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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)

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1. INTRODUCTION

Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment([1]) (the WEEE Directive) lays down rules on the management of WEEE with a view to contributing to sustainable production and consumption by, as a first priority, the prevention of WEEE and, in addition, by the re-use, recycling and other forms of recovery of such waste so as to reduce the disposal of waste and to contribute to the efficient use of resources and the retrieval of valuable secondary raw materials.

The WEEE Directive empowers the Commission to adopt delegated acts, as referred to in Article 20, with a view to:

- laying down any transitional adjustments in order to address difficulties faced by Member States in adhering to the WEEE collection rates set out in the Directive, as provided for in Article 7(4);
- the possible amendment of Annex VII on selective treatment requirements, to introduce other treatment technologies, as provided for in Article 8(4);
- laying down criteria for the assessment of equivalent conditions for the treatment of WEEE taking place outside of the EU, as provided for in Article 10(3);
- the adaptation of Annexes IV, VII, VIII and IX to scientific and technical progress, as provided for in its Article 19.

2. LEGAL BASIS

According to Article 20(2) of the WEEE Directive the Commission has been conferred upon the power to adopt a number of delegated acts for a period of five years, starting from 13 August 2012.

The Commission on 18 April 2017 submitted to the European Parliament and the Council its Report[2] on the exercise of the power to adopt delegated acts pursuant to the WEEE Directive. In accordance with Article 20(2), third sentence, the delegation of power has been tacitly extended for another five-year period, ending on 13 August 2022. The present report is submitted by the Commission to the European Parliament and the Council, as required by Article 20(2), second sentence, to present its activities in relation to the exercise of the power to adopt delegated acts during this period.

In accordance with Article 20(2), the delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such an extension not later than three months before the end of each period.

[1] *OJ L 197, 24.7.2012, p. 38.*
[2] *COM/2017/0172 final*

3. EXERCISE OF THE DELEGATION

During the period covered by this report, the Commission did not make use of any of the delegated powers conferred on it under the WEEE Directive, for the reasons explained below.

3.1. Transitional adjustments in order to address difficulties faced by Member States in adhering to the collection rates set out in the Directive, Article 7(4)

The Commission's previous report on the exercise of its delegated powers had, inter alia, noted that the Czech Republic, Latvia, Poland, Romania, Slovenia and Slovakia have made use of the derogation possibility provided for in Article 7(3) of the WEEE Directive, to postpone the achievement of the collection rate to be achieved from 2019 until a date of their own choice which shall not be later than 14 August 2021. Bulgaria, Lithuania and Malta furthermore made use of this derogation possibility.

The previous report hadconcluded that there was no justification, in the form of specific circumstances, which would have required the adoption of a delegated act with further transitional arrangements.

As was also announced, the Commission provided support and guidance to the Member States by assisting assist them to addresspossible difficulties in reaching their targets, through a targeted initiative on compliance promotion, supported by a study carried out in 2016-2017[3]. In particular, the objective was to get an overview of national practices in relation to WEEE management and to assess the implementation and performance of Member States in relation to the WEEE Directive. Critical factors and obstacles to reaching the targets as well as good practices wereidentified, so to enable learning from each other and further developing WEEE policies and practices at Member State level.

As regards the 2019 collection targets, it needs to be taken into consideration that according to Article 16(6) of the WEEE Directive, Member States shall report the data for that year within 18 months of the end of the reporting year i.e. by the end of June 2021. At the time of drawing up the current report, the Commission has not yet received a full set of officially reported data from the Member States regarding the WEEE collection rates for the year 2019.

The Commission observesthat also for the current period covered by the current report there were no specific circumstances which would have required the adoption of a delegated act with transitional adjustments to address difficulties faced by Member States in adhering to the collection rates set out in the WEEE Directive, and in particular to the collection rates applicable from 2019 onwards.

3.2. Amendment of Annex VII, Article 8(4)

Annex VII refers to the selective treatment for WEEE materials and components.

Article 8(4) of the WEEE Directive empowers the Commission to amend Annex VII in order to introduce other treatment technologies that ensure at least the same level of protection for human health and the environment.

[3] *"WEEE compliance promotion exercise":* https://op.europa.eu/en/publication-detail/-/publication/09c7215a-49c5-11e8-be1d-01aa75ed71a1/language-en

During the period covered by this report, the Commission did not conclude on the need for any action that would have led to amending Annex VII.

