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THE EUROPEAN UNION

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from : General Secretariat

to : Delegations

No. Cion prop. : 15494/03 ENV 655 ENT 221 CODEC 1704 - COM(2003) 723 final

Subject : Proposal for a Directive of the European Parliament and of the Council on
batteries and accumulators and spent batteries and accumulators

The Working Party on the Environment first examined the above-mentioned proposal on 8 June 2004.

After a presentation of the proposal and the European Parliament's first reading opinion (document 8504/04), delegations gave their initial comments. These indicate that the four issues of greatest concern to delegations are:

- what **collection targets** for spent batteries and accumulators the Directive should set for Member States (Article 13);
- whether the Directive should introduce a **cadmium ban** or restrict the use of cadmium in batteries (Article 4);
- the burden of the proposed requirements on the **monitoring of the waste stream** (Article 6); and
- the proposed dual **legal basis**.

The Annex to this note contains an updated draft of the above-mentioned proposal incorporating:

- those elements of the European Parliament's first-reading opinion that the Commission can accept; and
- minor editorial changes.

Underlining indicates changes of substance compared to the Commission's initial proposal and [...] indicates deletions.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on batteries and accumulators and spent batteries and accumulators

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 (1) and 175 (1) thereof,

Having regard to the proposal from the Commission,¹

Having regard to the opinion of the European Economic and Social Committee,²

Having regard to the opinion of the Committee of Regions,³

Acting in accordance with the procedure laid down in Article 251 of the Treaty,⁴

Whereas:

[Recitals omitted.]

¹ OJ C 96, 21.4.2004, p. 29.

² Adopted on 3 May 2004 (not yet published in the Official Journal).

³ Adopted on 22 April 2004 (not yet published in the Official Journal).

⁴ Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), common position of the Council of (OJ C) and Decision of the European Parliament of (OJ C).

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I
SUBJECT-MATTER, SCOPE AND DEFINITIONS

Article 1

Subject-matter¹

This Directive establishes rules regarding the placing of the market of batteries and accumulators as well as the collection, treatment and recycling of spent batteries and accumulators.

Article 2

Scope

1. This Directive shall apply to all types of batteries and accumulators, regardless of their shape, volume, weight, material composition or use.
2. This Directive shall not apply to batteries and accumulators used in:
 - (a) equipment intended for military materials;
 - (b) arms and munitions intended for specifically military purposes; or
 - (c) equipment designed to be sent into space.²

¹ Article 1 of Directive 91/157/EEC states that it applies only to the recovery and controlled disposal of spent batteries and accumulators containing dangerous substances. However, the Directive also contains rules on placing on the market.

² The changes reflect the fact that the Commission accepts the principle of European Parliament first-reading **amendment 10**.

Article 3
Definitions

For the purposes of this Directive, the following definitions shall apply:

- 1) “battery or accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable); ¹
[...]
- 3) “battery pack” means any set of batteries or accumulators that are connected together and may be encapsulated within an outer casing so as to form a complete unit that the consumer is not intended to open; ²
- 4) “portable battery or accumulator” means any battery or accumulator used in household applications, cordless power tools, emergency lighting and electrical and electronic equipment or other applications by either consumers or professional users;
- 5) “button cell or accumulator” means any small round battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power; ³
- 6) “industrial battery or accumulator” means any battery or accumulator used for industrial purposes, for instance as standby or motive power, and any battery or accumulator used for electrical vehicles;

¹ The combination of points 1 and 2 reflects European Parliament first-reading **amendments 11 and 12**, which the Commission accepts. There is no change in substance from the definition in Article 2(a) of Directive 1991/157/EC.

² The revised text reflects European Parliament first-reading **amendment 14**, which the Commission accepts.

³ The change reflects the fact that Commission can accept part of European Parliament first-reading **amendment 16**.

