

## **CORRESPONDENTS' GUIDELINES No 1**

### **Subject: Shipments of Waste Electrical and Electronic Equipment (WEEE) and of used Electrical and Electronic Equipment (EEE) suspected to be WEEE**

1. These correspondents' guidelines represent the common understanding of all Member States on how Regulation (EC) No 1013/2006 on shipments of waste (Waste Shipment Regulation – WSR, see Reference 1 in Appendix 5) should be interpreted. The guidelines were agreed by the correspondents through written procedure on 3 February 2017. These guidelines supersede the Revised Correspondents' guidelines No 1 that had been agreed by the correspondents at a meeting on 14/15 June 2007. The guidelines were revised taking into account the requirements pursuant to Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) (WEEE-Directive, see Reference 2 in Appendix 5) and the “Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention” adopted on an interim basis by Conference of the Parties to the Basel Convention at its twelfth meeting (Basel Convention guidelines, see Reference 3 in Appendix 5). They are not legally binding except where they refer to requirements pursuant to the WEEE-Directive. The binding interpretation of European Union law is the exclusive competence of the European Court of Justice. The guidelines apply from 3 April 2017 and should be reviewed at the latest five years from the above date and, if necessary, revised.

#### **1. Introduction**

2. These Correspondents' guidelines provide information for:

- (a) Persons arranging shipments of waste electrical and electronic equipment (WEEE);
- (b) Holders of electrical and electronic equipment (EEE), including components that are used to repair or refurbish EEE and have an independent function themselves<sup>1</sup>, arranging transboundary transports of this EEE who wish to avoid non-compliance with the WSR and the WEEE-Directive; and
- (c) Authorities responsible for the enforcement of the WSR and the WEEE-Directive.

3. For definitions of the terms used in the present guidelines, see Appendix 1 (glossary of terms).

4. The control procedures of the WSR that apply depend, in the first instance, on whether the material or equipment in question is waste as defined in Article 3(1) of Directive 2008/98/EC (Waste Framework Directive, see Reference 5 in Appendix 5), in national legislation or national interpretation. If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the subject matter is, in accordance with Article 28(1) WSR, to be treated as if it were waste.

5. Whether or not a substance is discarded as a waste, and when waste ceases to be waste is determined on a case by case basis and the interpretation of the law is ultimately a matter for the courts.

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<sup>1</sup> See point 3.6 of the Frequently asked questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE), see Reference 4 in Appendix 5.

6. If the material is a waste, the control procedures depend on whether the shipment of the waste has to be notified or not (see section 3) under the WSR, whether the waste is destined for recovery or disposal, and whether there are additional controls in the country of destination.

7. Prior to any transboundary transport of used EEE to non-OECD countries it is recommended that the holder of used EEE clarifies whether the intended transport is in conformity with the national legislation in the countries of transit and destination, for example because some non-OECD countries have introduced import restrictions for certain used EEE<sup>2</sup>.

## **2. Distinction between EEE and WEEE**

8. EEE becomes WEEE if its holder discards it, or intends or is required to discard it. To make this judgement it may be necessary to examine all circumstances including the history of an item on a case by case basis. However, there are characteristics of used EEE that are likely to indicate whether it is waste or not.

### **2.1 Situations where used EEE should normally be considered WEEE**

9. Without prejudice to paragraphs 11 and 12, used EEE should, in accordance with the Basel Convention guidelines, normally be considered **WEEE** if:

- (a) The EEE is destined for disposal or recycling, instead of root cause analysis or re-use, or its fate is uncertain;
- (b) The EEE is not complete - essential parts are missing and the EEE cannot perform its key functions;
- (c) The EEE shows a defect that materially affects its functionality and fails relevant functionality tests;
- (d) The EEE shows physical damage that impairs its functionality or safety, as defined in relevant standards, and cannot be repaired at a reasonable cost;
- (e) The protection against damage during transport, loading and unloading operations is inappropriate, e.g. the packaging or stacking of the load is insufficient;
- (f) The EEE is particularly worn or damaged or damaged in appearance and its appearance reduces its marketability;
- (g) The EEE has among its constituent part(s) hazardous components that are required to be disposed of under European or national legislation or are prohibited to be exported or prohibited for use in such equipment EEE under European Union or national legislation<sup>3</sup>;
- (h) There is no regular market for the EEE;
- (i) The EEE is destined for disassembly and cannibalization (to gain spare parts) or
- (j) The price paid for the items is significantly lower than would be expected from fully functional EEE for re-use.

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<sup>2</sup> See also paragraph 27 of the Basel Convention guidelines (see Reference 3 in Appendix 5).

<sup>3</sup> E.g. asbestos, PCBs, CFCs.

