

CECAPI

Comité Européen des Constructeurs d'Appareillage Electrique d'Installation
European Committee of Electrical Installation Equipment Manufactures

WEEE AND RoHS DIRECTIVES

1. CRITICAL ISSUES ABOUT THE SCOPE

1.1. WEEE AND ROHS: TWO DIFFERENT LEGAL BASES BUT THE SAME SCOPE

WEEE directive is based on article 175 of the Rome Treaties; every Member State may adopt stricter measures in the transposition into national law.

RoHS directive is based on article 95 of the CE Treaty; Member States shall not adopt stricter measures.

This is indeed a critical aspect, to be discussed.

Non harmonized endorsements of the two directives would produce a fragmentation of the internal market and create trade barriers, so infringing the basic principles of the Rome Treaties, on which the founding principles of the EU are based (see annex ii).

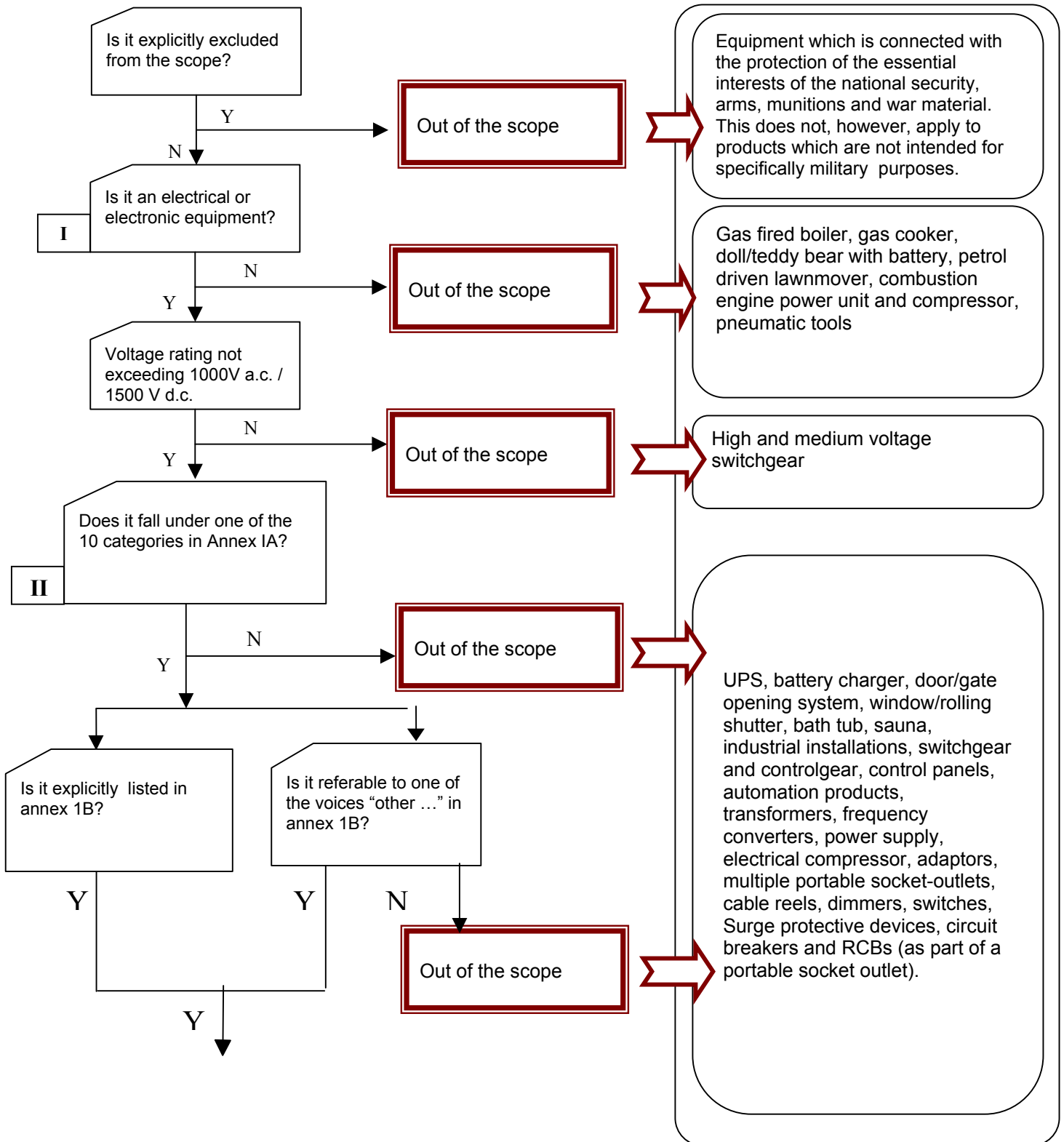
Due to the critical issues mentioned above, ANIE has developed the present document with the aim to propose a clear list of products "in" & "out".