- 7) “automotive battery or accumulator” means any battery or accumulator used for automotive starter, lighting or ignition power for vehicles;
- 8) “spent battery or accumulator” means any battery or accumulator which is waste within the meaning of Article 1(a) of Directive 75/442/EEC;
- 9) “recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery;
- 10) “disposal” means any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;¹
- 11) “treatment” means any treatment of spent batteries and accumulators after they have been handed over to a facility for sorting, recycling, preparation for disposal, and any other operation carried out for the recycling or disposal of spent batteries and accumulators;
- 12) “appliance” means any electrical or electronic equipment as defined by Directive 2002/96/EC of the European Parliament and of the Council² which is fully or partly powered by batteries or accumulators or is capable of being so;
- 13) “producer” means any undertaking that, irrespective of the selling technique used, including by means of distance communication according to Directive 97/7/EC on the protection of consumers in respect of distance contracts³:
 - (a) manufactures and sells batteries or accumulators under its own brand,
 - (b) resells batteries or accumulators on condition that the producer’s brand no longer appears on the batteries or accumulators, or

¹ Point 10 is no different in substance from the definition in Article 2(c) of Directive 1991/157/EC.

² OJ L 37 13.2.2003, p.24.

³ OJ L 144, 4.6.1997, p. 19.

- (c) imports or exports batteries, accumulators or appliances on a professional basis into the Community market from third countries;¹
- (13a) “distributor” means any undertaking that provides batteries and accumulators on a commercial basis to an end-user;²
- (14) “closed-loop system” means any system in which a producer, or a third party acting on its behalf, takes back a spent battery or accumulator in order to recycle its secondary materials for re-use in the manufacturing of new products.³

CHAPTER II

PRODUCT REQUIREMENTS

Article 4 Prohibitions⁴

1. Without prejudice to Directive 2000/53/EC, Member States shall prohibit the placing of the market of all batteries or accumulators, whether or not incorporated into appliances, which contain more than 5 ppm of mercury by weight.

¹ The changes reflect the fact that the Commission can accept parts of European Parliament first-reading **amendment 20**.

² This new text reflects European Parliament first-reading **amendment 21**, which the Commission accepts.

³ The changes reflect the fact that the Commission can accept part of European Parliament first-reading **amendment 22**.

⁴ The addition of the reference to Directive 2000/53/EC reflects the part of European Parliament first-reading **amendment 23** that the Commission can accept. Otherwise, Article 4 is identical to Article 3(1) of Directive 91/157/EEC as amended by Commission Directive 98/101/EC.

The Commission has not accepted the remainder of amendment 23, which would have require the prohibition of batteries containing more than 40 ppm of lead or 20 ppm of cadmium, except in the case of applications listed in a new Annex III.

2. Button cells, and batteries made up of button cells with a mercury content of no more than 2% by weight shall be exempt from the prohibition referred to in paragraph 1.

Article 5

Improved environmental performance¹

1. Member States shall encourage:
 - (a) producers to improve the overall environmental performance of batteries and accumulators throughout their entire life-cycle; and
 - (b) the development and placing of the market of batteries and accumulators that contain:
 - (i) smaller quantities of dangerous substances, or
 - (ii) less polluting substances and, in particular, substitutes for mercury, cadmium and lead.
2. Member States shall promote research and development in these fields to support these objectives.

Article 6

Waste stream monitoring

1. Member States shall ensure the monitoring of the quantities of spent portable nickel-cadmium batteries and accumulators disposed of in the municipal solid waste stream. A report on the results of the monitoring shall be drawn up on the basis of Table 1 in Annex I.

¹ The revised wording reflects European Parliament first-reading **amendment 24**, which the Commission accepts.

2. Without prejudice to Regulation (EC) 2150/2002 on waste statistics¹, Member States shall establish the report every year, starting one year after the date referred to in Article 32(1) of this Directive and covering the whole of each calendar year. They shall transmit it to the Commission no later than six months after the end of the year concerned.
3. Detailed rules for the monitoring of the municipal solid waste stream, as referred to in the previous paragraph, shall be laid down in accordance with the procedure referred to in Article 30(2).

CHAPTER III

PLACING ON THE MARKET

Article 7

Placing on the market

1. Member States shall not impede, prohibit or restrict the placing on the market in their territory of batteries or accumulators that meet the requirements of this Directive.²
2. Member States shall take necessary measures to ensure that batteries or accumulators that do not meet the requirements of this Directive are not placed on the market or are withdrawn from it.

¹ OJ L, 322 of 9.11.2002.

² This provision is identical to Article 9 of Directive 91/157/EEC.