## 2.2 Situations where used EEE suspected to be WEEE should normally not be considered WEEE

10. Shipments of used EEE suspected to be WEEE must be carried out in accordance with the requirements contained in this section (see Article 23(2) of the WEEE-Directive). Member States authorities are required to apply the requirements of Annex VI to the WEEE-Directive only in cases where there is suspicion that a shipment of used EEE is a shipment of WEEE<sup>4</sup>.

### 2.2.1 General considerations

11. Where the holder of the object claims that he intends to ship or is shipping used EEE suspected to be WEEE and not WEEE, the holder must have available the following to substantiate this claim (see also Annex VI to the WEEE-Directive)<sup>5</sup>:

- (a) A **copy of the invoice and contract** relating to the sale and/or transfer of ownership of the EEE which states that the EEE is destined for **direct re-use and that it is fully functional**; in addition, documentation according to paragraph 16 must accompany the transport;
- (b) **Evidence of evaluation or testing**<sup>6</sup> 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 paragraph 15;
- (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 the Waste Framework Directive; in addition and in accordance with the Basel Convention guidelines, a declaration should be provided that none of the material or equipment within the consignment is defined as or considered to be waste in any country involved in the transport (countries of dispatch and destination and, if applicable, countries of transit<sup>7</sup>); and
- (d) Appropriate **protection against damage** during transportation, loading and unloading in particular through sufficient packaging<sup>8</sup> and appropriate stacking of the load; in addition and in accordance with the Basel Convention guidelines, each piece of EEE should be individually protected.

12. By way of derogation, paragraph 11(a) and (b) and paragraph 15 do not apply, where it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and that<sup>9</sup>:

- (a) The EEE is sent back to the producer or a third party acting on his behalf as defective for **repair under warranty** with the intention of re-use; or
- (b) The used EEE for professional use is sent to the producer or a third party acting on his behalf or a third-party facility<sup>10</sup> in countries to which Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of

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<sup>4</sup> See point 10.1 of the Frequently asked questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE), see Reference 4 in Appendix 5.

<sup>5</sup> For shipments under this paragraph, the paragraphs 11, 15-18, 22 and 23 apply.

<sup>6</sup> Testing of used EEE should be performed before shipment in the country of dispatch/export.

<sup>7</sup> For transport within the EU, a declaration in relation to the country of transit is not necessary. For transport involving non-EU Member States as transit countries, Art. 6.5 (c) of the Basel Convention (see Reference 6 in Appendix 5) may apply.

<sup>8</sup> See, where appropriate, the packaging requirements in accordance with the UN Recommendations on the Transport of Dangerous Goods.

<sup>9</sup> For shipments under this paragraph, the paragraphs 12-14 and 19-23 apply.

<sup>10</sup> A third-party facility is independent from a producer or a person acting on behalf of the producer.

transboundary movements of wastes destined for recovery operations applies, for **refurbishment or repair** under a valid contract with the intention of re-use; or

- (c) The defective used EEE for professional use, such as medical devices or their parts, is sent to the producer or a third party acting on his behalf for **root cause analysis** under a valid contract, in cases where such an analysis can only be conducted by the producer or third parties acting on his behalf.

13. In addition to paragraph 12, documentation according to paragraph 19 must accompany the transport, and, taking into account the Basel Convention guidelines, a valid **contract**<sup>11</sup> between the holder who arranges the transport and the legal representative of the facility where the EEE is to be repaired under warranty, refurbished or repaired, or undergo root cause analysis should be in place. The contract should contain a minimum set of provisions, including the following:

- (a) The intention of the transboundary transport (repair under warranty, refurbishment or repair, root cause analysis);
- (b) Provisions on adherence to the principles of environmentally sound management for the treatment of any residual hazardous waste generated through the root cause analysis, repair or refurbishment activities;
- (c) A provision stating the responsibility of the holder who arranges the transport to comply with applicable national and EU legislation (inter alia the WSR) and international rules, standards and Basel Convention guidelines. To ensure such compliance, the provisions contained in the subparagraphs (d) and (e) immediately below should be included;
- (d) A provision allocating responsibility to specific persons throughout the whole process, from dispatch until the EEE is either analyzed or repaired or refurbished to be fully functional, including cases where the EEE is not accepted by the facility and has to be taken back;
- (e) A provision requiring the facility to provide the holder who arranged the transport a feedback report on the root cause analysis, repair or refurbishment activities that were performed on the EEE and on the management of any residual hazardous waste that may have been generated from such activities. If appropriate the contract may include the possibility of a review of the report by the holder who arranged the transport, or by a third party.

14. Furthermore, if the repair under warranty, repair or refurbishment, or root cause analysis is to be performed by a third party acting on behalf of the producer, a contract between the producer and the third party acting on his behalf should be in place.

