Large sports and leisure appliances (e.g. sports equipment with electrical or electronic components, slot machines)
- Large luminaires and other appliances for spreading or controlling light
- Large electrical and electronic industrial tools and machinery except largescale stationary industrial tools and non-road mobile machinery intended exclusively for professional users

- Large appliances for generating or transferring current (e.g. generators, transformers, uninterruptable power supplies (UPS), inverters)
- Large medical devices
- Large monitoring and control instruments
- Large measuring instruments and installations (e.g. scales, fixed machines)
- Large appliances for automated product sales or dispensing and for the automated provision of simple services (e.g. product dispensers, cash machines, machines for the return of empties, photo machines)

5. Small appliances

- Small appliances used for cooking and other processing of foods (e.g. toasters, hotplates, electric knives, immersion coils, chopping machines)
- Small cleaning appliances (e.g. vacuum cleaners, irons, etc.)
- Fans, air fresheners
- Small heating appliances (e.g. electric blankets)
- Clocks and watches and other time-measuring instruments
- Small body-care appliances (e.g. shaving equipment, toothbrushes, hairdryers, massage machines)
- Cameras

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

6. Small IT and telecommunications equipment

- Laptops
- Notebook computers
- Small IT and telecommunications appliances (e.g. PCs, printers, pocket calculators, telephones, mobile phones routers, radio equipment, baby phones, video projectors).

Minimum requirements for shipments of *used EEE*

- 1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member State authorities shall request the following to back up this claim:
 - a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is for direct re-use and fully functional;
 - b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 2;
 - c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC, and
 - d) sufficient packaging *and appropriate stacking of the load* to protect the shipped products from damage during transportation, loading and unloading.

Points (a) and (b) shall not apply if the used EEE is returned to the producer as a collective consignment of defective products under warranty and intended for reuse.

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

Step 1: Testing

- a) Functionality *must* be tested and hazardous substances *must* be evaluated. The tests *to* be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.
- b) Results of evaluation and testing must be recorded.

Step 2: Record

- a) The record must be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.
- b) The record shall contain the following information:
 - Name of item (Name of the equipment according to *Annex IB* and category according to *Annex IA*);
 - Identification Number of the item (type no.);
 - Year of Production (if available);
 - Name and address of the company responsible for evidence of functionality;
 - Result of tests as described in step 1;
 - Kind of tests performed.

- 3. In addition to the documents requested in point 1, every load (e. g. shipping container, lorry) of used EEE must be accompanied by a:
 - a) CMR document,
 - b) declaration of the liable person on its responsibility.
- 4. In the absence of *the* appropriate documentation required in points 1 and 3, *or of appropriate* packaging *or of appropriate stacking of the load*, *which it is the responsibility of the holder of an appliance intended for shipment to provide*, Member State authorities shall presume that an item is hazardous WEEE and presume that the load comprises an illegal shipment. In these circumstances the relevant competent authorities will be informed and the load will be dealt with in accordance with Articles 24 and 25 of the Regulation (EC) No 1013/2006.

Selective treatment for materials and components of WEEE referred to in Article 8(2)

- 1. As a minimum the following substances, preparations and components have to be removed from any separately collected WEEE:
 - polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)¹,
 - mercury containing components, such as switches or backlighting lamps,
 - batteries,
 - printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres,
 - toner cartridges, liquid and pasty, as well as colour toner,
 - plastic containing brominated flame retardants,
 - asbestos waste and components which contain asbestos,
 - cathode ray tubes,
 - chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC),
 - gas discharge lamps,

¹

- liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps,
- external electric cables,
- components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances¹,
- components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation²,
- electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume).

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

- 2. The following components of WEEE that is separately collected have to be treated as indicated:
 - cathode ray tubes: The fluorescent coating has to be removed,

OJ L 343, 13.12.1997, p. 19.

OJ L 159, 29.6.1996, p. 1.

- equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozonedepleting gases must be treated in accordance with Regulation (EC) No 1005/2009;
- gas discharge lamps: The mercury has to be removed.
- 3. Taking into account environmental considerations and the desirability of re-use and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound re-use and recycling of components or whole appliances is not hindered.

Technical requirements referred to in Article 8(3)

- 1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste¹):
 - impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,
 - weatherproof covering for appropriate areas.

2. Sites for treatment of WEEE:

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

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OJ L 182, 16.7.1999, p. 1.

Symbol for the marking of EEE

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



Part A

Repealed Directive with its successive amendments (referred to in Article 25)

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

Part B

List of time-limits for transposition into national law (referred to in Article 25)

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

Correlation table*

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

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^{*} The correlation table has not yet been changed to reflect Parliament's position. It will be updated once an agreement between Parliament and Council has been reached.

Article 4 Article 5(1) to (3) - Article 5(4) Article 5(5)	Article 4 Article 5(1) to (3) Article 6(1) Article 6(2)
- Article 6(1), first and second subparagraphs, and (3) Annex II (4)	Article 7 Article 8(1) Article 8(2), (3) and (4), first subparagraph and second subparagraph, first sentence Article 8(4), second subparagraph, second sentence
Article 6(1), third subparagraph Article 6(6)	Article 8(5) Article 8(6)
Article 6(0) Article 6(2)	Article 9 (1) and (2)
Article 6(4)	Article 9(3)
Article 6(5)	Article 10(1) and (2)
-	Article 10(3)
Article 7(1)	-
Article 7(2)	Article 11(1)
-	Article11(2)
Article 7(3), first subparagraph	Article 11(3)
Article 7(3), second subparagraph	-
Article 7(4)	-
Article 7(5)	Article 11(4)
Article 8(1)	Article 12(1)
Article 8(2), first and second subparagraphs	Article 12(2), first and second subparagraphs
Article 8(2), third subparagraph	-
Article 8(3) first subparagraph	Article 12(3), first subparagraph
Article 8(3) second subparagraph	-
Article 8(4)	-

Article 9(1), first subparagraph Article 9(1), second subparagraph Article 9(1), third subparagraph Article 9(1), fourth subparagraph Article 9(2) - Article 10(1) Article 10(2) Article 10(3) Article 10(4) Articles 11 - Article 12(1), first subparagraph	Article 13(1), first subparagraph Article 13(1), second subparagraph Article 13(1), third subparagraph Article 13(2) Article 14(1) Article 14(2) Article 14(3) Article 14(4) Article 14(5) Article 14(5) Article 15 Article 16(1) to (4) Article 16(5)
Article 12(1), first subparagraph Article 12(1), second, third and fourth	Afficie 10(3)
subparagraphs	-
Article 12(2)	Article 16(6)
Article 13	Article 18
Article 14	Article 19
Article 15	Article 22
Article 16	Article 23(1), first subparagraph
-	Article 23(1), second subparagraph
_	Article 23(2) and (3)
Article 17(1) to (3)	Article 24(1) to (3)
Article 17(4)	-
-	Article 25
Article 18	Article 26
Article 19	Article 27
Annex IA	-
Annex IB	-
-	Annex III
Annexes II to IV	Annexes IV to VI
-	Annex VII
-	Annex VIII