CHAPTER IV COLLECTION

Article 8

Promotion of closed loop systems

Member States shall take necessary measures to prevent the final disposal of spent batteries and accumulators and to achieve a closed loop system for all spent batteries and accumulators.¹

Article 9

Collection schemes

1. Member States shall ensure that:
 - (a) schemes are set up under which spent portable batteries and accumulators can be collected individually from end-users or from an accessible place in their vicinity free of charge, having regard to population density, whenever collection does not take place under the schemes referred to in Article 5(1) of Directive 2002/96/EC;²
 - (b) end-users deliver their spent batteries and accumulators to a collection scheme mentioned in point (a);³
 - (c) producers of industrial batteries and accumulators, or third parties acting on their behalf, take back from end-users spent industrial batteries and accumulators, regardless of chemical composition and origin;

¹ The new wording reflects the part of European Parliament first-reading **amendment 27** that the Commission can accept.

² The new wording reflects the part of European Parliament first-reading **amendment 28** that the Commission can accept.

³ This new text reflects the fact that the Commission can accept European Parliament first-reading **amendment 29** in principle.

- (d) producers of automotive batteries and accumulators, or third parties acting on their behalf, set up schemes for the collection of spent automotive batteries and accumulators from end users or from an accessible place in their vicinity, whenever collection does not take place under the schemes referred to in Article 5(1) of Directive 2000/53/EC.¹

2. Member States shall ensure that the negative external impacts of transport are taken into account when setting up such collection schemes.

Article 10

Individual or collective schemes

Without prejudice to Article 9, Member States shall allow producers to set up individual or collective take-back schemes for spent batteries and accumulators, if those schemes are in conformity with this Directive.

Article 11

Prohibition of final disposal

Member States shall prohibit the final disposal of industrial and automotive batteries and accumulators in landfills or by incineration.

Article 12

Economic instruments

If Member States use economic instruments to promote the collection of spent batteries and accumulators or to promote the use of batteries containing less polluting substances, for instance by adopting differential tax rates, they shall notify the measures related to the implementation of those instruments to the Commission.

¹ The revised text reflects the parts of European Parliament first-reading **amendment 109** that the Commission can accept.

Article 13

Collection targets

1. No later than four years after the date referred to in Article 32(1), Member States shall achieve a minimum average collection rate equivalent to 160 grams per inhabitant per year for all spent portable batteries and accumulators, including portable nickel-cadmium batteries.

By the same date, Member States shall achieve a specific minimum collection rate equivalent to 80% of the total quantity of spent portable nickel-cadmium batteries and accumulators per year. The total quantity shall comprise portable nickel-cadmium batteries and accumulators collected annually through collection schemes as well as those disposed of annually in the municipal solid waste stream.

2. Member States shall monitor compliance with the requirements of paragraph 1 and ensure that a report is drawn up on the basis of Table 2 in Annex I. Without prejudice to Regulation (EC) No 2150/2002 on waste statistics, Member States shall establish the report every year, starting one year after the date referred to in Article 32(1) and covering the whole of each calendar year. It shall be transmitted to the Commission no later than six months after the end of the year concerned.

Article 14

Specific extensions and adaptations

1. Member States may apply for an extension of the deadline for the achievement of the collection targets referred to in Article 13 of up to a maximum of 36 months. They shall give reasons, which shall relate to specific geographical circumstances, such a large number of small islands or rural and mountain areas with a low population density.

2. Member States having acceded to the European Union by virtue of Accession Treaties concluded after 1 January 2003 may also apply for an adaptation of the collection targets referred to in Article 13, because of the specific situation of a particular low level of battery consumption.
3. If a Member State deems it necessary to introduce national measures based on the previous paragraphs, it shall notify the Commission of the envisaged national measures and the grounds for introducing them.
4. The Commission shall, within six months of the notifications as referred to in paragraph 3, approve or reject the envisaged national measures after having verified that they are consistent with the conditions set out in paragraph 1 and 2 and do not constitute an arbitrary means of discrimination or a disguised restriction on trade between Member States.

In absence of a decision by the Commission within this period, the envisaged national measures shall be deemed to have been approved.
5. The Commission shall inform other Member States of these decisions. A list of approved extensions and adaptations appears in Annex III.¹

CHAPTER V TREATMENT AND RECYCLING

Article 15

Treatment

1. Member States shall ensure that producers, or third parties acting on their behalf, set up schemes using the best available treatment and recycling techniques, to provide for treatment of spent batteries and accumulators collected in accordance with Article 9.