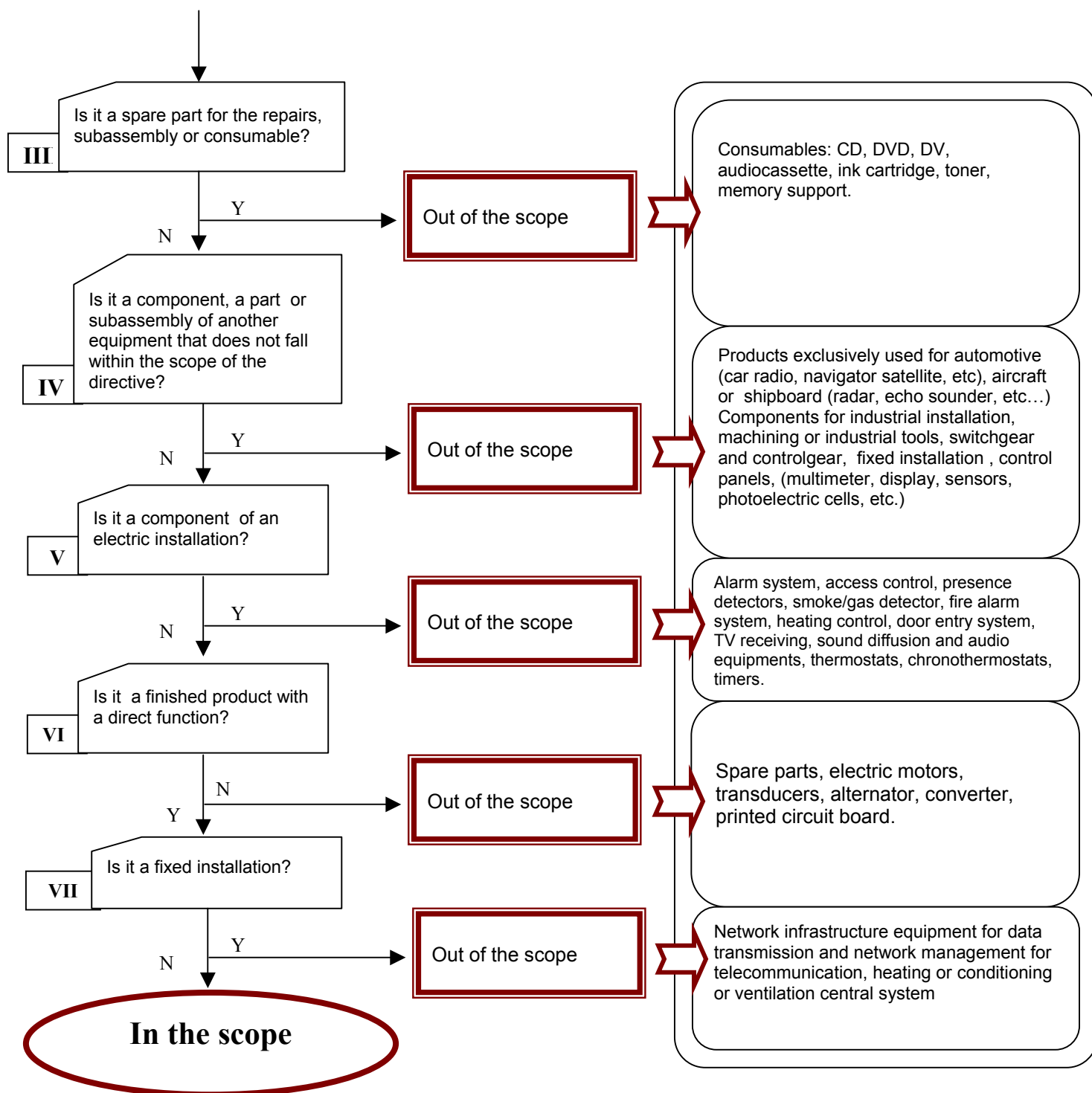
This following "decision tree" is the main tool for that purpose (**in annex i the application guide is provided**).

For quickly finalising a common CECAPI position to be proposed by the Member Associations to the respective National Administrations, ANIE proposes to set up a CECAPI WG and is prepared to provide the relevant convenorship.





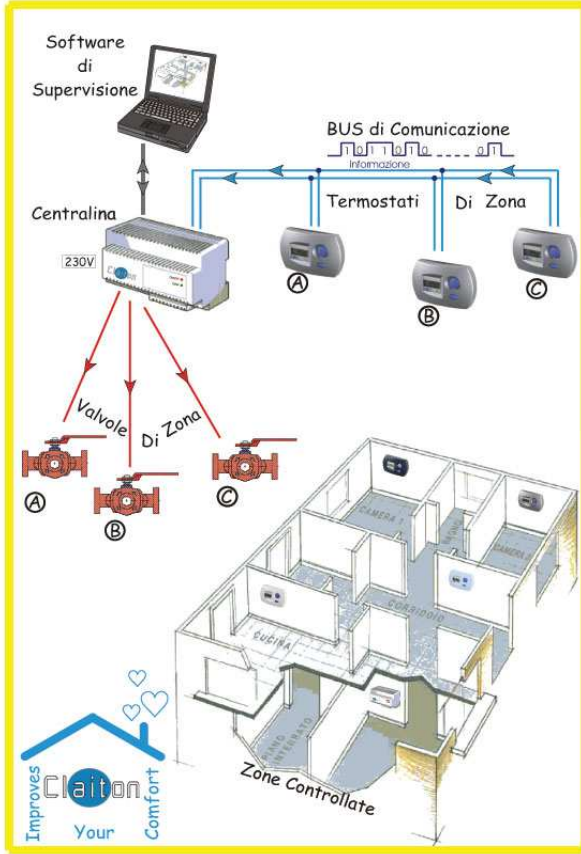
2. DECISION TREE

The decision tree shown in figure is used to determine the equipments that are within the scope of WEEE directive.





LIST A
INDICATIVE LISTS OF ELECTRIC INSTALLATIONS AND COMPONENTS OUT OF THE SCOPE OF THE WEEE

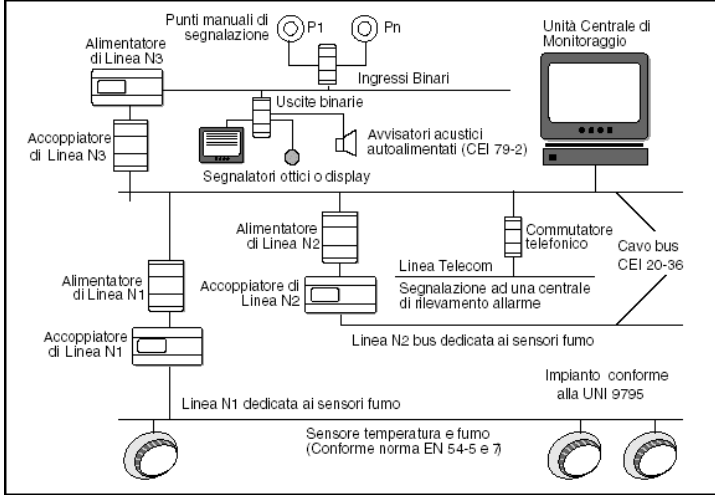
HEATING CONTROL	
COMPONENTS OF ELECTRIC INSTALLATION (Not included in the scope)	FINISHED PRODUCTS (Included in the scope)
	  <p style="text-align: center;">Thermostat for terrarium</p>  <p style="text-align: center;">Thermostat for aquarium</p>
	

LIST A

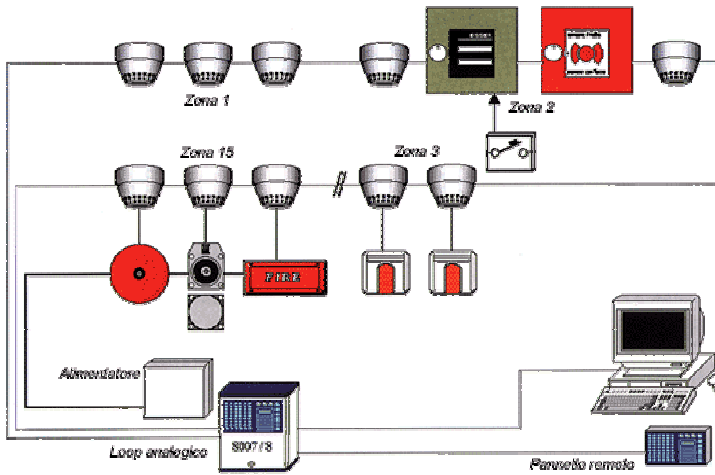
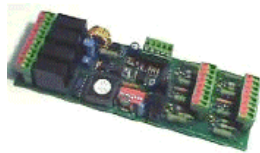
SMOKE/GAS DETECTOR

