

COMMISSION DELEGATED REGULATION (EU) No .../..

of **XXX**

**laying down detailed rules supplementing those in Article 10(2) of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), in particular the criteria for the assessment of equivalent conditions for the treatment of WEEE exported outside the Union.**

*(Regulation on the equivalent conditions for the treatment of WEEE outside the Union)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)<sup>1</sup>, and in particular Article 10(3) thereof, ,

Whereas:

- (1) In accordance with Article 10(1) of Directive 2012/19/EU, the treatment operation of WEEE may also be undertaken outside the Union provided that the shipment of WEEE is in compliance with Regulation (EC) No 1013/2006 on shipments of waste and 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 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply.
- (2) In accordance with the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal (1992), wastes listed in Annex VIII are characterized as hazardous pursuant to Article 1, paragraph 1 (a), of the Convention - A 11180 - Waste electrical and electronic assemblies or scrap 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; and A 11190 - Waste metal cables coated or insulated with plastics containing or contaminated with coal tar, PCB, lead, cadmium, other organohalogen compounds or other Annex I constituents to an extent that they exhibit Annex III characteristics.
- (3) The requirements laid down in Article 10(2) of the Directive 2012/19/EU requires that WEEE exported out of the Union shall only count towards the fulfilment of obligations and targets set out in Article 11 of the that Directive if, in compliance with Regulations (EC) No 1013/2006 and (EC) No 1418/2007, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this that Directive.

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<sup>1</sup> OJ L 197, 24.7.2012, p. 38.

- (4) In accordance with Article 49 of Regulation (EC) No 1013/2006 on shipments of waste, those involved in shipments of waste are obliged to ensure that the waste shipped is managed in an environmentally sound manner throughout the period of shipment and during its treatment. In addition, when exported for recovery, waste needs to be treated in facilities that operate in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Union legislation.
- (5) Proper treatment of all separately collected WEEE is indispensable in order to achieve the levels of WEEE recycling and recovery set out in Annex V to the Directive and to protect the environment and human health by avoiding the dispersion of pollutants in recycled material or the waste stream and in order to preserve raw materials. Proper treatment in accordance with Article 8(2) of Directive 2012/19/EU shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex VII to the Directive. Furthermore, in line with Article 8(3) of Directive 2012/19/EU, any establishment or undertaking carrying out treatment operations shall treat WEEE in compliance with the technical requirements set out in Annex VIII to Directive 2012/19/EU. These requirements should be considered as a basis for comparison with the conditions of WEEE treatment in third country facilities.
- (6) Requirements on the treatment of WEEE have been described in various standards developed both at EU level and in other parts of the world. They can be implemented voluntarily, allowing the private sector to provide oversight with accreditation and certification bodies and independent verifiers.
- (7) The Commission issued a Mandate, M/518, to the European standardization organization to develop one or more standardisation deliverables, as provided for in Article 8(5) of Directive 2012/19/EU in order to support the requirements set out in Article 8, Article 11, Annex V, Annex VII and Annex VIII of that Directive. Due to the nature of the standardization activities, entities can only be accredited against full standards (ENs), while the technical specifications (TS) provide essential details on how to implement the standards. In the particular case of the technical specifications developed under the Mandate M/518, essential technical requirements to ensure proper treatment of WEEE as stated in Directive 2012/19/EU are included. Therefore, European standards and supportive Technical Specifications developed following Mandate M /518 can be used by exporters to demonstrate that treatment of WEEE outside the Union takes place in conditions that are equivalent to the requirements of Directive 2012/19/EU.
- (8) Verifiers established in the EU should seek accreditation from a national accreditation body according to Regulation (EC) No. 765/2008. Verifiers based outside the EU may seek accreditation from either a national accreditation body according to Regulation (EC) No. 765/2008 or from an accreditation body outside the EU that is a signatory to the relevant scope of the of the multi-lateral recognition agreement (MLA) of the International Laboratory Accreditation Cooperation (ILAC). According to Art. 11(2) of Regulation (EC) 765/2008 national authorities are to recognise the equivalence of the services delivered by those accreditation bodies which have successfully undergone peer evaluation, and thereby accept the accreditation certificates of those bodies and the attestations issued by the conformity assessment bodies accredited by them.
- (9) In view of the need for uniform application of this Regulation, it is necessary that the evidence to prove that the treatment of WEEE takes place in conditions that are

equivalent to the requirements of Directive 2012/19/EU be processed in the context of the procedure of prior written notification and consent or the general information requirements as set out in Regulation (EC) No 1013/2006.