¹ This new text reflects the fact that the Commission can accept European Parliament first-reading **amendment 35** in principle.

Member States shall ensure that the negative external impacts of transport are taken into account when setting up such the treatment schemes.

2. Treatment shall, as a minimum, include removal of all fluids and acids, and storage, including temporary storage, in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.
3. Producers may set up such schemes on an individual or collective basis.

Article 16

Exports

1. Treatment may also be undertaken outside the Member State concerned or outside the Community, provided that the shipment of spent batteries and accumulators is in compliance with Council Regulation (EEC) No 259/93.¹

Spent batteries and accumulators exported out of the Community in accordance with Council Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999² and Commission Regulation (EC) No 1547/1999/EC³ shall count towards the fulfilment of the obligations and targets laid down in Articles 18 and 19 of this Directive only if the exporter declares that the recycling operation took place under conditions equivalent to the requirements of this Directive.

2. Detailed rules for the implementation of the previous paragraph shall be laid down in accordance with the procedure referred to in Article 30(2).

¹ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation 2557/2001/EC, OJ L 349, 31.12.2001, p. 1.

² OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation 2243/2001/EC, OJ L 303, 20.11.2001, p. 11.

³ OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Commission Regulation 2243/2001/EC.

Article 17

New recycling technologies

1. Member States shall promote the development of new recycling and treatment technologies, and research into environmentally friendly and cost-effective recycling methods for all types of batteries and accumulators.
2. Member States shall encourage treatment facilities to introduce certified environmental management schemes in accordance with Regulation (EC) No 761/2001¹ allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

Article 18

Recycling targets

Member States shall ensure that, one year after the date referred to in Article 32(1), producers, or third parties acting on their behalf, ensure that [...] all batteries and accumulators collected in accordance with Article 9 undergo a recycling process. [...] ²

Article 19

Recycling efficiencies ³

1. Member States shall ensure that, no later than three years after the date referred to in Article 32(1), producers, or third parties acting on their behalf, achieve the following minimum recycling efficiencies:

¹ OJ L 114, 24.04.2001, p.1.

² These changes reflect the parts of European Parliament amendment 99 that the Commission can accept.

³ The changes to paragraph 1 reflect the parts of European Parliament first-reading amendment 43 that the Commission can accept.

- (a) recycling of [...] a minimum of 65% by average weight of the materials contained in lead-acid batteries and accumulators and a closed-loop system for all the lead content;
- (b) recycling of [...] 75% by average weight of the materials contained in nickel-cadmium batteries and accumulators and a closed-loop system for all the cadmium content; and
- (c) recycling of 55% by average weight of the materials contained in other spent batteries and accumulators.

These minimum recycling efficiencies are to be evaluated regularly and adapted to best available technology and scientific and technical progress in accordance with the procedure referred to in Article 30(2).

2. Member States shall report annually on the recycling targets referred to in Article 18 and on the recycling efficiencies referred to in paragraph 1 actually achieved in each calendar year, starting from the date referred to in paragraph 1.

They shall submit the information to the Commission no later than six months after the end of the year concerned.

CHAPTER VI

COMMON PROVISIONS ON COLLECTION, TREATMENT AND RECYCLING

Article 20

Schemes for portable batteries and accumulators

1. Member States shall ensure that producers, or third parties acting on their behalf, finance at least the collection, treatment, recycling and environmentally sound disposal of all spent portable batteries and accumulators deposited at collection facilities set up in accordance with Article 9(1)(a).¹
2. Member States shall ensure that producers comply with the previous paragraph by means of individual or collective schemes.
3. The costs of collection, treatment and environmentally sound disposal shall not be shown separately to purchasers at the time of sale of new products.²

Article 21

Schemes for industrial and automotive batteries and accumulators

1. Member States shall ensure that producers, or third parties acting on their behalf, arrange financing for the collection, treatment and recycling of spent industrial and automotive batteries and accumulators collected in accordance with Article 9(1)(b) and (c).

¹ The changes reflect those parts of European Parliament first-reading **amendment 44** that the Commission can accept.

² This new text reflects European Parliament first-reading **amendment 112**, which the Commission accepts.

