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Subject: Proposal for a Directive of the European Parliament and of the Council  
on waste electrical and electronic equipment (WEEE) – (recast)

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Delegations will find annexed a **DELETED** position paper on WEEE recast.

**DELETED** position based on doc. 9885/10

### Article 2, para 3 (Scope)

#### General remarks

If the exclusions from the scope can be defined clearly to avoid “grey zone areas” as far as possible, **DELETED** supports an open scope for the WEEE-directive. The open scope should help to get more legal certainty and make it clearer for all parties involved which equipment falls under the directive. Therefore it is necessary to formulate exclusions which are as precise and unambiguous as possible.

The scope has not necessarily to be broader than in the existing directive where equipment for military purposes, filament bulbs, certain medical devices and large scale stationary industrial tools, means of transport for persons and goods and -in our interpretation- fixed installations are already exempted. Also **photovoltaic panels** should still be exempted, but with a review clause.

#### New Text

**DELETED** generally welcomes the new text proposed by the Presidency.

- Regarding Art. 2 (3) (b) we are not sure that the new last part of the sentence (“ and can not be replaced by a standard equipment during the lifespan of that equipment”) formulates clearly enough, what is intended. Therefore **DELETED** would rather have it formulated more clearly (eventually along the line of the last sentence of Art. 3 (ab) and (ac) in Document 1262/10) or deleted.
- (ca): We can support the formulation of the exclusion (ca) large scale industrial stationary tools.
- (cb) For the formulation of the large scale industrial fixed installations we would suggest to delete “industrial” (and to narrow down the exclusion by taking on new elements in the definition of fixed installations), so (cb) should read:  
“(cb) large scale [...] fixed installations”

- (e) for the formulation of the exemption of medical devices we suggest to replace the term “infected” by “infective” , as only organisms can be infected.

- **DELETED** also proposes to exclude PV-Panels for the time being from the scope and add the following (f) to the exclusions:

**“(f) photovoltaic panels. By 1st January 20xx at the latest the Commission shall study the need to include photovoltaic panels in the scope of this directive.”**

- To exclude Means of transport, (g) should be added:

**“(g) means of transport for persons and goods .“**

## Rationale

- (cb): As far as **DELETED** understands it, and according to the FAQ of the Commission, **fixed installations** so far are not in the scope because they fall under the exemption of Art. 2 para 3 b. This general exception for fixed installations is now formulated explicitly in Art. 2, but refers only to “industrial” fixed installations. In our view, it now covers also non-industrial commercial fixed installations (like large cooling rooms or large kitchens in restaurants ) and fixed installations in hospitals, schools or public buildings. Therefore the limitation to only “industrial” appliances is in our opinion not justified.  
We welcome the addition of “large scale” as it clarifies the size of the installations that should be exempted.
- **(f): Photovoltaic panels** are also not in the scope of the existing directive and should for now stay exempted. The importance of this new technology to produce renewable energies for our future energy supply and their possible contribution to climate change should be taken into account. PV-modules make a significant contribution to achieve the renewable energy goals and the goal of reducing CO<sub>2</sub>-emissions. Therefore an explicit exclusion from the scope of WEEE is justified. Additionally, at the end of their lives they are deinstalled and recycled by professionals, so that usually it is taken care of the waste stream of photovoltaic panels and the contained hazardous substances in a proper way. This will be further ensured by the voluntary environmental agreement that the association PV-CYCLE prepares on the take back and recycling of photovoltaic modules. Once in force it will ensure that PV-modules at the end of their lives are deinstalled and recycled properly by professionals. However there should still be a possibility to take PV-Panels in the scope, in case the agreement does not have the expected effect or it is deemed necessary to cover PV-panels for other reasons. A definition should be included accordingly in Art. 3 (ad).

- **means of transport for persons and goods** like airplanes, ships, trains, trams, busses, cars, diggers... should also not be in the scope. As a result of the open scope, **Means of transport** that would also not be in the scope in a category based approach, therefore should be explicitly exempted.

### **Article 3 (Definitions)**

**DELETED** suggests the following amendments to the definitions proposed in the new text of Article 3:

#### (aa) Definition of EEE:

In the new (aa), the definition of “dependent”, the last word should be “function” not “functions”. The new formulation “at least one of“ should be deleted.

#### (ab) Large scale stationary industrial tools:

The definition should read as follows:

**“(ab) "large scale industrial stationary [...] tools" means an assembly of machines, equipment, and/or components, functioning together for a specific application, permanently [...] installed, deinstalled and disposed of properly by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility. It shall not mean electric or electronic components which may, during the lifespan of the tool concerned, be replaced from time to time and which can fulfil their function also not being a part of that equipment;...”**

#### Rationale

**DELETED** supports the definition in the new text, which is in line with the definition for RoHS. As in RoHS, **DELETED** would like to add the aspect of the “proper disposal by professionals”, as this is one of the reasons the exclusion of Large scale stationary industrial tools is justified. We would also like to have the words “or semi-permanently” deleted, as the meaning is not clear and it might be a loophole for industry to get not-stationary tools out of the scope.

(ac) Large scale fixed installations:

The definition should read as follows:

**“(ab) “large scale [...] fixed installation” means a particular combination of several types of apparatus and, where applicable, other devices, which are large scale and assembled, installed and intended to be used permanently at a predefined [...] location, [...] and which are deinstalled and disposed of properly by professionals. It shall not mean electrical and electronic components which may, during the lifespan of the installation concerned, be replaced from time to time and which can fulfil their function also not being a part of that equipment.”**

Rationale

(ab) **DELETED** welcomes the proposed text which is originally based on the existing definition of “fixed installation” in Directive 2004/108/EC on the approximation of the laws of the Member States relating to electromagnetic compatibility. For the reasons given above under Art. 2 para 3 (cb) we would like to delete the reference to “industrial”.