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Criteria for the assessment of equivalent conditions**

1. In order to prove that the treatment of WEEE outside the Union takes place in conditions that are equivalent to the requirements of Directive 2012/19/EU, the exporter shall provide the following:

(a) A declaration issued by the competent authority in the third country of destination stating that the facility receiving the WEEE is authorised to conduct WEEE treatment operations in accordance with national procedures, including any applicable legal requirements. This declaration, where applicable, shall be accompanied by relevant documentation;

and

(b) A proof of compliance with the applicable standards listed in Annex I accordingly to the category of WEEE treated by the operator as set out in Annex III and IV of Directive 2012/19/EU. This evidence shall be provided through a declaration issued by an independent verifier on the basis of a site inspection; the verifier shall be deemed to be independent and to have the appropriate qualifications to operate legally in the third country when certified under international standard ISO/IEC 17020 for third party inspection bodies; in addition, the independent verifier shall be able to demonstrate his understanding and knowledge of the requirements in Directive 2012/19/EU. The evidence from the independent verifier shall include a document which states the products and product categories, as listed in Annex II of Directive 2012/19/EU, that are being treated in the facility in the third country.

2. For exports of WEEE to which the procedure of prior written notification and consent of Regulation (EC) No 1013/2006 on shipments of waste applies, the exporter shall submit the evidence referred to in paragraph 1(a) and (b) to the competent authority of dispatch when submitting the prior written notification.

3. For exports of WEEE subject to general information requirements set out in Article 18 of Regulation (EC) No 1013/2006, the exporter shall be able to provide the evidence referred to in paragraph 1(a) and (b) upon request of the authorities involved in inspections and/or of the competent authority of dispatch.

### *Article 2*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [1 January 2017].

Review of the list of standards shall be carried out on a regular basis (at least every three years) to ensure that the reference to relevant standards and Technical Specifications is up-to-date.

*Alternative proposal:*

It shall apply from [six months after publication] except for Part A of Annex I which shall apply from [1 January 2017].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*

*The President*

[...]

*[Choose between the two options, depending on the person who signs.]*

*On behalf of the President*

[...]

[Position]

## ANNEX I

### **Indicative list of European standards and other existing standards for the treatment of WEEE available to exporters of WEEE to prove treatment conditions equivalent to the requirements of Directive 2012/19/EU**

For the purposes of compliance and verification of compliance with the requirements of this Regulation, measurements and calculations shall be made using a reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art measurement and calculation methods, including:

#### **A. European Standards (EN Standards ) for the treatment of WEEE**

Up to date European standards and technical specifications developed by the European standardization organisation under the Commission Mandate M/518. The technical definitions, conditions, equations and parameters set out in these standards and technical specifications shall be met.

or

#### **B. Other standards for the treatment of WEEE**

The following table explains the applicable non-European Standards (EN standards) for every WEEE category according to Annex III and IV of the Directive 2012/19/EU:

<b>WEEE Category</b>	<b>Other Standards</b>
Cat. 1 Temperature exchange equipment	Australian/New Zealand standard AS/NZS 5377:2013
Cat. 2 Screens, monitors	WEEELABEX:2011 standard on “ <i>Treatment of WEEE</i> ” or “Responsible Recycling” (R2:2013) standard and the “Recycling Industry Operating Standard” (RIOS) (R2/ RIOS standard) or Australian/New Zealand standard AS/NZS 5377:2013
Cat. 3 Lamps	WEEELABEX:2011 standard on “ <i>Treatment of WEEE</i> ” or Australian/New Zealand standard AS/NZS 5377:2013
Cat. 4 Large Equipment	WEEELABEX:2011 standard on “ <i>Treatment of WEEE</i> ” or

	Australian/New Zealand standard AS/NZS 5377:2013
Cat. 5 Small Equipment	WEEELABEX:2011 standard on “ <i>Treatment of WEEE</i> ” or “Responsible Recycling” (R2:2013) standard and the “Recycling Industry Operating Standard” (RIOS) (R2/ RIOS standard) or Australian/New Zealand standard AS/NZS 5377:2013
Cat. 6 Small IT and telecommunication equipment	WEEELABEX:2011 standard on “ <i>Treatment of WEEE</i> ” or “Responsible Recycling” (R2:2013) standard and the “Recycling Industry Operating Standard” (RIOS) (R2/ RIOS standard) or e-Stewards standard 2.0 for Responsible Recycling and Reuse of Electronic Equipment or Australian/New Zealand standard AS/NZS 5377:2013

WEEELABEX standards will no longer be valid for the purpose of proving compliance with equivalent treatment conditions outside the EU after six months of the publication of the related EN Standards developed under Mandate M/518, including Technical Specifications.

In order to comply with the levels of WEEE recycling and recovery set out in article 11, Annex V and the requirements of selective treatment as set out in article 8 (2) and Annex VII to the Directive 2012/19/EU evidence of compliance of these requirements including the methodologies how they are achieved shall be given by the operator that is certified according to R2/RIOS Standard and e-Stewards standards.