#### 2.2.2 Evaluation and testing of used EEE destined for direct re-use<sup>12</sup>

15. In order to demonstrate that the items being shipped constitute used EEE rather than WEEE, the following steps for testing and record keeping for used EEE are required (see also Annex VI to the WEEE-Directive):

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<sup>11</sup> Or equivalent document in cases where there is no change of ownership of the EEE.

<sup>12</sup> Relevant only in the context of paragraph 11 above.

### **Step 1: Testing**

- (a) Functionality must be tested and the presence of hazardous substances<sup>13</sup> must be evaluated<sup>14, 15</sup>. 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.
- (c) In addition and in accordance with the Basel Convention guidelines, the testing should be conducted by a qualified, certified or trained technician.

### **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 EEE.
- (b) The record must contain the following information:
  - (i) Name of item (name of the EEE if listed in Annex II or Annex IV to the WEEE Directive, as appropriate, and category set out in Annex I or Annex III to the WEEE Directive, as appropriate);
  - (ii) Identification number of the item (type No) where applicable;
  - (iii) Year of production (if available);
  - (iv) Name and address of the company responsible for evidence of functionality;
  - (v) Result of tests as described in step 1 (in accordance with the Basel Convention guidelines, this includes e.g. naming of defective parts and defects or indication of full functionality) including date of the functionality test;
  - (vi) Kind of tests performed.
- (c) In addition and in accordance with the Basel Convention guidelines, the record should contain the following information:
  - (i) Name of the producer, if available;
  - (ii) Signed declaration by the company responsible for evidence of functionality.

#### 2.2.3 Documentation

16. The documentation accompanying the transport of **used EEE falling under paragraph 11** must contain the following information:

- (a) The documentation<sup>16</sup> requested in paragraph 11;
- (b) The record according to paragraph 15; and
- (c) The documentation according to paragraph 22.

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<sup>13</sup> E.g. asbestos, PCB, CFC. Remark: For certain hazardous substances, restrictions according to the RoHS-Directive (see Reference 7 in Appendix 5) apply.

<sup>14</sup> According to the Basel Convention guidelines, the completion of a visual inspection without testing functionality is unlikely to be sufficient.

<sup>15</sup> The presence of hazardous substances may be evaluated inter alia by making reference to available product information.

<sup>16</sup> According to national legislation, some Member States require the contract, a copy thereof, or, in cases where there is no change of ownership of the EEE, an equivalent document to accompany the transport.

17. In addition and in accordance with the Basel Convention guidelines, the documentation should include a declaration signed by the holder that indicates that the used EEE has been tested and is destined for direct re-use and fully functional as well as information on the further user or, where this is not possible, the retailer or distributor.

18. Taking into account a form contained in the Basel Convention guidelines, the form in Appendix 3 should be used for the documentation according to paragraphs 16(a) and 17.

19. The documentation accompanying the transport of **used EEE falling under paragraph 12** must contain the following information:

- (a) The documentation requested in paragraph 12<sup>16</sup>. In addition, the documentation should, if applicable, contain a signed declaration by the holder who arranges the transport of the EEE affirming the existence of a contract according to paragraph 14<sup>16</sup>.
- (b) The documentation according to paragraph 22.

20. In addition and in accordance with the Basel Convention guidelines, the documentation should contain the following information<sup>17</sup>:

- (a) Name (including contact details) of the holder who arranges the transport and of the receiving facility;
- (b) Description of the EEE (e.g. name);
- (c) Quantity of EEE;
- (d) Purpose of the transboundary transport (e.g. root cause analysis, repair, refurbishment);
- (e) Start date of the transport;
- (f) Countries concerned;
- (g) Signed declaration by the holder who arranges the transport of the EEE affirming the existence of a contract according to paragraph 13 and that this person will provide additional information to authorities upon request, and declarations according to paragraph 11(c).

21. Taking into account a form contained in the Basel Convention guidelines, the form in Appendix 4 should be used for the documentation according to paragraphs 19(a) and 20.

22. Every load (e.g. shipping container, lorry) of used EEE<sup>18</sup> must be accompanied by

- a) A relevant transport document, e.g. CMR<sup>19</sup> or waybill;
- b) A declaration by the liable person on its responsibility<sup>20</sup>.

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<sup>17</sup> Insofar the information (except for subparagraph (c)) is identical for all EEE in the same transport, the information may be provided covering all EEE in a transport.

<sup>18</sup> This paragraph is relevant in the context of paragraphs 11 and 12 above.

<sup>19</sup> Document containing the information according to the Convention on the Contract for the International Carriage of Goods by Road (CMR Convention).

<sup>20</sup> The liable person is the one who has arranged the shipment. The purpose of this declaration is to identify the natural or legal person taking responsibility for the shipment with regard to the requirements in Annex VI of the WEEE-Directive.