Of relevance to the issue covered by that Annex, the Commission between December 2018 and November 2020 carried out a "*Study on quality standards for the treatment of WEEE*"[4], including in depth stakeholder consultations. That study, inter alia, proposed amendments to the entries of the list of substances, mixtures and components that have to be removed from separately collected WEEE, as laid down in Annex VII, in light of new scientific evidence as regards hazardous components, materials or substances in WEEE[5] and taking into consideration current treatment technologies. The study has been done in the broader context of a possible further development and harmonisation of WEEE treatment requirements, also based on the mandate under Article 8(5) of the WEEE Directive. A further assessement is currently underway[6] regarding the related economic, environmental and social impacts and further action on that basis mayinclude an amendment of Annex VII, which can however at present not be decided upon in isolation.

3.3. Criteria for the assessment of equivalent conditions for the treatment of WEEE taking place outside the EU, Article 10(3)

According to Article 10(2) of the WEEE Directive, WEEE exported from the EU only counts towards the fulfilment of obligations and targets set out in Article 11 if, in compliance with Regulations (EC) No 1013/2006 and (EC) No 1418/2007 on shipments of waste, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this Directive. Article 10(3) requires the Commission to adopt delegated acts laying down detailed rules, supplementing those in Article 10(2), in particular concerning the criteria for assessing equivalent conditions for the treatment of WEEE outside the EU.

Further to the developments taken up in the previous report, the Commission, as part of the "*Study on quality standards for the treatment of WEEE*"[7], conducted an update of aprevious study carried out in 2013 study aiming at identifying and comparing potential options for assessing and documenting equivalent treatment conditions, and at providing recommendations on the best possible policy option(s). This included a stakeholder consultation. Furthermore, the Commission is currently reviewing the Waste Shipment Regulation[8], and in this context criteria related to the assessment of equivalent conditions for the treatment of waste outside the EU are being considered.

Taking into consideration, inter alia, this ongoing work, the Commission did not adopt a delegated act under Article 10(3) of the WEEE Directive. However, in the context of the EU environmental, raw materials and circular economy policies, related action remains a priority

[4] *https://op.europa.eu/en/publication-detail/-/publication/2004b067-726a-11eb-9ac9-01aa75ed71a1/language-en/format-PDF/source-193365602*

[5] *Such scientific evidence may include the findings and developments in the field of persistent organic pollutants (POPs) and substances of very high concern (SVHCs) under the chemicals legislation during the past 20 years*

[6] *At the time of drawing up the current report, the Commission has been preparing the launch of a study to assess the likely impacts and feasibility of measures to further harmonise the requirements for the treatment of WEEE, which is expected to start by the time this report is submitted to the European Parliament and the Council.*

[7] *https://op.europa.eu/en/publication-detail/-/publication/2004b067-726a-11eb-9ac9-01aa75ed71a1/language-en/format-PDF/source-193365602*

[8] *Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, OJ L 190, 12.7.2006, p. 1–98*

and will continue to be assessed together with proposals as part of the revision of the Waste Shipment Regulation.

3.4. Adaptation of Annexes IV, VII, VIII and IX to scientific and technical progress, Article 19

Annex IV refers to a non-exhaustive list of EEE that falls within the EEE categories; Annex VII refers to the selective treatment for material and components of WEEE; Annex VIII specifies the technical requirements for sites for storage and treatment of WEEE and Annex IX presents the symbol for marking EEE.

During the period covered by this report, the Commission did not adopt relevant delegated acts to adapt the above- mentioned Annexes to scientific and technical progress.

As regards Annexes VII and VIII, as referred to above, the "*Study on quality standards for the treatment of WEEE*"carried out for the Commission identifies, among the options proposed, specific requirements that could be included in these two Annexes, to adapt them to scientific and technical progress These include requirements for the treatment of several types of WEEE, which occur at increasing volumes in the recent years, such as photovoltaic panels, air conditioning equipment, flat panel displays, refrigerators using vacuum insulation panels, or WEEE containing Li-accumulators but which are missing from the abovementioned annexes because these type of waste did not occur in the past.

The Commission is currently further assessing these options, together with others, in the context of a possible further development and harmonisation of WEEE treatment standards, as part of the follow-up assessment identified above.

4. CONCLUSION

Over the past five years, the Commission has not exercised the delegated powers conferred to it under Directive 2012/19/EU for the reasons described in this report. It may do so in the future, for the reasons given.

The Commission invites the European Parliament and the Council to take note of this report.