

OPINION ON WEEE RECAST AMENDMENTS 1-273

Brussels, 5 May 2010

In view of the further proceedings of the European Parliament on the **draft report of Rapporteur Karl-Heinz Florenz** concerning the recast of Directive 2002/96/EC on **Waste Electrical and Electronic Equipment (WEEE)**, Orgalime would like to provide its comments on the 273 amendments tabled in the Environment Committee with its request for your support.

Our comments are grouped according a number priority topics and indicate for each of them

- the proposals for amendments, which Orgalime supports (=positive),
- the proposals for amendments, which Orgalime does not support (=negative),
- those, on which Orgalime has no particular recommendation (=neutral), and
- Orgalime's comments and justification for the proposed recommendation.

TOPIC 1: SCOPE (art. 2 and 3, annexes I.A, I.B and II)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Article 2.1	11 39 61	6 64		<p>For the purpose of legal certainty, we welcome the proposal to define the scope of the WEEE Directive in the WEEE Directive itself instead of introducing a reference to the RoHS Directive.</p> <p>We are, however, concerned with the proposal to extend the scope of the Directive to all EEE (open scope), since the impacts of such a far reaching modification have not been subject to a representative, thorough impact assessment at EU level. This, moreover, is a fundamental principle of Better Regulation.</p> <p>The Commission's preparatory recast studies do not support this way forward, but instead propose to focus on a number of priority waste streams for realising the environmental objectives of the Directive.</p>

				In any case, a distinct set of comprehensive scope exclusions is necessary to avoid double regulation on certain equipment and to avoid regulating on waste streams that are already taken care of separately, especially in the area of industrial/commercial equipment.
Art. 2.3: Scope exclusions				Business-to Business products (B2B) that are used in professional relationships should not fall in the scope of the directives: Firstly, their environmental relevance has not been assessed as significant in the Commission's preparatory studies, and secondly, such equipment also does not end up in the municipal waste stream. They represent a separate waste stream that is already taken care of.
- "Another type of equipment"- clause	62=63			
- Fixed installations	65=69=71 77=112 105=106 111		1 7 13 107	Proposals for definitions of scope exclusions that reference the existing Electromagnetic Compatibility (EMC) Directive will in our view clarify the legal situation and help enforcement of the directive by codifying the existing Commission WEEE F.A.Q.- guidance document.
- Large scale (stationary) industrial tools	44 67 78 109			In areas where other waste management legislation applies, e.g.: End of Life Vehicles Directive, clear WEEE scope exclusions need to be introduced to avoid double legislation.
- Mobile machinery	68 110			Art. 2.3 should therefore in our view include at least the following scope exclusions:
- Means of transport	66			- military equipment;
- Fixed parts of a building	45			- equipment which is part of another type of equipment outside the scope;
- Photovoltaic			8 14 70	- fixed installations;
				- large scale stationary industrial tools;
				- mobile machinery;
				- any means of transport;
				- fixed parts of a building;
				- filament light bulbs;
				- implanted and infected medical devices
Art. 2.3.1.a (new), art. 11, art. 21: Review clause / COM report to re-examine the scope by 2014		9 194	251	Amendment 251, second part introduces a general review clause five years after entry into force of the recast Directive together with the obligation on the Commission to issue an implementation report, which we support.