**COMPONENTS OF ELECTRIC INSTALLATION
(Not included in the scope)**

**FINISHED PRODUCTS
(Included in the scope)**



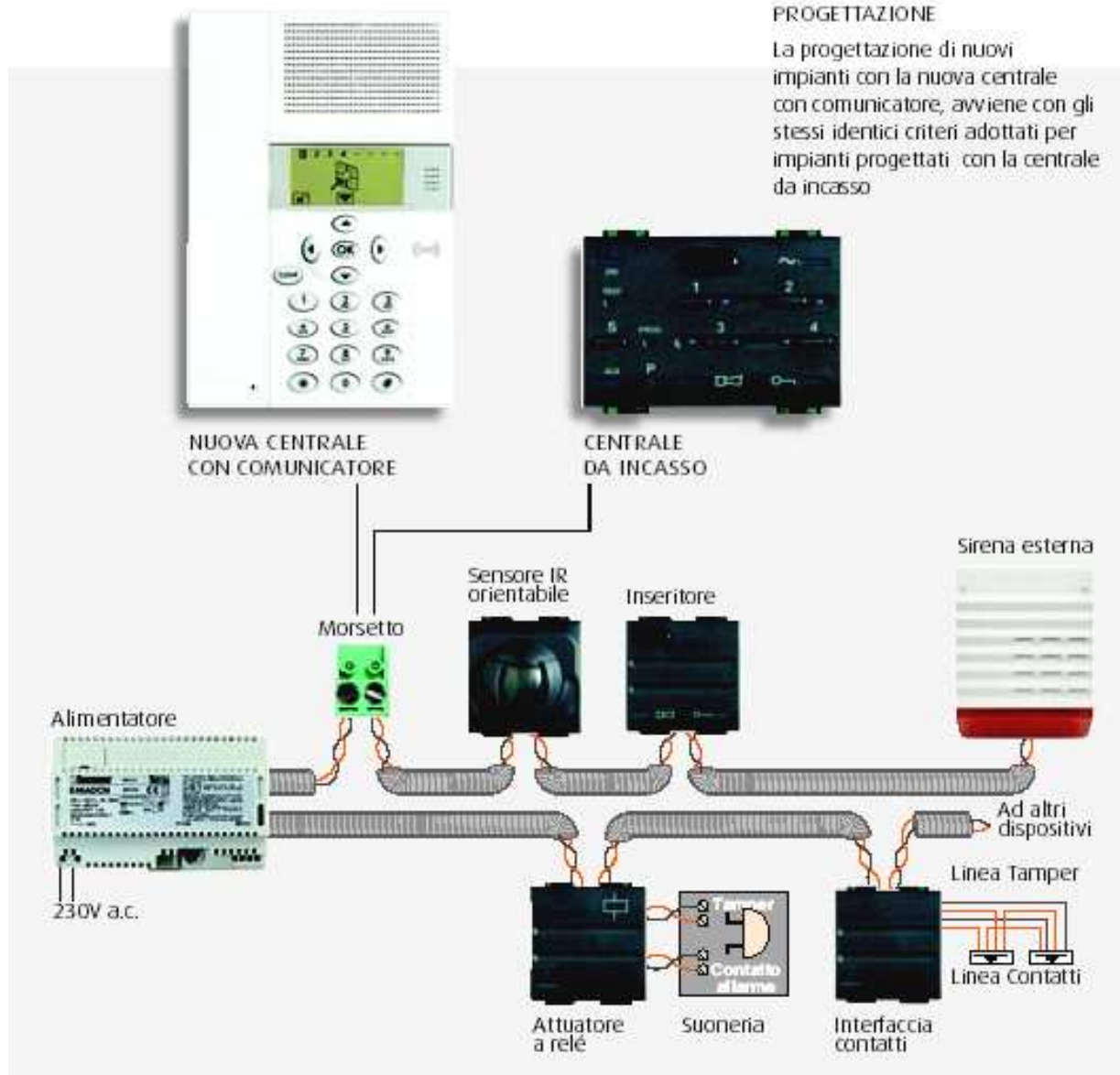
Battery supplied



LIST A

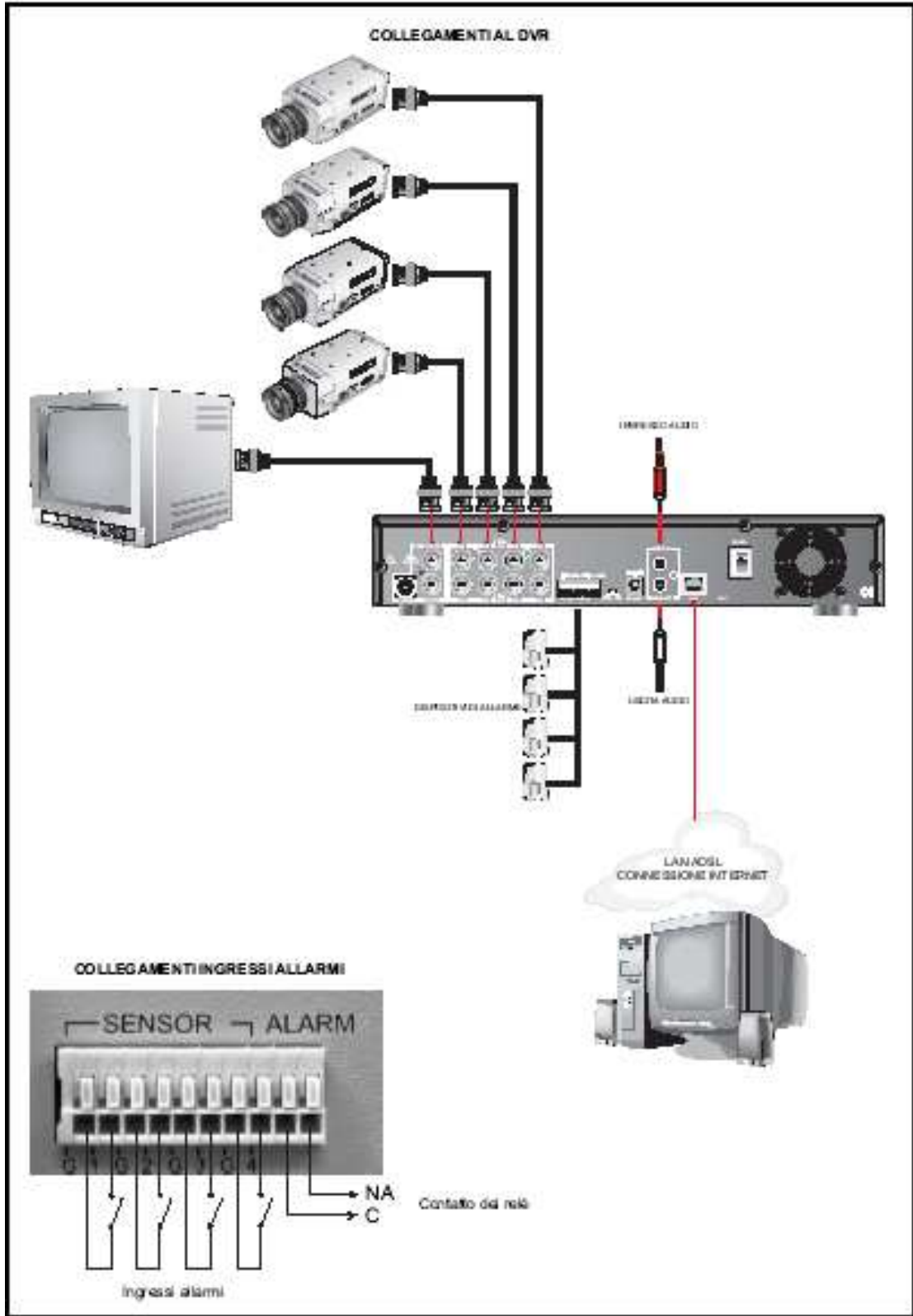
ALARM SYSTEM

