

Eurometaux comments on the Commission delegated Regulation implementing article 10 of the WEEE directive 2012/19/EU

Background

The purpose of the WEEE Directive is to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste from electrical and electronic equipment (WEEE) and by reducing overall impacts of resource use and improving the efficiency of such use in accordance with Articles 1 and 4 of Directive 2008/98/EC, thereby contributing to sustainable development.

The directive clearly aims at both protecting the environment and addressing resource use through recycling. These objectives are fully reflected in the recent Commission's Circular Economy which clarifies that the objective is not only to recycle more, but also to ensure quality treatment/recycling so as to recover as much valuable materials as possible including CRM.

Scope and aim of the directive and of article 10

The scope of the directive is WEEE discarded (article 3: "WEEE means electrical and electric equipment which is waste within the meaning of article 3(1) of Directive 2008/98/EC, including all components, sub-assemblies and consumables which are part of the product at the time of discarding").

The aim is to ensure proper treatment of the WEEE discarded including its components, such as printed circuit board. Article 8 provides reference for "proper treatment" and notably mentions that "producers or third parties acting on their behalf" need to use BAT and refers to technical requirements set out in Annex VIII. Annex VII mentions selective treatment for materials and components of WEEE referred to in article 8. And it lists a.o. printed circuit boards with a surface greater than 10 square cm, external electric cables.

Article 8(5) of the WEEE Directive requires the Commission to request that the European standardisation organisations develop European standards for the treatment, including recovery, recycling and preparing for re-use, of WEEE, reflecting the state of the art. These standards do not automatically provide a "presumption of conformity". However, the Commission may in the future adopt implementing acts laying down minimum quality standards based in particular on the standards developed by the European standardisation organisation.

Article 10.2 states that "WEEE exported out of the Union shall only count towards the fulfilment of obligations and targets set out in article 11 if, ... the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this Directive". It therefore refers to both the targets in article 11 and to article 8 which sets what "proper" treatment means. The targets relate to recovery and recycling. According to the WFD, "recycling" means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes". Hence the operation needs to deliver a product or substance that has a purpose.

The Waste Shipment Regulation is the basis determining the categories of WEEE that can be exported.

In our view, the above demonstrates that:

- The scope of the directive 2012/19/EU and of article 10 covers all categories of WEEE, including its components such as printed circuit boards or cables.
- Proper treatment covers both collection, preparation for recycling/recovery of material.
- The request to demonstrate equivalent conditions applies to all WEEE that are legally exported out of the EU.

Additionally, European Commission's mandate 518 given to European Standardisation Organisations including CEN confirms that it covers "recycling" as reflected in the work programme of the Working Group carrying out that mandate (TS 50625 "end processing of copper and precious metals bearing fractions").

Hence, the treatment standards should not only refer to pre-processing (treatment or pre-processing), but also to the recovery of the material that is end-processing.

We therefore recommend that the standards and other requirements listed in Annex I B of the Delegated Regulation includes end-processing standards and technical specifications under the work programme of Cenelec, and approved by the Commission, to ensure reference to equivalent conditions not only for pre-treatment but also for end-processing. The Technical Specification 550625-5 on end processing of copper and precious metal bearing fractions shall be included as soon as ready. Hence, we recommend that article 2 includes a provision for revision of the list.

Enforcement and compliance

Article 1 (a)

In order to fully enforce criteria on equivalent conditions, it is not acceptable to have any self- declaration be it for compliance with local legislation or for compliance with the conditions equivalent to the WEEE directive. **We recommend that Article 1 (a) shall be amended accordingly (see track change in annex).**

Article 1 (b) (i)

Similarly, it is absolutely necessary to have a third party audit at site to verify and certify compliance with the "equivalent conditions". Any other approach would open the door for uncompliant treatment and hence for un-level playing field conditions for facilities abiding by the law and ensuring proper treatment. **Article 1 (b) i shall be amended accordingly (delete "without excluding other options to demonstrate independence and aptitude").**

Article 1 (b) (ii)

The proof of compliance must be provided through the independent third party verification and certification to ensure that article 1 (b) ii is appropriately enforced and implemented. If not, it opens the door to any self-declaration of conformity. It shall be deleted, and request for proof of compliance should be linked to article 1 (b) i under third party audit and certification.

Equivalent conditions

The first requirement to ensure « equivalent conditions » is that the standards need to cover the same scope as the directive, which is not the case for R2 nor e-Stewards, which have a much narrower scope. The condition should be clearly required that the conformity can only be claimed if the full requirements of the WEEE Directive are met, including proper end processing. **A proper way to ensure due compliance would be to require certification and not just inspection.**

Eurometaux represents the European non-ferrous metals industry

- **The NF-metals industry is indispensable for modern society.** Thanks to their intrinsic properties – including durability and recyclability - non-ferrous metals are indispensable to meet essential societal needs and to build a low-carbon economy.
- **Non-ferrous metals contribute to the European - and global - creation of wealth and jobs:** they represent 2% of EU GDP and create **450,000 direct jobs and over 1 million indirect** jobs in Europe. Their use in high-tech and high added-value activities makes them very valuable to the EU's economy and competitiveness.
- **The NF-metals industry contributes to resource efficiency** by enhancing the in-use phase of products and also thanks to high recycling rates ranging between 30% and 95%, depending on the metals and their use. Primary and secondary raw materials are complementary, as secondary raw materials cannot on their own meet the growing needs of a sustainable economy.