23. In addition and in accordance with the Basel Convention guidelines<sup>21</sup>,
- (a) The receiving facility should, upon receipt of the transport, provide a signed declaration of receipt.
  - (b) The holder who arranges the transport should retain the documentation referred to in this section for a period of one year following the date a transboundary transport commences.

### **3. Shipments of WEEE**

24. Shipments of WEEE are regulated by the WSR. In certain circumstances the WSR provides for shipments of waste to be subject to additional controls under the national legislation of Member States (see Reference 8 in Appendix 5) or other countries of import; for example there may be a prohibition on shipments of waste destined for disposal in certain Member States or other countries of import.

#### **3.1 Shipments of WEEE destined for recovery**

##### **3.1.1 Shipments within the EU**

25. Shipments within the EU may be subject to either the procedure of prior written notification and consent referred to in the WSR or they may be subject to general information requirements (see Art. 18 of the WSR). The applicable controls are determined by the classification of the WEEE in question in the relevant lists of waste annexed to the WSR. The WSR lists of waste differ from those in the European List of Waste (see Reference 9 in Appendix 5) in respect of shipments within the European Union. A precautionary approach should be taken to the classification of WEEE. If it is not clear that the WEEE in question is covered by an entry in Annex III (“Green” listed waste), IIIA or IIIB of WSR, the shipment should be notified.

##### **3.1.2 Exports from the EU**

26. The controls that apply depend on the classification of the waste (‘hazardous’ – ‘non-hazardous’ (see [Appendix 2](#)) and the provisions applicable to the country of destination<sup>22</sup>. Exports of hazardous waste for recovery to countries to which the OECD<sup>23</sup>-Decision C 2001 (107) final does not apply are prohibited<sup>24</sup>. Again, the lists that determine the levels of control are as annexed to the WSR and reference is made to the European List of Waste for exports to countries to which the OECD Decision C 2001 (107) final does not apply under specific circumstances as set out in the WSR<sup>25</sup>.

##### **3.1.3 Imports into the EU**

27. In principle, imports from outside the EU destined for recovery are allowed, unless the country of dispatch is not a Party to the Basel Convention (except where the country is a country to which the OECD Decision applies). The classification of the waste (see [Appendix 2](#)) determines whether the procedure of prior written notification and consent referred to in the WSR or general information requirements (see Art. 18 of the WSR for waste listed in Annex III, IIIA and IIIB) apply for such shipments.

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<sup>21</sup> This paragraph is relevant in the context of paragraphs 11 and 12 above.

<sup>22</sup> See Commission Regulation (EC) No 1418/2007 (see Reference 10 in Appendix 5).

<sup>23</sup> Organisation for Economic Co-operation and Development

<sup>24</sup> See Art. 36 and Annex V of the WSR.

<sup>25</sup> Exports of outdated refrigeration and other EEE (air conditioning systems etc.) containing or relying on controlled substances, e.g. CFCs, HFCs and HCFCs, to third countries are prohibited pursuant to Regulation (EC) No. 1005/2009 on ozone depleting substances (see Reference 11 in Appendix 5).

## **3.2 Shipments of WEEE destined for disposal**

### 3.2.1 Shipments within the EU

28. All such shipments of waste within the EU are subject to the procedure of prior written notification and consent referred to in the WSR. Member States may generally prohibit shipments of waste to or from other Member States for disposal and enquiries should be made by the relevant competent authorities to establish if the planned shipment for disposal is allowed under national legislation.

### 3.2.2 Exports from the EU

29. All exports from the EU destined for disposal are prohibited (except waste shipments to EFTA states being Parties to the Basel Convention).

### 3.2.3 Imports into the EU

30. In principle, imports from outside the EU destined for disposal are allowed, unless the country of dispatch is not a Party to the Basel Convention. However, EU Member States may prohibit such imports where they consider that there are sound environmental reasons for doing so. All imports for disposal are subject to the procedure of prior written notification and consent referred to in the WSR.

## **4. Controls**

### **4.1 Controls of shipments of used EEE suspected to be WEEE**

31. Inspections are undertaken by Member State authorities (e.g. police, customs, and inspectors) at facilities and during the transport (see Article 23 of the WEEE-Directive and Article 50 of the WSR).

32. Those persons shipping used EEE suspected to be WEEE must ensure that the EEE is accompanied by the documentation according to paragraphs 16, 19 and 22, and that it is appropriately protected against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load in order to demonstrate that the items concerned are not WEEE. Those persons shipping used EEE should also ensure that the EEE is accompanied by the documentation according to paragraphs 17, 18, 20 and 21.

33. In the absence of proof that an object is used EEE and not WEEE through appropriate documentation required in paragraphs 16, 19 and 22 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load which are the obligations of the holder who arranges the transport, Member State authorities must consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of the WSR.