				An additional review of the scope by 2014 (as proposed in amendment 9 and 251 first part) and a further review every three years on the recycling categories (as proposed in amendment 194) creates too much legal and planning instability for companies.
Art. 2.4: (Classification of) WEEE from private households	12 (or alternatively 89) 10	72 88		It is necessary to distinguish between WEEE from private households (B2C) and WEEE from users other than private households (B2B), since different financing rules apply for these two types of WEEE. We agree that products designed and marketed for dual use should be assumed as being consumer products to avoid any misinterpretation and subsequent market distortion.
Art. 3:				
- Definition of “finished product”	108			To ensure better coherence with other EU legislation and to improve legal certainty so as to avoid free-riding, the guidance given in the Commission’s FAQ document should be introduced.
- Definition of “EEE”	73 74			Clarifying the term “dependant” used in the definition of EEE in line with the existing Commission WEEE F.A.Q.- guidance document helps improving legal certainty and therefore to avoid free riding.
- Definition of “WEEE”	75			Amendment 75 aims at avoiding cherry picking and maximising proper treatment of WEEE, which we support.
- Definition of “medical device”	76			Introducing a definition of “medical devices” can help legal certainty.
New annex IA: To introduce five new product categories		35 264 265 266 267		Establishing five categories of WEEE for the purpose of setting recycling and recovery targets may be helpful. However, we feel that this proposal, in combination with the new annex I-B list of illustrative product examples, represents an unjustified extension of the scope in practice, for which no impact assessment has been carried out.
New annex I.B: Product list		36 268 269 270		Any product list can never follow technologic development in time and can therefore never be up to date or complete.

		271 272		In addition, several amendments include industrial equipment in the proposed annex I.B list, which is at the same time proposed to be excluded from the scope via art. 2.3. This is inconsistent and causes legal uncertainty. For example, amendment 36 lists among the new category of large appliances the examples of “ <i>large electrical and electronic industrial tools and machinery</i> ”, “ <i>large appliances for generating or transferring current</i> ” or “ <i>large measuring instruments and installations</i> ”.
Annex II.1.12: Cables	273			We share the view of the author that the provision in annex II of the proposal for separate removal and selective treatment of external electric cables is neither practicable nor necessary for ensuring the desired level of environmental protection.

TOPIC 2: PRODUCER DEFINITION & REGISTRATION (art. 3 and 16, recital 26.a)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Recital 26.a (new): No legal seat in each Member State	5 second sentence			<p>We fully support the second sentence: Forcing companies to have a legal entity within the territory of the Member State to fulfill the requirements of the Directive is not compatible with the internal market established in the EC Treaty. For the purpose of strict enforcement in member states, it is however, necessary that member states have a contact within their territory.</p> <p>The wording “<i>multiple charges for multiple registrations</i>” in the first sentence is confusing. There are generally the following payments arising from the WEEE Directive, however, neither of these is accumulating in the national registers:</p> <ul style="list-style-type: none"> • Recycling fee (paid to compliance schemes, but not national registers) • Financial guarantee (not paid to national registers) • Registration fee (invoiced indeed by national registers, but only in some Member States and they are immediately used to cover internal administrative costs depending on the national transposition following the subsidiarity principle).
Art. 3.j: Definition of “producer” (linked with definitions of “placing on the market” and	81 85		79=80 82 83 84	The definition of producer as proposed in article 3(j) of the WEEE recast proposal should be harmonised at European level to the extent possible, while acknowledging the specific obligations that arise from the WEEE Directive, namely that registration as well as financing of collection and recovery are not