**COMPONENTS OF ELECTRIC INSTALLATION
(Not included in the scope)**



LIST A

ACCESS CONTROL
COMPONENTS OF ELECTRIC INSTALLATION
(Not included in the scope)

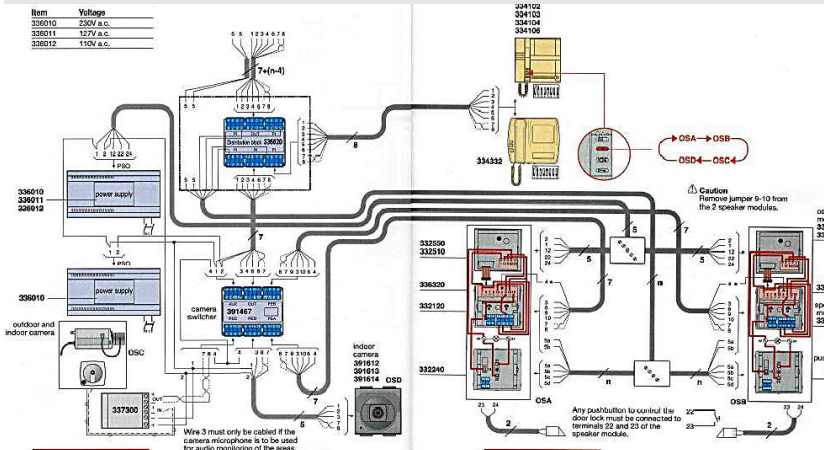
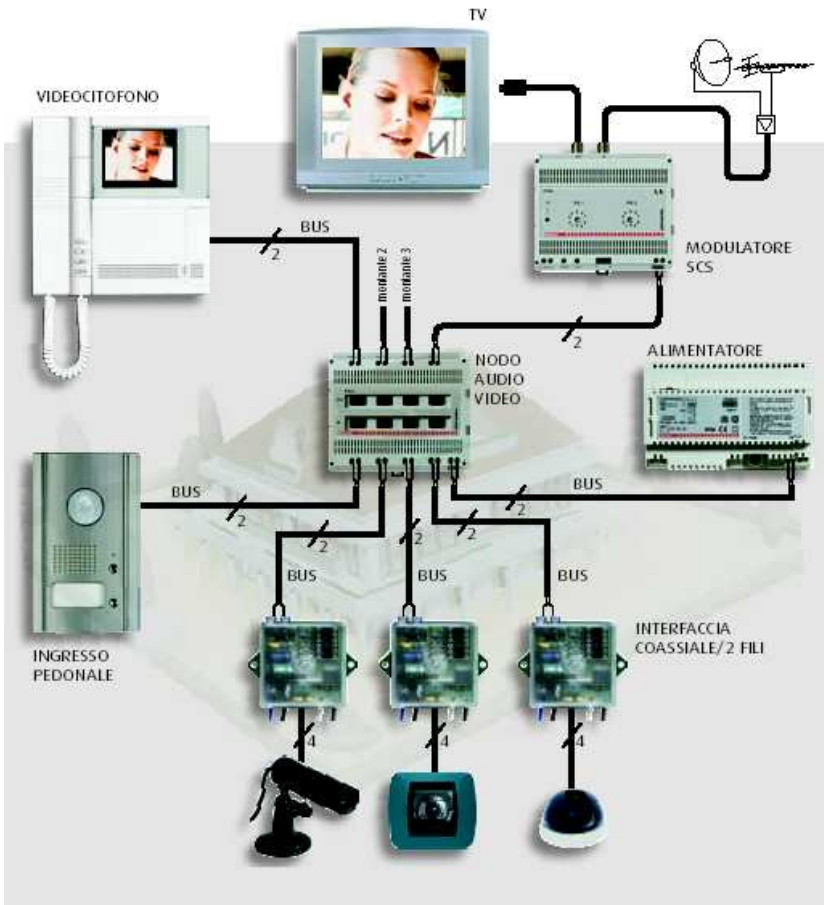