### **4.2 Controls of shipments of WEEE**

34. In order to ascertain whether a shipment of waste complies with the WSR, the authorities involved in inspections may, pursuant to the first subparagraph of Article 50 (4c) of the WSR, require the notifier, the person who arranges the shipment, the holder, the carrier, the consignee and the facility that receives the waste to submit relevant documentary evidence to them within a period specified by them. In order to ascertain whether a shipment of waste falling under the general information requirements of Article 18 is destined for recovery operations which are in accordance with Article 49 of the WSR, the authorities involved in inspections may, pursuant to the second subparagraph of Article 50 (4c) of the WSR, require the person who arranges the



shipment to submit relevant documentary evidence provided by the interim and non-interim recovery facility and, if necessary, approved by the competent authority of destination. Where the evidence referred to in this paragraph has not been submitted to the authorities involved in inspections within the period specified by them, or they consider the evidence and information available to them to be insufficient to reach a conclusion, the shipment concerned must, pursuant to Article 50 (4d) of the WSR, be considered as an illegal shipment.

35. Those responsible for the shipment may have to take back the waste to the country of dispatch at their own expense and may be liable to a criminal sanction.

### **4.3 Health and safety issues**

36. Health and safety issues and potential risks for persons carrying out inspections are important for any inspection of transports of used EEE or WEEE. Enforcement officers should have specific training before doing such inspections. Particular care should be applied when opening containers. In particular, if the transport consists of waste, the items may not have been stacked in a stable way and items may fall out of the container when it is opened for inspection. The load may also contain hazardous substances that could be released when inspecting the load.

## Glossary of terms

<b>Terminology</b>	<b>Definition</b>
<b>Component</b>	Element with electrical or electronic functionality designed to be connected together with other components, including by soldering to a printed circuit board, to create an electric or electronic circuit with a particular function (for example, as an amplifier, radio receiver, monitor, hard-drive, motherboard or battery). See Basel Convention guidelines.
<b>Direct re-use</b>	The using again of fully functional EEE that is not waste for the same purpose for which it was conceived without the necessity of repair or refurbishment. See Basel Convention guidelines.
<b>Disposal</b>	Any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex I of the Waste Framework Directive sets out a non-exhaustive list of disposal operations. See Article 3(19) of the Waste Framework Directive.
<b>Distributor</b>	Any natural or legal person in the supply chain, who makes an EEE available on the market. This definition does not prevent a distributor from being, at the same time, a producer within the meaning of Article 3(1)(f) of the WEEE-Directive. See Article 3(1)(g) of the WEEE-Directive.
<b>Electrical and electronic equipment (EEE)</b>	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 and designed for use with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current. See Article 3(1)(a) of the WEEE-Directive. This includes components that are used to repair or refurbish EEE and have an independent function themselves; cf. point 3.6 of the Frequently asked questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE).
<b>EEE for professional use</b>	EEE that is designed to be used solely by professional users. EEE that is likely to be used by private households, or by private households as well as by professional users is not EEE for professional use. Cf. Article 3(1)(h) of the WEEE-Directive.
<b>Environmentally sound management</b>	Taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste. See Art. 2(8) of the WSR.
<b>Fully functional</b>	EEE is fully functional if it has been tested and demonstrated to be capable of performing the key functions that it was designed to perform. See Basel Convention guidelines.
<b>Key function</b>	The essential function of a unit of EEE that will satisfactorily enable the EEE to be used as originally intended. See Basel Convention guidelines.
<b>Medical device</b>	A medical device or accessory within the meaning of, respectively, point (a) or (b) of Article 1(2) of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices which is EEE. See Article 3(1)(m) of the WEEE-Directive.
<b>Non-waste</b>	A substance or object that does not meet the definition of “waste”.
<b>Recycling</b>	Any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not

