



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.3.2004
COM(2004) 214 final

Proposal for a

COUNCIL DECISION

**granting Cyprus, Malta and Poland 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. The WEEE Directive includes provisions on the financing of collection, treatment, recovery and environmentally sound disposal of waste electrical and electronic

equipment from private households in Article 8 and from users other than private households in Article 9.

7. 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.
8. On 9 February 2004 the Commission adopted a proposal for a Council Decision granting the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovenia and Slovakia certain temporary derogations from the WEEE Directive¹. According to this proposal, the Acceding States concerned should be granted extensions to the time-limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive of between 12 and 24 months.
9. On 18 February 2004 Malta requested, by e-mail to the Commission, an extension of 36 months to the time-limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive. The reasons it gave concern its recycling infrastructure deficit, low quantities of waste electrical and electronic equipment, constraints due to the fact that it is a small and geographically isolated country with a small local market and a high population density with attendant land-use problems, and that it is a net importer of electrical and electronic equipment.
10. In light of the reasons provided by Malta for its requests for derogations from the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive, the Commission considers that Malta is unable to meet the requirements of those provisions within the time limits laid down by the Directive. The Commission finds that it is appropriate to enable Malta to extend those time-limits by up to 24 months. The extension of 24 months corresponds to the time-limits granted in relation to the same provisions of the WEEE Directive for Greece and Ireland under Article 17(4)(a) of that Directive. It also corresponds to the time-limits proposed by the Commission for seven other Acceding States as mentioned above. The Commission considers that Malta has not invoked any additional circumstances that could justify further extensions of the time-limits concerned.
11. Malta has also requested a temporary derogation for the obligation to set up separate collection systems in Article 5(2) of the WEEE Directive. The Commission considers that the situation in Malta with regard to the implementation of this provision is not noticeably different to that of the other Acceding States. It therefore considers that the reasons invoked by Malta, including the fact that Malta does not currently have a separate collection system or the high costs for setting up the

¹ COM(2004)81 final.

systems in question do not justify any extension to the time-limit laid down by this provision of the Directive.

12. Furthermore, Malta also requests transitional periods from the provisions on financing in Article 8 and Article 9 of the WEEE Directive. The Commission notes the information provided by Malta concerning its preparations to implement these provisions. However, the Commission considers that it contains no justification for any extension of the time-limits laid down by these provisions of the Directive. Such derogations cannot be justified by delays that have occurred in adopting the national measures required for implementation of the provisions concerned.
13. By letters of 8 March 2004 Cyprus and Poland requested an extension of 24 months to the time-limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of the WEEE Directive. They both stated as reasons their recycling infrastructure deficit and low population density. Poland also cited its high proportion of rural areas. The Commission considers it appropriate to grant the extensions as requested for the same reasons as given above for Malta.
14. The Commission is proposing a Council Decision granting Cyprus, Malta and Poland 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.

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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 Cyprus, Malta and Poland,

Having regard to the proposal from the Commission²,

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)³, 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 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

² OJ C , , p. .

³ OJ L 37, 13.2.2003, p. 24.

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 waste⁴, 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, Cyprus, Malta and Poland requested transitional periods from the time-limits laid down in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC. Malta stated as reasons its recycling infrastructure deficit, low quantities of waste electrical and electronic equipment, constraints due to the fact that it is a small and geographically isolated country with a small local market and a high population density with attendant land-use problems, and that it is a net importer of electrical and electronic equipment. Cyprus and Poland stated as reasons their recycling infrastructure deficit and low population density. Poland also cited its high proportion of rural areas.
- (5) Those reasons justify an extension of the above mentioned time-limits for Cyprus, Malta and Poland by 24 months,

HAS ADOPTED THIS DECISION:

Article 1

Cyprus, Malta and Poland 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.

Article 2

This Decision is addressed to the Member States and the Republic of Cyprus, the Republic of Malta and the Republic of Poland.

Done at Brussels,

*For the Council
The President*

⁴ 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).