LIST A

DOOR ENTRY SYSTEM

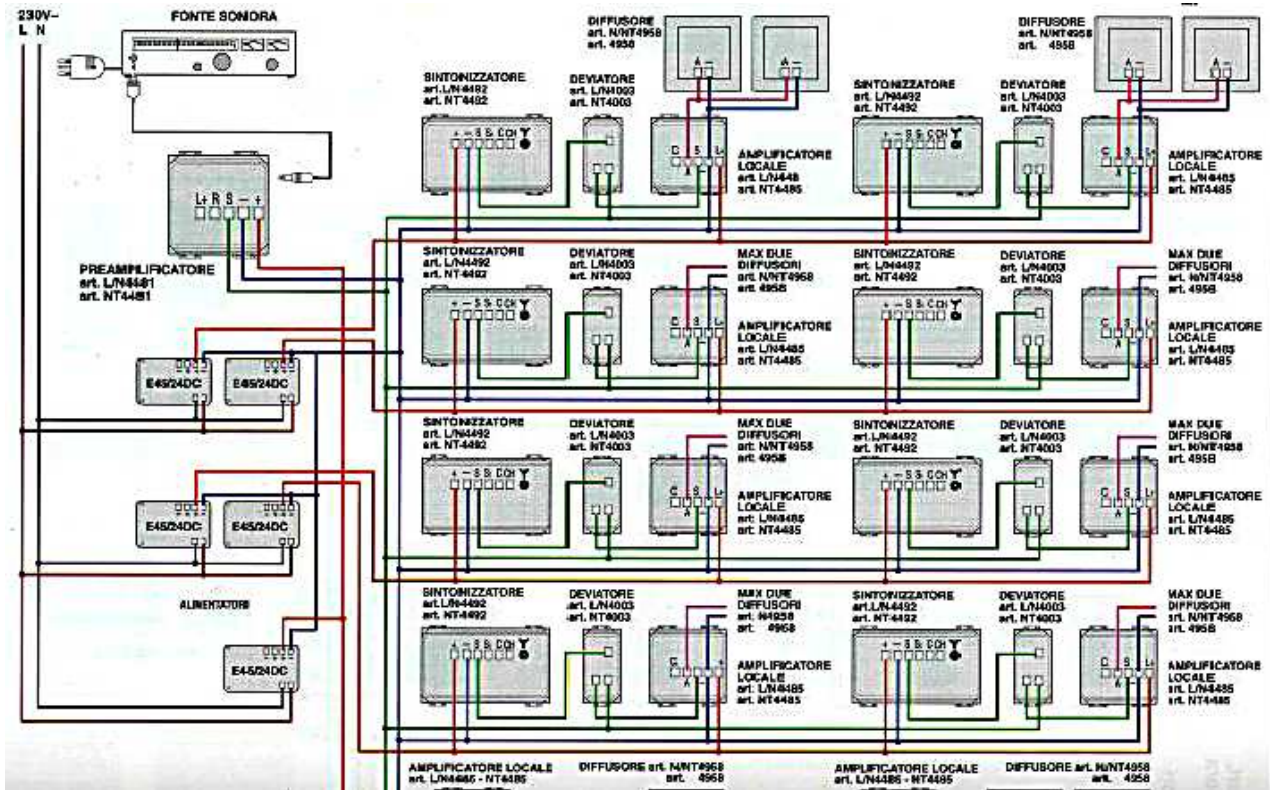
COMPONENTS OF ELECTRIC INSTALLATION (Not included in the scope)

FINISHED PRODUCTS (Included in the scope)



LIST A

**SOUND DIFFUSION
COMPONENTS OF ELECTRIC INSTALLATION
(Not included in the scope)**

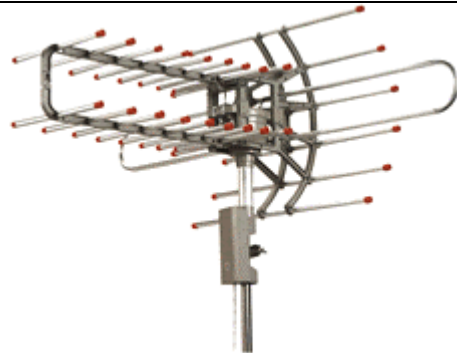
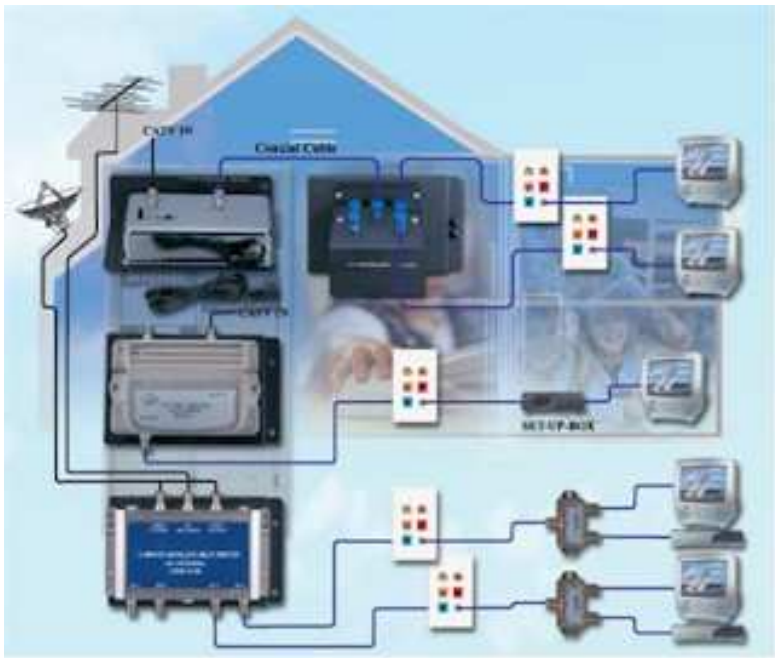
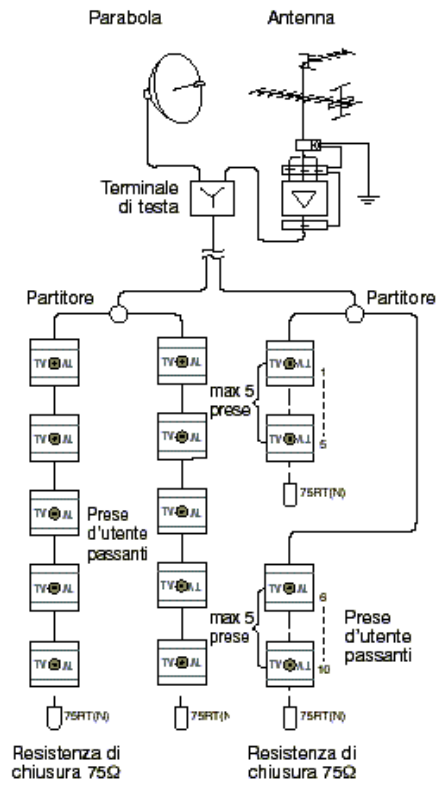


**FINISHED PRODUCTS
(Included in the scope)**



LIST A






TV RECEIVING
COMPONENTS OF ELECTRIC INSTALLATION
(Not included in the scope)



FINISHED PRODUCTS
(Included in the scope)