Furthermore the term **“and which are deinstalled and disposed of properly by professionals.”** should be added, as one of the reasons to exempt fixed installations is that they are installed, deinstalled and disposed of properly by professionals and therefore this waste stream is controlled. In any case the definition should be the same as for RoHS.

Photovoltaic panels:

**“(ad) “photovoltaic panels” are panels intended to be used in a system that is designed, assembled and professionally installed and maintained for permanent use at a predefined location to produce electricity for public, commercial or residential applications. Photovoltaic panels are professionally deinstalled and collected at end of life”**

## Rationale

(ad) Definition of “photovoltaic panels” shall ensure that only the big appliances are covered. Small electrical equipment that work with solar energy and which is already covered by the scope of the existing directive (like pocket calculators) shall not be excluded.

## **Article 7 (Collection target)**

Art. 7 should be amended as follows:

### *Article 7*

#### **Collection rate**

1. Without prejudice to Article 5(1), Member States shall ensure that producers or third parties acting on their behalf achieve a minimum collection rate of **50 % starting 2016 and 65 % starting 2020**. The collection rate is calculated on the basis of the total weight of WEEE collected in accordance with Articles 5 and 6 in a given year in that Member State, expressed as a percentage of the average weight of electrical and electronic equipment placed on the market in the [...] three preceding years in that Member State. This collection rate shall be achieved annually and starting with the reporting year 2016. Before that year, a rate of separate collection of at least four kilograms on average per inhabitant per year of WEEE from private households shall continue to apply.
  - 1a. To document achievement of the minimum collection rate, Member States shall ensure that information on the WEEE returned to collection facilities as referred to in Article 5 paragraph 2(a) and to distributors as referred to in Article 5 paragraph 2(b), as well as, where appropriate, separately collected by other operators as referred to in Article [...] 26 of Directive 2008/98/EC on waste, is notified to the Member States.
2. Transitional arrangement ....
3. A common methodology ...

4. By 31 December 2012 at the latest the European Parliament and the Council shall re-examine the collection rate of 50% and target date 2016 referred to in paragraph 1 also in view of setting [...] possible separate collection targets for [...] one or more categories set out in Annex IA as well as for cooling equipment and [...] mercury containing lamps .on the basis of a report of the Commission accompanied by a proposal, if appropriate. **By 31 December 2016 at the latest the European Parliament and the Council shall re-examine the collection rate of 65% and target date 2020.**

#### Rationale

Para (1): A collection rate of 65% starting 2016 is far too ambitious and not achievable. 50% starting 2016 and 65 % starting 2020 is still ambitious, but more realistic.

Para (1a): In **DELETED** only Producers, Municipalities, distributors and third parties acting on their behalf are allowed to collect WEEE, legally no “other channels” exist. Therefore the formulation “, **where applicable**, collected **through other channels**” should be used. As Art. 23 and 24 of Directive 2008/98/EC basically refer to establishments intending to carry out waste treatment, not necessarily collection. It seems in our view more appropriate to refer only to Art. 26 in which collection is explicitly mentioned.

Para (4): As the data basis for the collection rate is not really sufficient to predict the development of the market and the possible collection rates that can be achieved, a review should be done by the European Parliament and the Council in 2012 and 2016 and the collection rate adapted depending on the outcome of the revision.



## **Article 8 (Treatment)**

Paragraph 5: Insert the marked text

“5. For the purposes of environmental and health protection and the sustainable use of natural resources, 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. The Commission shall initiate the development of [...] such **minimum** standards for the collection, treatment, recycling and **recovery of WEEE, unless already covered by Directive 2008/1/EC.**”

### Rationale

Protection of health and sustainable use of resources are also aims of the directive and should be mentioned here. Standards for recovery should also be developed. As far as standards already exist in directive 2008/1/EC, double regulation should be avoided. The development of minimum standards should be based on best available techniques.

## **Article 12 (Financing)**

**DELETED** can support the new text for para 1a suggested by the Presidency:

“Member States, where appropriate, **may** encourage producers to finance all the cost occurring for collection facilities for WEEE from private households”.

## **Article 14 (Information for users)**

Delete Para 1.

## Rationale

The costs of collection, treatment and disposal should be internalised in the costs of the product. If the producer is allowed to disclose these costs separately it gives the impression that he has no influence on these costs and gives him not as much incentive to lower the costs as if they were internalised parts of his product costs. Furthermore, the costs may vary widely depending on the market situation and the consumer still gets no valid information on the “real” costs.

### **Article 16 (Registration, information and reporting)**

**DELETED** supports the wording of para 3 in the current council document. Even though details like procedure and technical details of the format can be decided in comitology and should be left to the TAC, to achieve the necessary harmonisation it is absolutely needed to single out the essential information in the text of the directive, that is

- \* Information on the category and type of equipment (necessary for the recycling targets in Article 11 and in some member states for the guarantee because of the different lifespan of different type of equipment).
- \* Indication of the trademark (necessary for efficient enforcement to identify free riders).
- \* Indication of the guarantee –where applicable- (is necessary according to article 12 para 2).

Therefore **DELETED** would insist on having “trademark” mentioned in para 3.