

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.2.2004
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Proposal for a

COUNCIL DECISION

granting the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovenia and Slovakia certain temporary derogations from Directive 2002/96/EC on waste electrical and electronic equipment

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (the "Treaty of Accession") was signed in Athens on 16 April 2003. Signed at the same date and published together with the Treaty of Accession was the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (the "Act of Accession"). Article 55 of the Act of Accession provides that, at the duly substantiated request of one of the new Member States, the Council, acting unanimously on a proposal from the Commission, may, before 1 May 2004, take measures consisting of temporary derogations from acts of the institutions adopted between 1 November 2002 and the date of the signature of the Treaty of Accession.

2. Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment (hereinafter referred to as the "WEEE Directive") was adopted on 27 January 2003. According to its Article 1, the purpose of the WEEE Directive is, as a first priority, the prevention of waste electrical and electronic equipment, and in addition, the reuse, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the treatment of waste electrical and electronic equipment.

3. For waste electrical and electronic equipment from private households, Member States shall set up collection facilities in accordance with Article 5(2) of the WEEE Directive.

4. According to the first subparagraph of Article 5(5) of the WEEE Directive, Member States shall ensure that by 31 December 2006 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of waste electrical and electronic equipment from private households is achieved.

5. Article 7(2) of the WEEE Directive lays down certain minimum targets for the recovery of waste electrical and electronic equipment, which the Member States have to ensure that producers meet by 31 December 2006. These targets vary from 70% to 80% by an average weight per appliance, depending on the category of waste electrical and electronic equipment. Furthermore, Article 7(2) of the WEEE Directive lays down certain minimum targets for component, material and substance reuse and recycling. These targets vary from 50% to 80% by an average weight per appliance, depending on the category of waste electrical and electronic equipment.

6. In accordance with Article 17(1) of the WEEE Directive, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 13 August 2004. Article 17(4)(a) provides that Greece and

Ireland which, because of their overall: recycling infrastructure deficit, geographical circumstances such as the large number of small islands and the presence of rural and mountain areas, low population density, and low level of consumption of electrical and electronic equipment, are unable to reach either the collection target mentioned in the first subparagraph of Article 5(5) or the recovery targets mentioned in Article 7(2) and which, under the third subparagraph of Article 5(2) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, may apply for an extension of the deadline mentioned in that Article, may extend the periods referred to in Articles 5(5) and 7(2) of the WEEE Directive by up to 24 months.

7. Seven Acceding States, namely the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Slovenia and the Slovak Republic have requested temporary derogations from the time limits laid down in the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive, on the basis of Article 55 of the Act of Accession. The Republic of Slovenia has requested 12 months extension, the Czech Republic, the Slovak Republic and the Republic of Hungary 24 months extension and the Republic of Estonia, the Republic of Lithuania and the Republic of Latvia 36 months extension. The reasons provided by all above-mentioned Acceding States with regard to their requests for extensions refer to the recycling infrastructure deficit, low population density and low level of consumption of electrical and electronic equipment. Most of them also refer to geographic circumstances, such as the presence of rural areas.

8. The Republic of Estonia, the Republic of Lithuania and the Slovak Republic have, in addition to the above-mentioned requests, submitted requests for temporary derogations from the time-limit laid down in Article 5(2) of the WEEE Directive, on the basis of Article 55 of the Act of Accession. The Republic of Estonia and the Republic of Lithuania have requested an extension until 13 August 2007. The Slovak Republic has requested an extension until 31 December 2008. The Republic of Lithuania has also requested a temporary derogation of 12 months from the time-limit laid down in Article 17(1) of the WEEE Directive, based on the same provision of the Act of Accession.