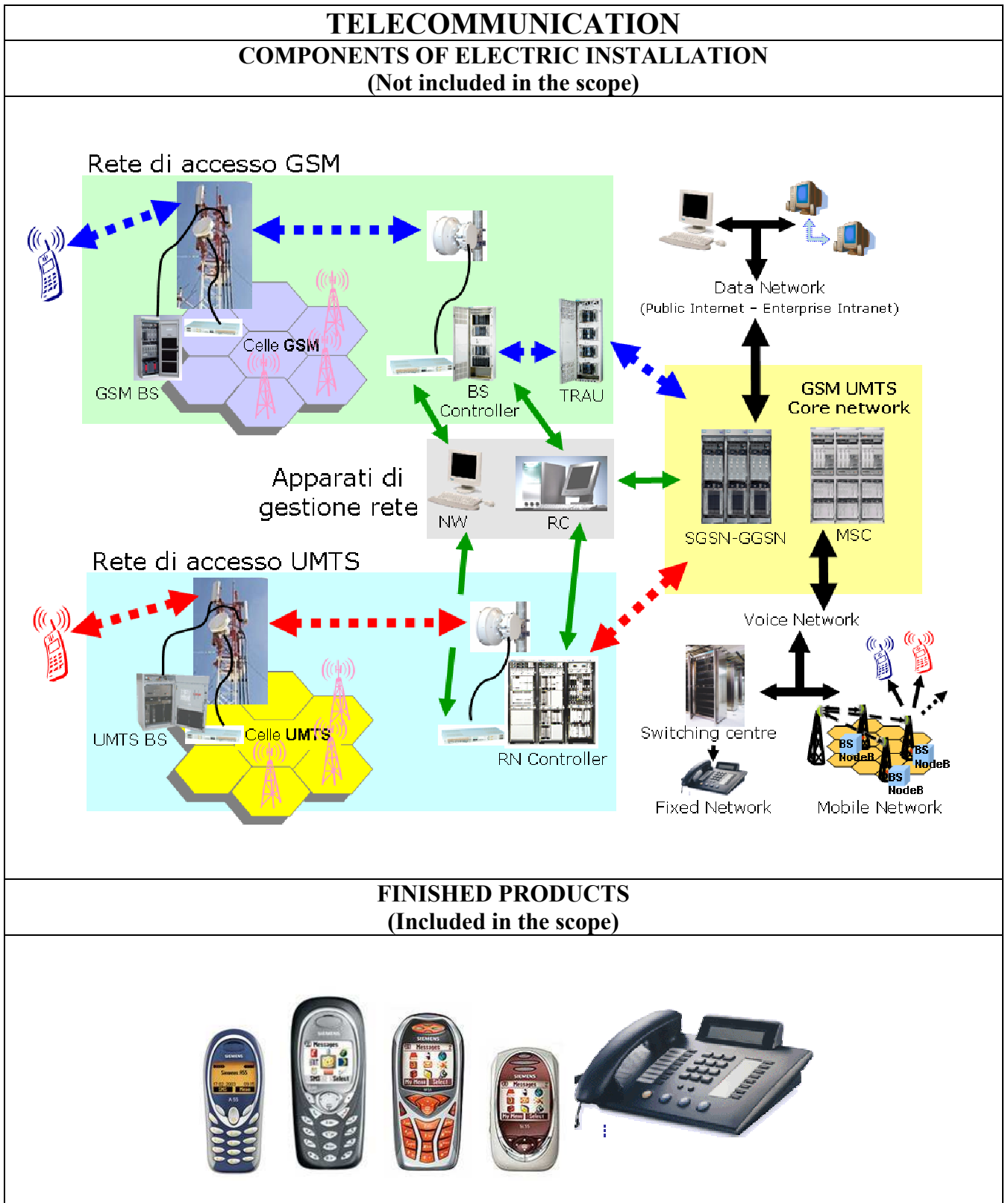


LIST B

MEASUREMENT EQUIPMENTS	
COMPONENTS (Not included in the scope)	FINISHED PRODUCTS (Included in the scope)
	 <p style="text-align: center;">Multimeters and Ammeter Clamps</p>
	 <p style="text-align: center;">Portables Oscilloscopes</p>
COMPONENTS OF ELECTRIC INSTALLATION (Not included in the scope)	
	

