

ANNEX VI

MINIMUM REQUIREMENTS FOR SHIPMENTS

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member States shall require the holder to have available the following to substantiate this claim:
 - (a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
 - (b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
 - (c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC; and
 - (d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load.
2. By way of derogation, point 1(a) and (b) and point 3 do not apply where it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and that:
 - (a) the EEE is sent back to the producer or a third party acting on his behalf as defective for repair under warranty with the intention of re-use; or
 - (b) the used EEE for professional use is sent to the producer or a third party acting on his behalf or a third-party facility in countries to which Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations applies, for refurbishment or repair under a valid contract with the intention of re-use; or
 - (c) the defective used EEE for professional use, such as medical devices or their parts, is sent to the producer or a third party acting on his behalf for root cause analysis under a valid contract, in cases where such an analysis can only be conducted by the producer or third parties acting on his behalf.
3. In order to demonstrate that the items being shipped constitute used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing

- (a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.
- (b) Results of evaluation and testing shall be recorded.

Step 2: Record

- (a) The record shall be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.
- (b) The record shall contain the following information:
 - name of item (name of the equipment if listed in Annex II or Annex IV, as appropriate, and category set out in Annex I or Annex III, as appropriate),
 - identification number of the item (type No) where applicable,
 - year of production (if available),
 - name and address of the company responsible for evidence of functionality,

- result of tests as described in step 1 (including date of the functionality test),
 - kind of tests performed.
4. In addition to the documentation requested in points 1, 2 and 3, every load (e.g. shipping container, lorry) of used EEE shall be accompanied by:
- (a) a relevant transport document, e.g. CMR or waybill;
 - (b) a declaration by the liable person on its responsibility.
5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 2, 3 and 4 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load, which are the obligations of the holder who arranges the transport, Member State authorities shall consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of Regulation (EC) No 1013/2006.
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