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JEITA



March 2018

**RECOMMENDATIONS OF THE INFORMATION & COMMUNICATIONS  
TECHNOLOGY SECTOR**  
*with regard to the*

**Items discussed in the 1<sup>st</sup> EWG meeting (Beijing, January 2018)**

**A) Proposals of text in relation to decision BC-12/5 paragraph 5 and Appendix V  
of the technical guidelines**

**1. Party notifications as per paragraphs 27 and 29**

Explanation: it was agreed that this item is not necessary anymore, as presented in Appendix V,  
and it should be deleted from the technical guidelines.

**ICT Sector Comment:** We agree that further discussion of this item is no longer  
necessary, and we support its deletion from Appendix V in the Technical Guidelines  
(TGs).

## 2. Residual life time and age of used equipment

Explanation: This item contains suggestions for different parts of the guidelines. The following pieces of text are now for consideration instead of those in Appendix V:

**ICT Sector Comment:** The ICT sector recognizes the legitimate concerns that many countries have regarding the import of used electrical and electronic equipment (UEEE) that, while still functional, may be near the end of its useful life. Our member companies do not engage in the business of re-selling such equipment.

We would like to reiterate that attempting to define a residual lifetime for UEEE is difficult if not impossible. There are simply too many variables to consider – including conditions of use, environmental factors (e.g., humidity), maintenance and care – to establish a meaningful residual lifetime range for even one category of product. Considering the broad range of UEEE categories within the scope of the TGs, we do not see a productive path forward on residual lifetime.

For the following reasons, we share similar concerns regarding proposals to use the age of equipment to make any waste/non-waste determination.

1. The age of equipment does not indicate whether a given device retains value in the marketplace and therefore is a poor indicator of whether that device is a product or possibly a waste.
2. The proposed age limits discussed in Beijing – generally in the range of 5-7 years – are far too short to recognize the typical use period of entire categories of electrical and electronic equipment. Many product types are designed to be in use for 15-30 years, while many others also remain in service longer than 5-7 years.
3. UEEE that is put back into commerce by the manufacturer (or its contracted vendor) after testing, repair, remanufacturing and refurbishment often carries a warranty or similar guarantee. Our companies stand behind this equipment and neither we nor our customers would consider such products to be wastes, regardless of their age.
4. A focus on the age of equipment could discourage new business models aimed at extending the life of equipment through service, repair and upgrades as part of the move toward a circular economy.

In general, the age of equipment itself indicates little about the value or market for a given piece of UEEE. Applying this measure to make the critical waste/non-waste distinction may therefore result in the premature generation of e-waste. For example, proper repair, remanufacturing or refurbishment in effect gives the device an extended life. Arguably, the age or residual lifetime expectancy prior to this servicing has little bearing on the continued value of the equipment.

In terms of the specific proposals forwarded in Beijing in January of this year, Parties clearly have the right to impose their own national conditions and requirements, provided those conditions comply with all applicable international, regional and national legal obligations. As discussed in Beijing, the World Trade Organization has specific rules governing the trade in used products.

Also, we are wary of proposals to impose numerous additional testing, paperwork and reporting requirements on shipments of UEEE for direct reuse, or for reuse following repair, remanufacturing and refurbishment. We believe that the declarations, documentation and reporting elements already enumerated in paragraphs 31(a) and 31(b) are sufficient to allow regulatory authorities to make the waste/non-waste determination. Requiring legitimate operators to record device-by-device information on date of manufacture; date of repair, remanufacturing or refurbishment; warranty status; etc., only adds costs and delays that decrease the value of UEEE and make it less likely to be sent for repair. Meanwhile, illicit actors will flout these requirements just as they flout existing requirements: by misrepresenting WEEE shipments as shipments of UEEE, functional equipment, or other goods.

(new) 27bis

Any party wishing to apply criteria in addition to those mentioned in paragraphs 30 and 31, for example in relation to the age of equipment, the management of residual waste generated during failure analysis, repair or refurbishment[...] is fully entitled to do so provided that it complies with applicable international, regional and national legal instruments.

30 (k) The criteria of residual life time or age of used equipment defined by national legislation is met, if applicable.