<p>“making available on the market”)</p>			<p>96 97 98 99 100</p>	<p>characteristics of products (e.g. composition, ingredients, environmental impact), but represent additional obligations which have to be fulfilled at national level exclusively (i.e.: in the absence of a harmonised European waste internal market and for the purpose of carrying out effective market surveillance and enforcement activities).</p> <p>Therefore, in the case of WEEE, Member States need to be allowed to impose additional obligations on individual and legal persons who market devices for the first time on member states level (as confirmed in a letter of Mr Mäkela, Director DG Environment, 15 June 2005 in conjunction with a letter of Mr Prodi, President of Commission, 26 July 2004).</p> <p>Without the possibility to enact such obligations, all collection structures and requirements for registration in Europe would only be executable on producers who are physically acting in the territory of a member state, but not on intra-European trading companies, thereby creating free riding and unfair competition.</p> <p>Orgalime sees the following two alternatives for the way forward to secure a maximum level of harmonisation in the Directive without compromising effective enforcement in Member States:</p> <ul style="list-style-type: none"> • PREFERRED OPTION: the producer remains defined as today, i.e.: as the person who places the EEE on the national market of a Member State. Consequently, also the definitions of “placing on the market” and “making available” would have to be national. • ALTERNATIVELY: The European producer definition provided in art. 3.j of the Commission proposal is taken as a basis and amended by the introduction of a “resident agent/WEEE representative” for those obligations that occur at national level. Obligations occurring at national level are those resulting from articles 5, 7, 8, 11, 12, 13 and 16. In any case, there needs to be clarification: <ul style="list-style-type: none"> ○ in art. 3j that “<i>Any distributor who sells electrical and electronic equipment from a non registered producer or WEEE representative shall be deemed a producer</i>”, AND ○ in art. 16 that “<i>a distributor making equipment available for the first time on a national territory from another Member State inside the Community (intra-community trade) either concludes an agreement</i>
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				<p style="text-align: center;"><i>with the producer or provides the registration and the financing of the management of WEEE arising from this equipment himself”.</i></p> <p>The so-modified alternative definition of “producer” would then read as follows:</p> <p><i>“Art.3(i)‘producer’ means any natural or legal person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts:</i></p> <ul style="list-style-type: none"> <i>(i) manufactures electrical and electronic equipment under his own name or trademark, or has electrical and electronic equipment designed or manufactured and places on the market that electronic equipment under his name or trade mark,</i> <i>(ii) resells under his own name or trademark equipment produced by other suppliers, a reseller not being regarded as the ‘producer’ if the brand of the producer appears on the equipment, as provided for in sub-point (i), or</i> <i>(iii) is established within the Community and places electrical and electronic equipment from a third country on a professional basis onto the Community Market</i> <i>(iv) places as WEEE representative electrical and electronic equipment for the first time onto the market of a member state from another member state inside the Community (intra-Community trade)</i> <p><i>Where the producer in the meaning of subpoints (i) to (iii) is not established in a Member State, that Member States shall allow that producer to appoint a WEEE representative as the person to act on his behalf in relation to WEEE related tasks in that Member State.</i></p> <p><i>Any distributor who sells electrical and electronic equipment from a non registered producer or WEEE representative shall be deemed a producer within the meaning of subpoints (i) to (iv).</i></p> <p><i>Whoever exclusively provides financing under or pursuant to any finance agreement shall not be deemed a ‘producer’ unless he also acts as a producer within the meaning of subpoints (i) - (iv)”</i></p> <p>A new recital reading as follows could be added:</p> <p><i>“(New) For the practical implementation, it must be possible for Member States to identify WEEE representatives as the natural or legal persons who are making electrical and electronic equipment available onto their national markets for the first time from another member state inside the Community (intra-community trade). Therefore, Member States should put in place proportionate provisions that allow them to identify these WEEE representatives and have the possibility to ask them to fulfill WEEE related tasks arising from articles 5, 7, 8, 11, 12, 13, 16 in that</i></p>
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				<i>Member State. In particular, member states shall have the possibility to ask such persons to provide the registration and the financing of the management of WEEE arising from their sales in that member state, since the financing and registration obligation arises at the level of the member state."</i>
Art. 3k: Definition of "distributor"	56 (without the notion " <i>and by multiple charges for multiple registrations in individual Member States</i> ")	86		Distributors have an important role to play for successful WEEE management, in particular since they are transferring the vast majority of EEE from one member state to another (intra-Community trade). To secure the financing and end of life treatment of appliances that move from one member state to another, reporting and financing obligations for distributors in case they knowingly sell EEE from a non-registered producer , or in case they transfer products from one member state to another (intra Community trade) should be codified. (Please see also comments on "role of distributors" under "Topic 3: Separate collection and Collection Rate"). The wording " <i>and by multiple charges for multiple registrations in individual Member States</i> " in amendment 56 is misleading, since there are no such costs accumulating in the national registers. It should therefore be removed from amendment 56.
Art.16:				
- One registration reflecting activities in all Member States")	29 (without the notion " <i>and fees, reflecting its activities across all other Member States</i> ") 30 223	224		Producers should indeed only pay one recycling fee (to a compliance scheme) for the end of life treatment of their WEEE. However, instead of introducing complex (and in our view doubtful besides unnecessary) reimbursement schemes, such costs can be balanced out INSIDE the compliance scheme to which the producer has adhered. This can be realised by diminishing the payments made for a product (that was then transferred outside the member state) in the running reference period from the payments due for products for the next reference period. While it is not a necessary pre-requisite, the registers can help by exchanging <u>information</u> on the quantities of EEE placed on the market of a Member State in a given year. We support the proposal that national registers should exchange information electronically. Amendment 224 is unclearly worded and therefore confusing: It does not say that there should be only one registration, but only allows producers to apply for only one registration.

