

Name of Project: Implementation of Article 17 of the WEEE directive (2012/19/EU)	
ToR Reference No.: 2022-IV/02	
Version: <input type="checkbox"/> Draft <input type="checkbox"/> Final <input checked="" type="checkbox"/> Adopted	Date: 10-Mar-22
TERMS OF REFERENCE FOR WORK UNDER THE AUSPICES OF IMPEL	

1. Work type and title

1.1 Identify which Expert Team this needs to go to for initial consideration	
Industry and air	<input type="checkbox"/>
Waste and TFS	<input checked="" type="checkbox"/>
Water and land	<input type="checkbox"/>
Nature protection	<input type="checkbox"/>
Cross-cutting tools and approaches	<input type="checkbox"/>
1.2 Type of work you need funding for	
Exchange visits	<input type="checkbox"/>
Peer reviews (e.g. IRI)	<input type="checkbox"/>
Conference	<input checked="" type="checkbox"/>
Development of tools/guidance	<input checked="" type="checkbox"/>
Comparison studies	<input checked="" type="checkbox"/>
Assessing legislation (checklist)	<input type="checkbox"/>
Other, (please describe):	<input checked="" type="checkbox"/>
Sharing experiences on, and cooperating in the implementation of the requirements of the WEEE Directive regarding authorised representative.	
1.3 Full name of work	
Implementation of Article 17 of the WEEE directive (2012/19/EU):	
<ul style="list-style-type: none"> • Improving the implementation and enforcement of the obligations of an authorised representative (AR). • Developing a uniform enforcement strategy to address unregistered producers of electrical and electronic equipment that are not established in a member state. 	
1.4 Abbreviated name of work or project	



WEEE Article 17 Free-riders project.

2. Outline business case (why this piece of work?)

2.1 Name the legislative driver(s) where they exist

Article 17 WEEE 2012/19/EU: Authorised representative:

- Each member state shall ensure that a producer as defined in article 3(1)(f)(i) to (iii) established in another member state is allowed, by way of exception to article 3(1)(f)(i) to (iii), to appoint a legal or natural person established on its territory as the authorised representative that is responsible for fulfilling the obligations of that producer, pursuant to this directive, on its territory.
- Each member state shall ensure that a producer as defined in article 3(1)(f)(iv) and established on its territory, which sells EEE to another member state in which it is not established, appoints an authorised representative in that member state as the person responsible for fulfilling the obligations of that producer, pursuant to this directive, on the territory of that member state.
- Appointment of an authorised representative shall be by written mandate.

2.2 Link to IMPEL MASP priority work areas

- | | |
|---|-------------------------------------|
| 1. Assist members to implement new legislation. | <input type="checkbox"/> |
| 2. Build capacity in member organisations through the IMPEL Review Initiatives. | <input type="checkbox"/> |
| 3. Work on 'problem areas' of implementation identified by IMPEL and the European Commission. | <input checked="" type="checkbox"/> |
| 4. Other, (please specify):
Improving communication and cooperation within WEEE enforcement authorities. | <input checked="" type="checkbox"/> |

2.3 Why is this work needed?

According to the WEEE directive 2012/19/EU (respectively the implemented national law: e.g. ElektroG in Germany) every producer of electrical and electronic equipment has to be registered in the national register (Germany: stiftung elektro-altgeräte register) to ensure that they will fulfil their responsibilities, when their sold products become waste (e.g. WEEE).

There is no common European register. When a producer, established in a country, wants to sell his products in another European country, where he has no establishment, he is required to appoint an authorised representative in that country, who must fulfil his obligations there according to the WEEE directive (especially registration).



When a producer has not appointed an authorised representative, it is difficult for the national regulatory authority to prosecute him abroad (e.g. in his home country). That is why the regulatory authorities need to work together. One solution is to bring the cross border free-riders (producers without registration) to the attention of the competent national authority in that country, in which the producer has his establishment. In this way, there are less difficulties associated with prosecution or with translation of relevant documents.