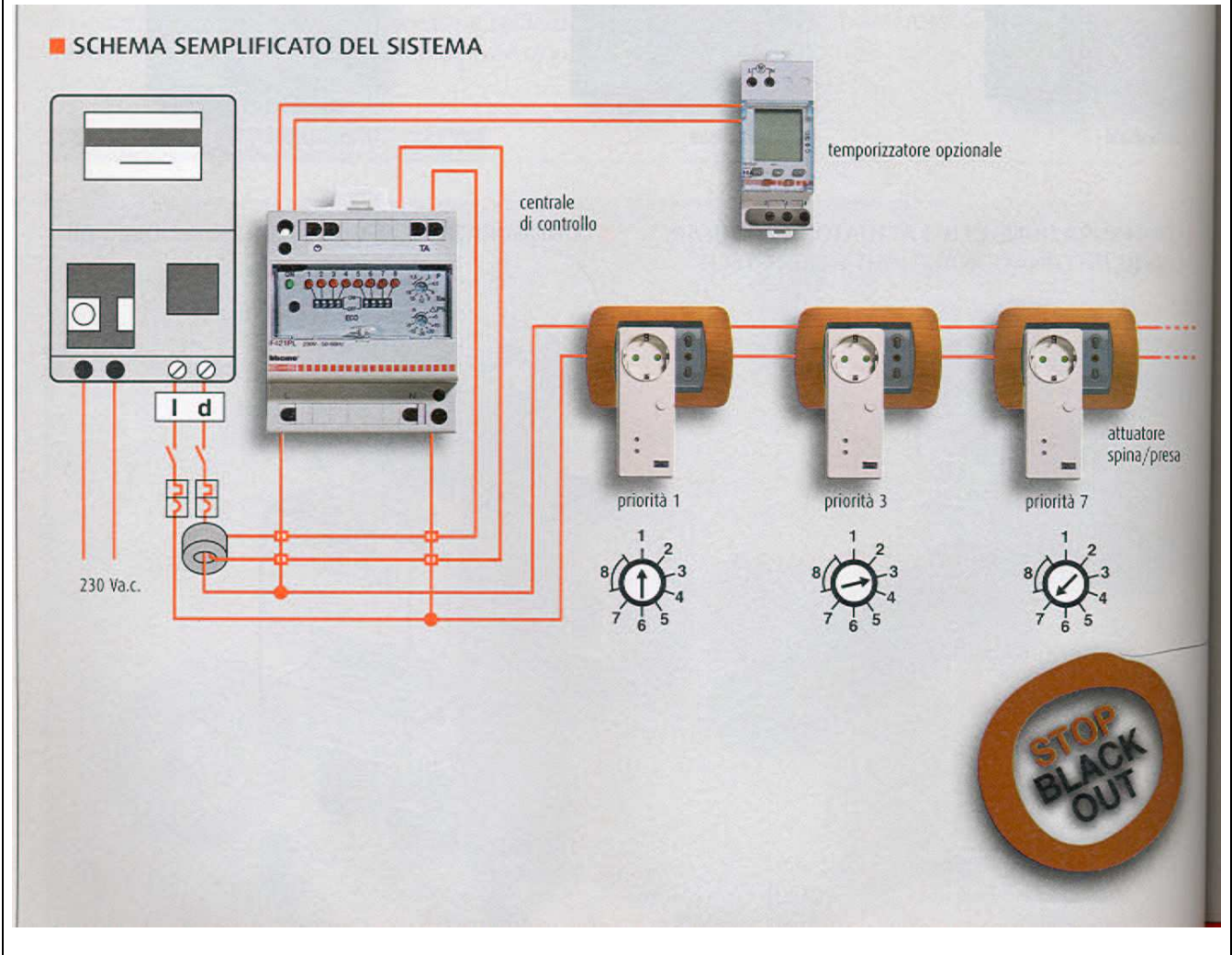
LIST C

APPLICATION OF THE DECISION TREE TO SOME TYPOLOGIES OF PRODUCT



LIST C

ENERGY MANAGEMENT SYSTEM COMPONENTS OF ELECTRIC INSTALLATION (Not included in the scope)



ANNEX i

GUIDE TO THE USE OF THE DECISION TREE

I – ELECTRIC AND ELECTRONIC EQUIPMENT

Article 3.1, a) of the WEEE directive:

'electrical and electronic equipment' or 'EEE' means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex IA and designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1 500 Volt for direct current; unless he also acts as a producer within the meaning of subpoints (i) to (iii); (j) 'distributor' means any person who provides electrical or electronic equipment on a commercial basis to the party who is going to use it;

From Commission FAQ document:

*For the purpose of this directive to be "**dependent**" means the equipment to be dependent on electric current or electromagnetic fields. That means that electricity is the (e. g. not petrol or gas) **primary** energy. It also means that when the electric current is off duty, the appliance cannot fulfil the basic (primary) function. If electrical energy is used only for support or control functions this type of equipment is to be considered as being not covered by directive 2002/95/EC.*

II - INTERPRETATION OF ANNEX IA AND IB of the WEEE Directive

WEEE directive applies to, art 2.1:

1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in Annex IA provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of this Directive. Annex IB contains a list of products which fall under the categories set out in Annex IA.

Annex IB titles:

*ANNEX IB
List of products which shall be taken into account for the purpose of this Directive and which fall under the categories of Annex IA*

Annex IB lists products that are under the scope of the WEEE directive. It is "indicative" and not "exhaustive" as there are some general points such as "Other Equipment for...."

These points make Annex IB an indicative list, as they contain a great variety of products. Annex IB could be ideally subdivided in two lists, one of specific entries, and another one of indicative and general entries. For instance:

ANNEX i

CATEGORY 1 : BIG DOMESTIC APPLIANCES	
<i>Exhaustive entries</i>	Indicative entries
Large household appliances, Large cooling appliances, Refrigerators, Freezers , Washing machines, Clothes dryers, Dish washing machines, Cooking, Electric stoves, Electric hot plates, Microwaves , Electric heating appliances, Electric radiators, Electric fans, Air conditioner appliances	Other large appliances used for refrigeration, conservation and storage of food Other large appliances used for cooking and other processing of food Other large appliances for heating rooms, beds, seating furniture Other fanning, exhaust ventilation and conditioning equipment

All equipments specifically indicated by specific entries, and all equipments recomprised in indicative entries fall under the scope of the directive. All equipments that are not specifically indicated by specific entries and all equipment that are not recomprised in indicative entries, DO NOT FALL under the scope of the directive.

III – SPARE PARTS, SUBASSEMBLIES, CONSUMABLES

Components, subassemblies and consumables are not included in the scope of the directive. From the definition of WEEE, it is clear they are included in the scope when they are part of the product, at the moment it becomes waste.

(b) 'waste electrical and electronic equipment' or 'WEEE' means electrical or electronic equipment which is waste within the meaning of Article 1(a) of Directive 75/442/ EEC, **including all components, subassemblies and consumables** which are part of the product at the time of discarding

IV – PART OF ANOTHER TYPE OF EQUIPMENT OR PART of FIXED INSTALLATION

Art. 2.1 states:

*1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in Annex IA provided that the equipment **concerned is not part of another type of equipment that does not fall within the scope of this Directive.** Annex IB contains a list of products which fall under the categories set out in Annex IA.*

So components, subassemblies and spare parts that are part (not finished products, see chapter VI) of other equipments which do not fall under the scope of the directive, are to be considered out of the scope of the directive. For instance:

Means of transport

Equipments or components that are designed to be used only on transport means as car, camper, trains, aircraft, space vehicles, etc. are out of the scope.

Large scale fixed industrial tools

Equipment that are part or component of large scale fixed industrial tools, are out of the scope, as that kind of tools are explicitly excluded from the scope (Annex IB, category 6).

ANNEX i

From Commission FAQ document:

*Machine or system, consisting of a combination of equipments, systems, finished products and/or components, each of which (parts), manufactured to be used in industry only, permanently fixed and installed by professionals at a given place in an industrial machinery or in an industrial building to perform a specific task. **Not intended to be placed on the market as a single functional or commercial unit***

Fixed installation

The Commission FAQ document states that equipments that are considered fixed installation do not fall under the scope. Therefore any equipment that is a part, component or subassembly of a fixed installation do not fall under the scope of the directive in accordance with article 2.1.

For the definition of "fixed installation" see chapter VII.

IV.1 COMPONENT IN INDUSTRIAL INSTALLATION (LIST B)

Components of industrial installations, machinery or industrial tools, control panels (such as display, multimeters, etc) do not fall under the scope of the directive, as they are not finished products (see chapter VI).

Regarding point 9.5 of Annex IB, are to be considered "Control and monitoring instruments in industrial installation" only the control and monitoring instruments that are finished products, and not parts or subassemblies of industrial installation.

In LIST B some examples.