- Obligations on financial guarantee in article 16 on registration		222		<p>Amendment 222 is incorrectly mixing financing aspects, which are subject of art. 12, into art.16. Financial guarantees are by no means associated with registration, i.e.: national registers do not owe this money! The financial guarantee links to the recycling fee, however, goes beyond it. It is an evidence that the producer has to bring (before he is allowed to place a product on the market) in order to demonstrate that the end of life operations relating to his products will be financed. They may take the form of participation in a compliance scheme, insurance or a blocked bank account.</p> <p>The financial guarantee also especially secures the financing of end of life treatment for waste appliances for which a producer no longer exists in the national market , i.e.: due to bankruptcy or insolvency.</p> <p>If moved to art.12, Orgalime can agree with amendment 222.</p>
- WEEE resident agent	31			<p>Amendment 31strengthens the enforceability of the Directive: WEEE producer responsibility bears a number of responsibilities that can be only fulfilled at national level due to the non-existence of a European waste internal market (i.e.: WEEE take back obligations). In addition, enforcement must happen at national level and requires member states to have a person to hold responsible within the territory of that member state. Therefore:</p> <ul style="list-style-type: none"> • Where the producer is physically present in the Member State where the registration obligation occurs, he (or a third party acting on his behalf) is responsible to register. • However, where the producer is <u>not</u> physically present in the Member State where the registration obligation occurs, his authorised representative or a resident WEEE agent (=WEEE representative) who places the product on the national market for the first time should be responsible to register.
- Collective schemes		225 226		The content of the amendments has nothing to do with registration. Financing aspects are subject of art.12.
- Individual schemes		227 228		<p>The content of the amendments has nothing to do with registration. Financing aspects are subject of art.12.</p> <p>The amendments results in creating unnecessary additional bureaucracy without environmental improvements.</p>

- Harmonised format (through comitology)	32 229			Harmonising registration formats will facilitate the implementation of the Directive, cut costs and reduce administrative burden. They will especially facilitate the implementation of the Directive for SMEs.
- Deletion of art. 16.4	231			We support deleting article 16.4 of the COM proposal, which stipulates that the register can be operated by collective responsibility schemes: While compliance schemes are responsible for fulfilling end of life obligations on the producer's behalf, the control if these obligations have been carried out correctly should remain with member states. Otherwise, the one who has to fulfill an obligation will control himself, which we consider at best unwise, at worst unlawful.
- Modification of art. 16.5	232			Amendment can help to combat free-riding and avoid illegal shipments.

TOPIC 3: SEPARATE COLLECTION AND COLLECTION RATE (art. 5 and 7)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Acknowledging WEEE management as a multi-stakeholder process	3 46 48 87 172	234		Successful WEEE management depends on a fair cooperation between all actors involved, and the readiness of each actor to exercise his role and powers in a responsible manner in accordance with the directive. Actors involved to name but a few include: consumers, retailers, distributors, any other collector of WEEE, traders, recyclers, WEEE take back schemes, WEEE registers, and of course producers.
- Role of distributors (in art.5 7 and 14)	140	119 121 122 123 217		Regarding the role of distributors, there should be no descriptive way of how to organise WEEE take back in practice. Such details need to be defined at the national level due to different structures of retailers. What should be directly addressed in the Directive itself concerning distributors, is their role in intra-Community trade as suggested in amendment 140, the introduction of a definition of "distributor" in art.3k (see amendment 56 under above "Topic 1: Scope") as well as a clarification in the definition of "producer" in art.3j (see above "Topic 2: Producer Definition and Registration").