(alternative) 30 (k) The equipment is considered or defined as waste by national legislation based on the criteria age or residual life time, if applicable

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The documentation accompanying a shipment of used equipment falling under paragraph 31 (a) should contain the following information: ~~The documentation accompanying a shipment of used equipment falling under paragraph 31 (b) should include the recommended form contained in appendix III to the present guidelines and provide the following information:~~

(a) Name (including contact details) of the person who arranges the transport ~~and of the person who receives the shipment at the receiving facility;~~

(b) Description of the equipment (eg. name);

(bbis) Name of the producer, if available;

(bter) Identification number, if applicable;

(bquat) [Year of production, if available;]

(bquint) Year of earlier repair or refurbishment and kind of repair or refurbishment, if applicable;

(bsext) Warranty (y/n) and duration of warranty, if yes);

[(c) Quantity of equipment;]

~~[(d) Purpose of the transboundary transport (e.g., failure analysis, repair, refurbishment)~~

[(e) Starting date of the transport;]

(f) Countries concerned;

~~(g) Signed declaration by the person who has arranged the transport of the equipment affirming the existence of a contract fulfilling the requirements specified in paragraph 31(b) (ii) and that he/she will provide additional information to authorities upon request, and a Signed declaration made in accordance with paragraph 31 (a) (iii) above and that he/she will provide additional information to authorities upon request.-~~

(new)32bis

In addition to paragraph 32, the documentation accompanying a shipment of used equipment falling under paragraph 31 (a) in should contain the following information:

(a) Date of functionality testing;

(b) Kind of tests performed and results of test;

(c) Signed declaration that indicates that the equipment has been tested and is destined for direct reuse and fully functional, and information on its future user or, where this is not possible, its retailer or distributor;

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In addition to paragraph 32, the documentation accompanying a shipment of used equipment falling under paragraph 31 (b) should contain the following information:

(a) Name of the person who receives the shipment at the receiving facility

(b) Purpose of the transboundary transport (e.g., failure analysis, repair, refurbishment)

(c) Signed declaration by the person who has arranged the transport of the equipment affirming the existence of a contract fulfilling the requirements specified in paragraph 31(b) (ii).

## **Related changes to box 4 of appendix II**

### **4. Declaration:**

I, the person who conducted the evaluation and testing, declare that the results of evaluation and testing are complete and correct, to the best of my knowledge.

Name: Function: Date:  
Signature:

I, the person who arranges the transport of the equipment listed below, declare that I am entitled to represent my company and that:

a) hereby declare that prior to export the used equipment listed below was tested and is fully functional.<sup>1</sup>

b) I confirm that this equipment is not defined as or considered to be waste in any of the countries involved in the transport and is destined for direct reuse<sup>2</sup> and not for recovery or disposal operations.

c) A contract according to paragraph 31(a) (i) of the Basel Convention Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, is in place.

d) Upon request from the relevant authorities, I will make available underlying documentation (e.g., contracts or equivalent documents) that can be used to verify the statements contained in subparagraphs (a), (b) and (c) above.

e) The above information is complete and correct, to the best of my knowledge.

Name: —Function: Date:  
Signature:

### 3. Obsolete technologies, including cathode ray tubes

Explanation: The following text is now for consideration instead of that in Appendix V:

**ICT Sector Comment:** Per our previous submissions, we do not have significant concerns regarding limits on the transboundary movement of individual CRT units, such as stand-alone used televisions or computer monitors. We reiterate our suggestion that Parties recognize that CRTs embedded in larger systems and capital equipment – such as used air traffic control systems, testing and measurement equipment, medical devices, professional broadcasting equipment, etc. – be allowed to move as necessary and appropriate. We do not want to consign a valuable piece of capital equipment to the waste bin because it contains an embedded CRT unit.

We remain concerned with the use of the undefined phrase “obsolete technologies.” We are not aware of any recognized governing document or process used to determine when a technology becomes obsolete: what is no longer in demand in certain countries or regions may remain in demand in others.

30 (l) The equipment contains CRTs except it is specialized equipment for professional use or is under warranty

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<sup>1</sup> Equipment is “fully functional” if it has been tested and demonstrated to be capable of performing the key functions that it was designed to perform.

<sup>2</sup> The using again of fully functional equipment that is not waste for the same purpose for which it was conceived without the necessity of repair or refurbishment.

Explanation: In relation to the term “equipment for professional use”, it was mentioned that the group could look into text from the EU Directive on WEEE to see if such or similar text could be considered for the technical guidelines.

The text mentioned during the meeting follows below, as it was included in one of the pre COP12 versions of the technical guidelines, and it builds on language from the EU WEEE Directive that defines WEEE from private households.

“Equipment that is designed to be used solely by professional users. Equipment that is likely to be used by private households, or by private households as well as by professional users is not equipment for professional use”.

### **3a. Presence of hazardous substances in used equipment (cf. paragraph 5(d) of decision BC-12/5)**

Explanation: It was agreed that part of the text under item 3. in Appendix V could be further discussed to address the issue presence of hazardous substances in used equipment.