	include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations. See Article 3(17) of the Waste Framework Directive.
<b>Recovery</b>	Any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II of the Waste Framework Directive sets out a non-exhaustive list of recovery operations. See Article 3(15) of the Waste Framework Directive.
<b>Refurbishment</b>	Modification of used EEE to increase or restore its performance and/or functionality or to meet applicable technical standards or regulatory requirements, with the result of making it a fully functional product to be used for a purpose that is at least the one for which it was originally intended, including through such activities as cleaning and data sanitization. See Basel Convention guidelines.
<b>Repair</b>	Fixing a specified fault in used EEE that is a waste or a product and/or replacing defective components of EEE in order to make the EEE a fully functional product to be used for its originally intended purpose. See Basel Convention guidelines.
<b>Re-use</b>	Any operation by which products or components that are not waste are used again for the same purpose for which they were conceived. See Article 3(13) of the Waste Framework Directive.
<b>Root cause analysis</b>	A particular kind of failure analysis. Failure analysis means tests performed by the original manufacturer or a party on his/her behalf, collecting and analysing data to determine the cause of a failure. See Basel Convention guidelines.
<b>Warranty</b>	Either an obligation under national legislation of producers towards consumers for the lack of conformity of EEE on the sale of consumer goods, or any written agreement by a seller or producer to repair or replace EEE if it does not meet the specifications set out in the guarantee statement or in the relevant advertising. Warranties include, for instance, the legal and consumer guarantees under Directive 1999/44/EC as well as warranties provided by manufacturers and sellers in relation to business to business transactions involving EEE. The term also covers additional contractual undertakings, e.g. extended warranties, or obligations undertaken in the context of sales, service, maintenance and repair agreements. See point 11.3 of the Frequently Asked Questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE), see Reference 4 in Appendix 5.
<b>Waste</b>	Any substance or object which the holder discards or intends or is required to discard. See Article 3(1) of the Waste Framework Directive.
<b>Waste electrical and electronic equipment (WEEE)</b>	Electrical or electronic equipment which is waste within the meaning of Article 3(1) of the Waste Framework Directive, including all components, sub-assemblies and consumables which are part of the product at the time of discarding. See Article 3(1)(e) of the WEEE-Directive.

### Classification of waste destined for recovery

1. The approach to classification of waste under the WSR is partly governed by whether the waste is destined for a Member State of the EU, a country to which the OECD Decision applies (for OECD member countries, see Reference 12 in Appendix 5) or a country to which the OECD Decision does not apply.

2. Section A details the classification process for shipments to Member States of the EU and countries to which the OECD Decision applies. Section B details the two stage classification process that applies to exports to countries to which the OECD Decision does not apply; firstly to determine whether or not the export is potentially permitted (Stage 1) and, secondly, if potentially permitted, to determine the controls applicable to the export (Stage 2). Concerning the classification of WEEE according to Annex IV part I note (c) of the WSR, it is also referred to Correspondents' guidelines No 4 (see Reference 13 in Appendix 5).

#### **A. Shipments within the EU and from the EU to countries to which the OECD Decision applies**

3. Annexes III, IIIA, IIIB, IV and IVA to the WSR provide waste lists to be used for the classification of waste destined for recovery<sup>1</sup>. These annexes are referred to as:

- (a) The 'green' list (Annex III) containing wastes subject to the general information requirements laid down in Article 18 of the WSR;
- (b) Mixtures of 'green'-listed wastes (Annex IIIA) containing wastes subject to the general information requirements laid down in Article 18 WSR;
- (c) Additional 'green'-listed wastes for shipments within the EU (Annex IIIB) containing wastes subject to the general information requirements laid down in Article 18 WSR;
- (d) The 'amber' list (Annex IV) containing wastes subject to the procedure of prior written notification and consent; and
- (e) Wastes listed in Annex III but subject to the procedure of prior written notification and consent (Annex IVA).

4. Box 1 lists the main categories relating to WEEE that should be considered when attempting to categorise WEEE that has not been subject to any sort of processing prior to shipment<sup>2</sup>. In cases of doubt the competent authority of dispatch should be consulted. Processed fractions of WEEE may fall within other categories contained in the Annexes to the WSR.

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<sup>1</sup> Wastes listed in Annex III and IIIB and mixtures of waste listed in Annex IIIA that are contaminated by other materials may be classified as waste subject to the procedure of prior written notification and consent. Wastes that do not feature in any of the lists are regarded as unlisted and are wastes subject to the procedure of prior written notification and consent.

<sup>2</sup> See also paragraphs 46 and 47 of the Basel Convention guidelines.

## Box 1 Categories relating to WEEE in the Waste Shipment Regulation

### Annex III

**GC010** Electrical assemblies consisting only of metals or alloys

**GC020** Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery

### Annex IV

**A1010** Metal wastes and waste consisting of alloys of any of the following:

- Mercury

**A1020** Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds

- Beryllium; beryllium compounds

- Selenium; selenium compounds

**A1030** Waste having as constituents or contaminants any of the following:

- Arsenic; arsenic compounds

- Mercury; mercury compounds

- Thallium; Thallium compounds

**A1160** Waste lead-acid batteries, whole or crushed

**A1170** Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous<sup>\*\*)</sup>

**A1180** Waste electrical and electronic assemblies or scrap<sup>\*)</sup> containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B, B1110)<sup>\*)</sup>

**A2010** Glass waste from cathode-ray tubes and other activated glasses

**A2050** Waste asbestos (dust and fibres)

**AC150** Chlorofluorocarbons

**A3180** Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more<sup>\*)</sup>

**A4060** Waste oil/water, hydrocarbons/water mixtures, emulsions<sup>3</sup>

### Waste not listed (Art. 3(1)(b) of the WSR)

- WEEE, or parts of WEEE, not listed elsewhere

<sup>\*)</sup> This entry does not include scrap assemblies from electric power generation.