Art. 5.1: Separate collection	118		115 116 117 252	We support that no untreated WEEE should be landfilled.
Art. 5.3: Member States to establish collection improvement plans	124		120	Improving the knowledge on WEEE streams will contribute to proper reporting on the implementation of the Directive and facilitate enforcement.
Art. 7.1: Collection rate				
<ul style="list-style-type: none"> - 65% POM (on MS) - 40% of POM in 2016 and 65 % POM in 2020 (on MS) - 85% of total weight per cat. POM (on MS) - 55% of POM; 45% POM from 2013-2015 (on MS) - 75% POM (on MS) and 50% POM from 2013-2015 - 65% POM +reuse (on producers) - 50%POM by 2016, 65% POM by 2020 (on MS), 4kg before 2016 	16 first sentence	128 131 132 133 136 137		<p>We support that the target applies on Member States, since due to their enforcement powers they are the only ones that can manage the multi-WEEE stakeholder process.</p> <p>However, calculating the collection rate on the basis of “appliances placed on the market in a certain reference period” (=POM) appears unworkable to us. (See Orgalime position paper of June 2009).</p>
- 85% of WEEE generated (on MS)	127 (but requires some rewording (e.g.: WEEE legally		129 130 134 135	<p>We support that the target applies on Member States, since due to their enforcement powers they are the only ones that can manage the multi-WEEE stakeholder process.</p> <p>We also support changing the reference for the calculation of the target from “placed on the market” (POM) to “WEEE generated”, which we consider more workable and which recognises the practice of WEEE collection as a multiple stakeholder process.</p>

	exported to be added)			<p>Among the different amendments tabled in that respect, we prefer amendment 127, which appears fairly comprehensive to us. Still, WEEE legally exported would need to be added to the given definition of “WEEE generated” in this amendment.</p> <p>Most elements of amendments 129, 130, 134, 135 could be supported, too.</p>
- Collection rate for mercury containing lamps			15 18 139 141	<p>Considering the particular market situation, we support amendment 141 to establish a separate target for mercury containing lamps. However, we would prefer not limiting it to mercury containing lamps, but to include all lamps in the scope of WEEE. Amendment 141, however, refers to the new categories in the new annex I, which we do not support (see above “Topic 1: Scope”).</p>
Art. 7.1.a (new): Document the achievement of the collection rate	17		138 142 143 144	<p>Linked with amendments 127,129, 130, 134 and 135. Improving the knowledge on WEEE streams will contribute to proper reporting on the implementation of the Directive and facilitate enforcement.</p>
Art. 7.2.a (new): Member States reporting obligation	145 146 147			<p>Improving the knowledge on WEEE streams will contribute to proper reporting on the implementation of the Directive and facilitate enforcement.</p>
Art. 7.3: Common methodology for: “total weight”, “WEEE generated”			148 149 150 151 152	<p>For legal certainty and fair competition, a basic definition of “WEEE generated in a Member State” should not be left to comitology in its entirety, but be directly given in the legal text of the Directive. Further details of the basic definition given in the Directive itself could then be provided via comitology.</p> <p>If the calculation basis of the collection rate is modified from “placed on the market” to “WEEE generated”, there is no longer the need to establish a common methodology for “total weight placed on the market”.</p>
Art. 7.4: Review of Collection Rate (separate targets for priority categories and small appliances)		154=155 156 157 158 159		<p>Industry is committed to taking care of hazardous substances and improving collection results on the mentioned priority categories. However, setting a separate target does not solve the collection problems existing for these categories. These can only be solved by taking the multiple stakeholder approach into account and making each actor involved respect the spirit and letter of the Directive.</p>