For working better together, the regulatory authorities need a platform / SharePoint to exchange information. Basecamp 3 gives the regulatory authorities the necessary platform/ SharePoint. They need to know who is responsible in the other member states for transmission of the reports necessary for enforcement and prosecution.

2.4 Desired outcome of the work

- Increasing the compliance of producers of electrical and electronic equipment with their extended producer responsibilities is one of the aims of this project. By strengthening (cross-border) enforcement against so called free-riders, the incentive to register and subsequently oblige with EPR will increase. Less free-riders and therefore fair competition between producers that are established in a European country and those that are selling on the EU market but are established outside the EU.
- Exchange of information, working methods, case studies and experiences to inform participants of new developments. We hope to share information, best practice and experiences relevant to WEEE enforcement authorities among the project members. This exchange happens on a need-to-do basis.

2.5 Does this project link to any previous or current IMPEL projects?

Yes, it is linked with the 2019/08 WEEE Directive article 17 'Free-riders' Project, the 2020 WEEE Directive article 17 'Free-riders' Project and the 2021 WEEE Directive article 17 'Free-riders' Project. Besides that, the 'Implementation of the WEEE Directive – including BRFs (2017)' concerns the same directive even though its focus was on the enforcement of producer obligations under the directive and the environmentally sound management of WEEE.

3. Structure of the proposed activity

3.1 Describe the activities of the proposal

- Improving and simplifying the enforcement of Art. 17 WEEE Directive and prosecution of European cross-border WEEE free-riders.
- International cooperation in cross-border prosecution.
- A non-bureaucratic and simple way to communicate between competent authorities.
- Exchanging experiences in enforcement and prosecution of cross-border WEEE free-riders and in implementation of the requirements of the WEEE Directive regarding authorised representative in the other EU member states



- Quarter annual virtual project meeting
- Annual physical project meeting (as far as possible; to be replaced with virtual meeting if pandemic does not allow for travelling)
- Translation of national WEEE laws into English
- Publishing translation on Basecamp 3, possible project page on IMPEL website
- Writing a short study on national measures to reduce free riding
- Writing a short study on differences in implementation of WEEE Directive in national law concerning enforcement against free riders

A way to improve and simplify the prosecution of European cross-border WEEE free-riders and to further international cooperation in cross-border prosecution is regular exchange between the responsible colleagues in the enforcement agencies. Within the project regular exchange is planned via virtual and physical meetings. Every three month there will be a virtual meeting for all members to exchange experiences, news and information. One of the meetings will – if COVID-19 allows it – be held as a physical meeting (August 2022 or later). The physical meeting is planned to span two days. By meeting in person the exchange shall be intensified, new ideas developed and discussed and plans made for future collaboration.

The project leaders will meet virtually or via phone call between meetings to discuss developments and ideas.

Guidelines and aiding documents will be created when necessary and useful.

For working better together, the regulatory authorities need a platform / SharePoint to exchange information. Basecamp 3 gives the regulatory authorities the necessary platform/ SharePoint. They need to know who is responsible in the other member states for transmission of the reports necessary for enforcement and prosecution.

3.2 Describe the products of the proposal

1. Guidelines for the regulatory authorities (e.g. how to prosecute a producer without an authorised representative in the other member states, which national registers are available online and in which format).
2. Unofficial* translation of national WEEE laws into English.
3. Short study on national measures to reduce free riding.
4. Short study on differences in implementation of WEEE Directive in national law concerning enforcement against free riders.
5. To use 'Basecamp 3' for better communication between the regulatory authorities of the member states.
6. A greater level of more efficient and effective cooperation between member states for prosecuting more free-riders.
7. Gain further insight into national WEEE legislation and its enforcement.
8. Detect possible improvements to enforcement.
9. Annual interim report



10. Final report

*The official translation of legislative texts can only be done by the respective Ministry of Justice or other national institutions.



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