9. In light of the requests for temporary derogations submitted by the above-mentioned Acceding States under Article 55 of the Act of Accession, the Commission considers that the countries concerned are unable to meet the requirements of the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive within the time limits laid down by the Directive due to the specific conditions referred to by those countries, namely the recycling infrastructure deficit, low population density and low level of consumption of electrical and electronic equipment and, for some of the countries, geographic circumstances, such as the presence of rural areas. The Commission finds that it is appropriate to enable the countries to extend those time-limits by up to 24 months. The extension of 24 months also corresponds to the time-limits for Greece and Ireland in relation to the same provisons of the WEEE Directive, which has been granted those Member States under Article 17(4)(a) of that Directive. The Republic of Estonia, the Republic of Lithuania and the Republic of Latvia have asked for additional extensions by in total 36 months, however, the Commission has not found that those Acceding States have invoked reasons which could justify such additional extensions.

10. With regard to the requests submitted for temporary derogations from Article 5(2) of the WEEE Directive, the Commission does not find that the reasons invoked, *inter*

alia, the absence or insufficiency of collection systems could justify any derogation in this regard. The Commission neither considers that any derogation would be justified from the transposition deadline laid down by Article 17(1) of the WEEE Directive on the basis of the reasons invoked, *inter alia*, internal legislative procedures and consultation processes.

11. The Commission is proposing a Council Decision granting the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Slovenia and the Slovak Republic temporary derogations as laid down in Article 55 of the Act of Accession from the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC on waste electrical and electronic equipment. The periods referred to in the first subparagraph of Article 5(5) and Article 7(2) shall be extended by 24 months in case of the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania and the Slovak Republic; by 12 months in case of the Republic of Slovenia.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in particular Article 2(3) thereof,

Having regard to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, hereinafter 'Act of Accession of 2003', and in particular Article 55 thereof,

Having regard to the requests of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and Slovenia,

Having regard to the proposal from the Commission[1],

Whereas:

(1) According to the first subparagraph of Article 5(5) of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)[2], Member States shall ensure that by 31 December 2006 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of waste electrical and electronic equipment from private households is achieved.

(2) Article 7(2) of Directive 2002/96/EC lays down certain minimum targets for the recovery of waste electrical and electronic equipment and for component, material and substance reuse and recycling. The Member States have to ensure that producers meet these targets by 31 December 2006.

(3) In accordance with Article 17(1) of Directive 2002/96/EC, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 13 August 2004. However, Article 17(4)(a) of Directive

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1 OJ C , , p. .

2 OJ L 37, 13.2.2003, p. 24.

2002/96/EC provides that Greece and Ireland which, because of their overall recycling infrastructure deficit, geographical circumstances such as the large number of small islands and the presence of rural and mountain areas, low population density, and low level of consumption of electrical and electronic equipment, are unable to reach either the collection target mentioned in the first subparagraph of Article 5(5) or the recovery targets mentioned in Article 7(2) of Directive 2002/96/EC and which, under the third subparagraph of Article 5(2) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste[3], may apply for an extension of the deadline mentioned in that Article, may extend the periods referred to in Articles 5(5) and 7(2) of Directive 2002/96/EC by up to 24 months.

(4) On the basis of Article 55 of the Act of Accession of 2003 the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovenia and Slovakia have requested temporary derogations from the time-limits laid down in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC, stating as their reasons their recycling infrastructure deficit, low population density and low level of consumption of electrical and electronic equipment and geographical circumstances, such as the presence of rural areas.

(5) Those reasons justify an extension of the above mentioned time-limits for the Czech Republic, Estonia, Hungary, Latvia, Lithuania and Slovakia by 24 months, and for Slovenia by 12 months,

HAS ADOPTED THIS DECISION:

Article 1

The Czech Republic, Estonia, Hungary, Latvia, Lithuania and Slovakia may extend the time-limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC by 24 months.

Slovenia may extend the time-limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC by 12 months.

Article 2

This Decision is addressed to the Member States and the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Slovenia and the Slovak Republic.

Done at Brussels,

For the Council
Le Président

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[3] OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003. p. 1).