TOPIC 4: FINANCING (art.12, recital 19)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Recital 19 and Art.12.1: Starting point for producer responsibility for the financing of collection from private households	3 27=196	50 51 52 53 195=197= 202 198=199 201 203		<p>Industry is strongly opposed to any suggestion that producers should finance, or part-finance, collection of waste from the doorstep of private households to collection points for multiple reasons:</p> <ul style="list-style-type: none"> • There is no environmental benefit in producer responsibility starting at the door of private households. • The proposal cannot avoid “leakage” and does not give producers access to WEEE. • There is no need to further harmonise producer financing for the purpose of a level playing field. • Giving a quasi blank cheque to municipalities to shift costs from general taxpayers to consumers of EEE (polluter pays) will make total costs for WEEE management rise considerably. • The possibility to apply a visible fee can by no means constitute a compensation for additional costs, such as the costs for collection from the door of private households.
Art. 12.2 (particular requirements on individual and collective schemes)		206	47 204 205	<p>Amendment 206 intends to close loopholes, but as it stands infringes the internal market and discriminates individual schemes, since the beneficiary of the guarantee would always have to be a collective scheme.</p> <p>Amendments 47 and 205 discriminate collective schemes, and amendment 204 is in our view unnecessary.</p>
Art.12.3.a (new): SME exemption from financing obligations (de minimis)		210		<p>Orgalime agrees that SMEs need support measures and tools to help them with the implementation of the Directive.</p> <p>However, a de-minimis rule hinders the monitoring of the system, opens up loopholes on who bears the recycling costs of equipment placed on the market by SMEs and it invites unscrupulous importers of EEE to slice imports into pieces to profit from the exemption from the WEEE Directive.</p> <p>Therefore, the proposal bears the risk of stimulating free riding and unfair competition.</p> <p>Also, the mere fact that a company is an SME does not mean that it only places on the market negligible amounts of equipment.</p>

Art.12.3.a (new): Producer reporting obligation on costs		207 211		The proposals would force making confidential data publically available, especially for individual compliance schemes, and thereby create unfair competition.
Art.14.1, recital 20: Visible fee and extended information obligations	214	213 215 216	4 28 212	<p>The possibility to apply a visible fee can by no means constitute a compensation for additional costs, such as the extended financing obligation for collection from the door of private households to collection points: the option of applying a visible fee is included in article 14.1. of the recast proposal, which we support. Manufacturers must be allowed to apply visible fees on new products to finance the management of dealing with waste. The directive must specify that Member States shall allow producers to show the cost for the waste management in addition to the product price at the point of sale.</p> <p>However, the possibility to apply a visible fee will not mean that manufacturers will have no difficulties in transferring the cost of handling of WEEE to consumers. This is because there is strong competition between manufacturers and there is constant pressure on the prices of products, as well as on the fees that retailers and consumers are willing to pay.</p> <p>An effective option to display a visible fee is therefore limited to those cases, where the fee itself is:</p> <ul style="list-style-type: none"> • set by a non competing nationwide compliance scheme, and • unified for a specific type of B2C equipment, and • paid by the final private consumer to the producer, who then forwards it to the compliance scheme. <p>Introducing extended information obligations in the visible fee changes the character of this instrument and renders it unworkable.</p>
Art.16.3.a (new), 20 and 21: Establish minimum requirements for financial guarantees		33 230 233 240 242 249		Orgalime does not oppose the content of amendment 230, however, the proposal is following a wrong systematic (art.16, 20 and 21 are the wrong places to suggest minimum requirements for financial guarantees. These are linked to the financing issue addressed in art.12 of the Directive.)

TOPIC 5: RECYCLING, RECOVERY, REUSE TARGETS (art. 11)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Art. 6.2, 8.1, 15.1: Priority for reuse (segregation of reusable appliances at collection point)		126 163 221		Orgalime acknowledges the importance of re-use, both, in waste policy and from a social perspective. However, giving priority to “re-use” risks counterproductive environmental results, especially in the area of promoting energy efficiency, and raises liability concerns.
Art. 11.1: Targets	174 178	173 186	22-26 175-177 179-185	Establishing five categories of WEEE for the purpose of setting recycling and recovery targets may be helpful. However, we feel that this proposal, in combination with the new annex I-B list of illustrative product examples, represents an unjustified extension of the scope in practice, for which no impact assessment has been carried out. Amendment 173 references the RoHS Directive; however, provisions relevant for the WEEE Directive should be directly laid down in the WEEE Directive without any cross reference to the RoHS Directive.
Art. 11.3: Calculation of targets (Storage, sorting, reprocessing not to account for targets)	191 192	193	187-190	The term “Used EEE” is confusing, since any appliance being sold to a consumer is a used appliance. The relevant reference in this provision is “waste EEE”, which is clearly defined.