**ICT Sector Comment:** We support compliance with relevant national measures for the restriction of hazardous substances in UEEE destined for re-use but do not see such references as appropriate criteria for waste/non-waste determinations at the international level. First, there are numerous such national or regimes already in place around the world, and they are not all consistent. It is not clear which version the TGs would reference. Second, these regimes are being periodically updated, and there is no clearinghouse for keeping track of these changes and modifications. Relying on a given national or regional approach is thus likely to cause confusion. The document could include an information statement as a reminder to those handling used equipment:

Persons arranging the transport of used equipment for reuse are reminded that some countries restrict the presence of certain hazardous substances in electrical and electronic products placed on the market in those countries.

Responsible global companies already ensure their products are legal for sale in each market in which they operate, so including a materials restrictions criterion to the TGs does not add anything but potential confusion. Finally, illicit actors are not going to abide by the TGs in any event, so this propose criterion will not serve to stem the flow of broken equipment.

31 (b) (iii) Used equipment transported across borders is compliant with applicable national legislation and relevant international rules, standards and guidelines on restrictions of the use of hazardous substances

### **4. Identification of relevant actors in the documentation**

Explanation: this item was not extensively discussed, and it seemed that some of the details, under this item, proposed in Appendix V, are not relevant anymore. Additionally, there are suggestions above in this document, under item “2. Residual life time and age of used equipment”, which contain new proposed text on documentation.

**ICT Sector Comment:** We believe that the interim TGs already contain sufficient elements to identify and document the relevant actors throughout the process.

## 5. Specific exemption for medical devices

Explanation: The group discussed the need of an exemption for medical devices in the guidelines. Different views were explained, and the group agreed that the wording to deal with obsolete technologies, including CRTs (item 3. above), should contain reference to equipment for professional use. Thus, the text under this item in Appendix V was not considered further.

**ICT Sector Comment:** We understand the outcome in Beijing is to no longer consider the targeted exemption for medical devices contained in Appendix V, but to possibly address the issue elsewhere in the Technical Guidelines by including a “reference to equipment for professional use.” Consistent with our prior submissions, we propose that any reference to equipment for professional use include capital ICT equipment (e.g., air traffic control systems, testing and measurement equipment, data centers, professional broadcasting equipment, etc.) as well as medical devices.

## 6. Specific exemption for used parts

Explanation: it was agreed that this item is not necessary anymore and it should be deleted from the technical guidelines.

**ICT Sector Comment:** We agree that clarification of this item is no longer necessary, and we support its deletion from Annex V of the TGs.

## 7. Waste resulting from failure analysis, repair and refurbishment activities

Explanation: This item contains suggestions for different parts of the guidelines. The following pieces of text are now for consideration instead of those in Appendix V:

**ICT Sector Comment:** The ICT sector strongly supports the environmentally sound management (ESM) of any residual hazardous wastes (including any wastes with unknown hazardous characteristics) generated as a result of permissible failure analysis, repair, remanufacturing and refurbishment activities. We agree that such wastes must be managed in accordance with the Basel Convention.

We support the approach now set forth in the interim TGs concerning the use of contracts between the person managing transport and the receiving facility to ensure ESM of residual wastes from failure analysis, repair, remanufacturing or refurbishment activities. The use of such contracts along with appropriate documentation and feedback reports reduces greatly the risk of improper management of residual wastes.

A requirement to return residual hazardous wastes to the country from which the used equipment originates is impractical and unnecessary. In some cases, non-OECD countries may boast better ESM facilities than certain OECD

countries. Rather than prescribing arbitrary practices, the common objective of all stakeholders should be to ensure that all covered wastes are managed in an environmentally sound manner. This can be accomplished in the country that hosts the failure analysis, repair, remanufacturing or refurbishment operations or in a nearby country if the first lacks such ESM facilities.

**31(b)**

(iii) The hazardous waste resulting from failure analysis, repair and refurbishment shall be managed in the environmentally sound manner based on provisions of national legislation. In case the facility for ESM is not available in the country of import, it shall be re-exported to the exporting country or any other country where the ESM is available. The ESM of waste shall be the responsibility of the person arranging the transportation.

**Section VI**

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It is recommended to facilities receiving used equipment that is not waste and is intended for failure analysis, repair or refurbishment to, as appropriate, include provisions in the contract with the person who arranges the transport that:

- (a) used equipment that was destined for failure analysis, repair or refurbishment, but for which no failure analysis, repair or refurbishment has been conducted, is returned to the person who arranges the transport, and
- (b) the waste generated during failure analysis, repair or refurbishment is returned to the person who arranges the transport, or is disposed of in an environmentally sound manner. In case of non-availability of environmentally sound management in the country where the failure analysis, repair or refurbishment was conducted, the waste should be managed in an environmentally sound manner in a third country.

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