<sup>\*\*)</sup> In some EU Member States also other batteries than those containing lead, mercury or cadmium are classified as hazardous waste.

<sup>\*)</sup> PCBs are at a concentration level of 50 mg/kg or more.  
The national legislation on the determination of PCBs must be taken into consideration (e.g. 6 or 7 PCB-congeners; sometimes multiplication of the sum of these congeners with factor 5 is required), especially considering results of analyses carried out in non-EU countries or compliance with limit values required in non-EU-countries.

<sup>\*)</sup> The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g. 20 mg/kg) for specific wastes.

<sup>3</sup> This waste may result from oil radiators.

**B. Exports to countries to which the OECD Decision does not apply (application of the export prohibition)**

5. For the classification of WEEE, Annex V to the WSR or the competent authority should be consulted. Box 2 lists the main categories relating to WEEE in Part 1 of Annex V. There is a two stage process to be completed before waste may be exported to countries to which the OECD Decision does not apply.

**Box 2 Categories in Part 1 of Annex V relating to WEEE**

**Part 1 List A (prohibited for export)**

See Box 1 under Annex IV

**Part 1 List B (potentially permitted for export)**

**B1040** Scrap assemblies from electronic power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous

**B1070** Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics

**B1090** Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury

**B1110** Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap <sup>□)</sup> (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A, A1180)
- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct re-use <sup>\*)</sup> and not for recycling or final disposal <sup>•)</sup>

<sup>□)</sup> This entry does not include scrap from electrical power generation.

<sup>\*)</sup> Re-use can include repair, refurbishment or upgrading, but not major re-assembly.

<sup>•)</sup> In some countries these materials destined for direct re-use are not considered wastes.

**Stage 1**

6. Annex V to the WSR lists the wastes which fall under the prohibition of exports of hazardous wastes to countries to which the OECD Decision does not apply. This stage determines only whether a proposed export to a country to which the OECD Decision does not apply is prohibited or potentially permitted.

7. Annex V has three parts:

- (a) Part 1 is divided into List A and List B. If a waste is listed on List A, then its export to countries to which the OECD Decision does not apply is prohibited;
- (b) If a waste is on List B, its export to countries to which the OECD Decision does not apply is potentially permitted. If a waste on List B is being classified as hazardous by reference to EU criteria in a Member State in accordance with Article 36(4) and (5) of the WSR, the export of this waste to a country to which the OECD decision does not apply is prohibited;

(c) Parts 2 and 3 of Annex V apply only if a waste does not appear in either List A or List B of Part 1. If a waste is identified as hazardous in Part 2 of Annex V (by being marked by an asterisk) or is listed in Part 3 of Annex V then its export to countries to which the OECD Decision does not apply is prohibited. If a waste is not marked with an asterisk in Part 2 of Annex V then its export to countries to which the OECD Decision does not apply is potentially permitted. If a waste does not appear on the lists in either Part 2 or 3 to Annex V, then its export to countries to which the OECD Decision does not apply is potentially permitted and subject to the procedure of prior written notification and consent.

8. In **summary**, waste may potentially be exported to countries to which the OECD Decision does not apply if:

- (a) It appears on Part 1, List B; or
- (b) If not listed on List B, its export is not otherwise prohibited by virtue of its listing in Annex V, provided that, in both cases, an export prohibition in the Member State of dispatch does not apply by virtue of the waste being exceptionally classified as hazardous by reference to EU criteria in accordance with Article 36(4) and (5) of the WSR.

## Stage 2

9. This stage covers exports of waste not subject to the export prohibition to countries to which the OECD Decision does not apply. This stage only needs to be considered if Stage 1 indicates that the waste export is potentially permitted.

10. If the waste is not described by any entry in Annex III, its export is subject to the procedure of prior written notification and consent referred to in the WSR.

11. For waste listed in Annex III or IIIA, the specific requirements will depend on the waste category and country of destination. The specific requirements for each country are listed in Commission Regulation (EC) No. 1418/2007.

12. The competent authority may be consulted in cases of uncertainty. However, Box 1 lists those entries most likely to be relevant.

13. Each country has, according to the second subparagraph of Article 37(1) of the WSR, the following options:

- (a) A prohibition of the import of a particular waste;
- (b) A procedure of prior written notification and consent as described in Article 35 of the WSR;  
or
- (c) No control in the country of destination<sup>4</sup>.

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<sup>4</sup> However, if appropriate, national requirements laid down in the country of destination (e.g pre-inspection requirements) may apply, see also column d in the Annex to Commission Regulation (EC) No 1418/2007 (see Reference 10 in Appendix 5).