TOPIC 6: WASTE SHIPMENT (art. 10 and 20, annex I)

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Art. 10 and 20, annex I	2 34 37 40	261	20 21 253 257-260	While we fully agree that illegal waste shipment must be stopped, we feel that the proposal to allow legal shipments of WEEE only during the period of warranty falls far short of practical needs for legal shipments for the purpose of repairing professional goods after expiry of the warranty period.

	41 169 254 255 256		262 263	We cannot support amendment 261, since it references the newly proposed annexes I.A and IB, which extend the scope without an impact assessment having been carried out beforehand.
- Owners to return WEEE only to registered facilities and reporting obligations on treatment facilities	245-247 248			
- No shipment for reuse unless certified		170		Orgalime supports strengthened rules to dry out illegal shipments of WEEE that occur today primarily under the ticket of “reuse”. However, amendment 170 proposes to introduce burdensome certification and labelling processes prior to any shipment for reuse, which in our view will hinder legal shipments for reuse. We consider the proposed increased reporting obligations and modifications made to annex II and III more appropriate.
- Shipment only during warranty		38		Legal exports also need to be possible after the warranty period to guarantee the repair of equipment and to avoid that an appliance has to turn into waste earlier than necessary.

OTHER TOPICS:

Issue	Positive	Negative	Neutral	Orgalime comments and justification for proposed recommendation
Art. 1: Objective of the Directive	60		58 59	We support reducing the overall negative impact of resource use and improving the efficiency of such use.
Art.3: Other definitions (hazardous waste - dangerous substances/ preparations- finance agreement - remove)		90 95 101=102 103 104		For legal certainty, we prefer not deleting the proposed definition of “finance agreement” in amendment 95. The definition of “remove” should follow the Commission’s F.A.Q. guidance document.

Art. 3 m (new), recital 22a (new): Nanomaterials		54 92 93 94		Orgalime does not support addressing nanomaterials in the WEEE and RoHS Directives, since nanomaterials are used in a wide range of different applications far beyond the EEE industry. These should be investigated and where necessary regulated on, however, at a horizontal level, i.e.: in the framework of the REACH Regulation. Many activities in that respect are currently ongoing in the Commission with a view to the REACH review 2012.
Art. 4: Eco Design		113 114		Industry fully supports the promotion of eco design. This issue is however comprehensively addressed and regulated via the Eco Design Directive. The WEEE Directive based on article 175 should not intervene on product legislation regulated in the article 95-Eco Design Directive.
Art. 6: Disposal and transport of collected WEEE	125			Asking member states to monitor the disposal of untreated separately collected WEEE helps improving the enforcement of the Directive.
Art. 8: Treatment				
- Develop harmonised standards	19 160=161= 162=164	165		Developing harmonised collection, treatment and recycling standards can contribute to the realisation of the environmental objectives of the Directive while giving industries a level playing field. However, the mandate needs to cover all three European Standardisation Committees (CEN, CENELEC and ETSI), not only one (as referenced in the related amendments).
- Link to raw materials	49 91 166			Retrieving raw materials is the most relevant economic driver for recycling. Defining "strategic raw material" as proposed in amendment 91 can help improving legal certainty.
- Treatment operations need to be registered under waste directive	168			Treatment operators are contracted by WEEE compliance schemes to carry out recycling operations. They should of course act in compliance with the Waste Directive.

Art. 14: Information for users (awareness campaigns)	220	218	219	Amendment 218 erroneously references collection points set up by producers. Collection points are not set up by producers, but municipalities in first instance.
Art. 21.1.a (new): Transposition deadline			250	No particular comment.
Modification of Comitology procedure according to art. 290 Lisbon Treaty			55 57 167 171 235 236 237 238 239 243	No particular comment.

Orgalime, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 10.6 million people in the EU and in 2009 accounted for some €1,427 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.