V – PARTS AND COMPONENTS OF ELECTRIC INSTALLATION (LIST A)

There exist a wide range of products that are inside some grey area of the scope of the directive. They are thermostats, chronothermostats, timers, smoke and gas detectors, etc.

They are explicitly listed in Annex IB but they are present on the market as:

- Finished products for final users
- Components for professional installers.

The first ones are finished products and they fall doubtless under the scope

The second ones are components and not finished products, as the definition of "finished product" states. In fact those products have to be installed by professionals in an electric installation. Out of the installation, they do not perform any direct or indirect function.

V.1 ELECTRIC INSTALLATION DO NOT FALL UNDER THE WEEE SCOPE

The WEEE directive logic is based on the assumption that it applies only to finished products and not to components. That's why it is impossible to give financial responsibilities to every producer of components of a products (i.e. a washing machine). Furthermore it is very difficult to define what a "component" is. Should we consider a motherboard a "component" or any single small electronic component on the motherboard itself?

Electric installations, such as gas and smoke detection, fire alarm, video security, intercom or video-intercom, heating, thermo-regulation, TV receiving, etc. are particular kind of finished products, spread in a structure (civil or industrial buildings) instead of being "centralized" in a single unit (dishwasher, TV-set).

Trying to make single components of the installation fall in the scope of the WEEE implies the same error of trying to extend the WEEE scope to the single components of a dishwashers.

ANNEX i

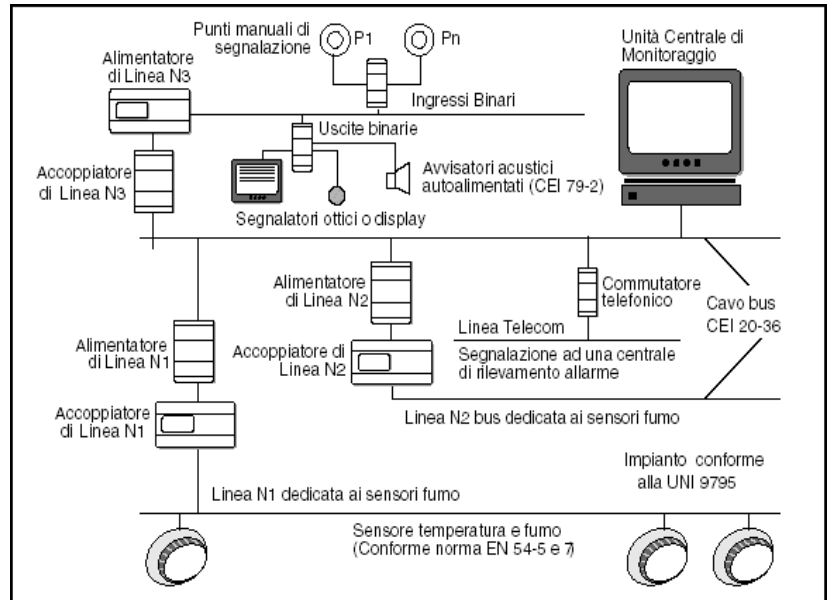
Electric installations are composed of several components:

Smoke detection installation:

- Power supplies
- Binary inputs
- Binary outputs
- Acoustic signals
- Visual signals
- Sensors
- Bus lines
- Central monitoring units
- Cables
- Telephonic commutator

It is clear, from the list and the image, that every component is really a component and not a finished product.

Therefore, electric installations are not to be considered equipments, as the ones listed in Annex IA and IB and, and, as such, are to be considered out of the scope.



Electric installations, as the ones listed in List A of the present document, do not fall under any of the 10 category of Annex IA, and consequently are excluded from the WEEE scope.

Components of electric installations do not fall under the scope because:

- 1. They are components and not finished products**
- 2. They are part of another equipment (electric installation) that do not fall under the scope.**

The installation of one of the above mentioned electric installations is disciplined by law 46/90 (electric installation for civil building). That law provides for the issue of a conformity declaration.

Electric installations are excluded from the scope of the WEEE and all the components, the installation of which requires a declaration of conformity according to law 46/90 are to be considered as "components" and not finished products, and so out of the scope.

List A of the present document is an indicative list of electric installation excluded from the scope.

VI – FINISHED PRODUCTS

WEEE directive applies only to finished products, not to components. "finished product" definition is provided by the Commission document.

*A finished product is any device or unit of equipment that has a **direct function**, its own enclosure and if applicable ports and connections intended for end users."*

'Direct function' is defined as any function of a component or a finished product which fulfils the intended use specified by the manufacturer in the instructions for use for an end user. This function can be available without further adjustment or connections other than simple ones which can be performed by any person.

ANNEX i

SPARE PARTS

Spare parts, no matter if they are sold also to the final user, are not finished products but components of the equipment they are destined to. As such, spare parts are out of the scope of the WEEE.

VII – FIXED INSTALLATION

Fixed installation are out of the scope of the directive.
They are defined in the document of the Commission as:

"Fixed installation", in the broadest sense, is defined as "a combination of several equipment, systems, finished products and/or components (hereinafter called "parts") assembled and/or erected by an assembler/installer at a given place to operate together in an expected environment to perform a specific task, but not intended to be placed on the market as a single functional or commercial unit.

ANNEX ii

Observations regarding the homogeneity between the Directive WEEE and the spirit of the Rome Treaties on which are based the Founding Principles of the EU.

The Rome Treaties lay down that the primary scope of The European Community is to create a common space within which any obstacles to exchanges shall not exist, i.e. of goods, and so on.

Therefore, for instance, a product, made anywhere in the EU, shall be delivered on the market in Palermo as well as in Stockholm without any difference, because within the EU there are no longer trade barriers. *In addition, the manufacturer or importer is responsible for its products put on the EU market.*

To reach this goal, the European Council publishes Directives to harmonize the laws of the Country Members to avoid trade barriers.

However, for Directive 2002/96/CE, the responsibility for implementing the system foreseen for the recovery and the safe disposal of waste of products falling in its scope, is no longer that of the manufacturer, as well defined in the Product Directives, but that of the subject responsible for financing the disposal of waste **in the national territory**, where the product has to be wasted at the end of its life. Moreover, in the case in which the manufacturer has not its own organization in that Member Country for the implementation, it is up to the seller of the product to become responsible for this task and at its own charge.

From this, it appears quite clearly that the philosophy of the WEEE Directive does not put on the same level manufacturers of the same type of goods: in fact, manufacturers who have not “the responsible” in a Member Country - which is often the case of medium or small industries - are disadvantaged with regard a national or multinational industry.

Therefore, the 2002/96/EC directive is in contrast with the Rome Treaties.