**Information accompanying transboundary transports of used electrical and electronic equipment (EEE) falling under paragraph 11, including on recording the results of evaluation and testing of used EEE**

<b>1. Holder who arranges the transport (responsible for testing):</b> Name: Address: Contact person: Tel: E-mail:		<b>2. Company responsible for evidence of functionality (if different than holder who arranges for the transport):</b> Name: Address: Contact person: Tel: E-mail:		<b>3. User or retailer or distributor:</b> Name: Address: Contact person: Tel: E-mail:	
<b>4. Declaration:</b> I, the person who conducted the evaluation and testing, declare that the results of evaluation and testing are complete and correct, to the best of my knowledge.  Name: _____ Date: _____ Signature: _____  I, the holder who arranges the transport of the EEE listed below, hereby declare that prior to dispatch the used EEE listed below was tested and is fully functional. <sup>1</sup> I confirm that this EEE is not defined as or considered to be waste in any of the countries involved in the transport and is destined for direct re-use <sup>2</sup> and not for recovery or disposal operations. I declare that an invoice and contract relating to the sale and/or transfer of ownership of the EEE is in place.  Name: _____ Date: _____ Signature: _____					
5. Name of the item <sup>3</sup>	6. Name of the producer (if available)	7. Identification number (type No.) (if applicable)	8. Year of production (if available)	9. Date of functionality testing	10. Kind of tests performed and results of test (e.g. indication of full functionality or indication of defective parts and defect) <sup>4</sup>

<sup>1</sup> EEE is “fully functional” if it has been tested and demonstrated to be capable of performing the key functions it was designed to perform.

<sup>2</sup> The using again of fully functional EEE that is not waste for the same purpose for which it was conceived without the necessity of repair or refurbishment.

<sup>3</sup> List the EEE for which the information in the boxes 1 to 3 is the same and that is intended to be moved together and identify the names of the EEE if listed in Annex II or Annex IV to the WEEE Directive, as appropriate, and category set out in Annex I or Annex III to the WEEE Directive, as appropriate.

<sup>4</sup> Attach details in accordance with paragraph 15 where appropriate.





References<sup>1</sup>

1. Regulation (EC) No 1013/2006 of the European Parliament and the Council of 14 June 2006 on shipments of waste (**Waste Shipment Regulation - WSR**)  
<http://ec.europa.eu/environment/waste/shipments/index.htm>
2. Directive 2012/19/EU on waste electrical and electronic equipment (**WEEE-Directive**)  
[http://ec.europa.eu/environment/waste/weee\\_index.htm](http://ec.europa.eu/environment/waste/weee_index.htm)
3. Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention (**Basel Convention guidelines**) - Document UNEP/CHW.12/5/Add.1/Rev.1  
<http://www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>
4. Frequently asked questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE)  
<http://ec.europa.eu/environment/waste/weee/pdf/faq.pdf>
5. Directive 2008/98/EC on waste and repealing certain Directives (**Waste Framework Directive**)  
<http://ec.europa.eu/environment/waste/framework/> and  
<http://ec.europa.eu/environment/waste/legislation/a.htm>
6. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (**Basel Convention**)  
<http://www.basel.int>
7. Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (**RoHS-Directive**)  
[http://ec.europa.eu/environment/waste/rohs\\_eee/index\\_en.htm](http://ec.europa.eu/environment/waste/rohs_eee/index_en.htm)
8. EU Member States: [http://europa.eu/abc/european\\_countries/index\\_en.htm](http://europa.eu/abc/european_countries/index_en.htm)
9. Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC (**European List of Waste**)  
<http://ec.europa.eu/environment/waste/framework/list.htm> and  
<http://ec.europa.eu/environment/waste/legislation/a.htm>
10. Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 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 apply  
<http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/waste-shipment/>
11. Regulation (EC) No 1005/2009 on substances that deplete the ozone layer  
[http://ec.europa.eu/clima/policies/ozone/documentation\\_en.htm](http://ec.europa.eu/clima/policies/ozone/documentation_en.htm)
12. OECD countries and non-OECD countries: <http://www.oecd.org/about/membersandpartners/>
13. Correspondents Guidelines No 4 - Classification of waste electrical and electronic equipment and fly ash from coal-fired power plants according to Annex IV part I note (c) of Regulation (EC) No 1013/2006 on shipments of waste  
[http://ec.europa.eu/environment/waste/shipments/pdf/correspondents\\_guidelines4\\_en.pdf](http://ec.europa.eu/environment/waste/shipments/pdf/correspondents_guidelines4_en.pdf)

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<sup>1</sup> Consolidated versions of the EU legislation are available at  
<http://eur-lex.europa.eu/collection/eu-law/consleg.html>