- 1a. In the case of batteries that are still incorporated into other products, such as cars or electrical and electronic equipment, at the moment that those other products become waste, battery producers shall become responsible for the further treatment of the batteries only after their removal from those other products.¹
2. Member States shall allow producers and users of industrial and automotive batteries and accumulators to conclude agreements under which financing methods other than the ones referred to in paragraph 1 can be used.
3. Member States shall ensure that end-users are obliged to return their spent industrial and automotive batteries and accumulators to collection systems.²

Article 22

Registration and Guarantee

Member States shall take the necessary measures to ensure that, when placing a product on the market, each producer is registered and provides a guarantee, that the management of spent batteries and accumulators will be financed. The producer may provide a guarantee in the form of its participation in appropriate schemes for financing the management of spent batteries and accumulators, or of a recycling insurance, or of a blocked bank account.

Member States may differentiate between the amounts of the guarantee required, depending on the hazardousness of the battery types.

¹ This new text reflects European Parliament first-reading **amendment 46**, which the Commission accepts.

² This new text reflects European Parliament first-reading **amendment 47**, which the Commission accepts.

In the case of batteries that are still incorporated into other products, such as cars or electrical and electronic equipment, at the moment that those other products become waste, battery producers shall become responsible for the further treatment of the batteries only after their removal from those other products.¹

Article 23

Historic waste

1. Responsibility for meeting the costs of managing spent batteries and accumulators placed on the market before entry into force of this Directive (“historic waste”) shall lie with producers.

Member States shall take necessary measures to ensure that all producers of portable batteries placed on the market before the entry into force of this Directive, or third parties acting on their behalf, have met their obligations in proportion to their weight-related market share per type of battery and accumulator.²

2. In the case of industrial batteries and accumulators placed on the market before the entry into force of this Directive and which equivalent products or products fulfilling the same function are replacing, producers shall finance their management when supplying those new products. Member States may, as an alternative, provide for the final user also to be partially or totally responsible for this financing.
3. For other industrial historical waste batteries, industrial users shall provide for the financing of the costs.

¹ This new text reflects the part of European Parliament first-reading **amendment 48** that the Commission can accept.

² This new text reflects European Parliament first-reading **amendment 50**, which the Commission accepts.

4. With regard to historic waste, Member States shall permit producers, for a transitional period of four years after the date referred to in Article 32(1) to indicate, at the time of sale of new products, the costs of collection, treatment and recycling of all spent batteries and accumulators for purchasers. The costs mentioned shall not exceed the actual costs incurred.

Article 24

Participation

Member States shall ensure that all economic operators in the sectors concerned and all competent public authorities may participate in the collection, treatment and recycling schemes referred to in Articles 9, 10 and 15.¹

These schemes shall also apply to products imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

CHAPTER VII

CONSUMER INFORMATION

Article 25

Information for end-users²

1. Member States shall ensure, in particular through information campaigns, that end-users are fully informed of:
- (a) the potential effects on the environment and human health of the substances used in batteries and accumulators;

¹ This new text reflects European Parliament first-reading **amendment 51**, which the Commission accepts.

² The changes to this Article reflect European Parliament first-reading **amendments 52 and 56** and part of **amendment 53**, which the Commission accepts.

- (b) the requirement not to dispose of spent batteries and accumulators as unsorted municipal waste and to collect such waste separately;
 - (c) the collection and recycling schemes available to them;
 - (d) their role in contributing to the recycling of spent batteries and accumulators;
 - (e) the meaning of the symbol of the crossed-out wheeled bin and the chemical symbols Hg, Cd and Pb referred to in Annex II.
2. Member States shall take appropriate measures to encourage end-users to participate in the collection of spent batteries and accumulators and to persuade them to facilitate the process of re-use, treatment and recovery.

Article 26

Economic operators

Member States may require economic operators, and in particular those involved in the manufacture, distribution and sale of batteries and accumulators, to provide some or all of the information referred to in Article 25.

CHAPTER VIII

MARKING REQUIREMENTS

Article 27

Labelling¹

1. Member States shall ensure that all batteries, accumulators and battery packs are appropriately marked with the symbol shown in Annex II [...].

¹ The changes to this Article reflect European Parliament first-reading **amendments 57 to 62 and 64**, which the Commission accepts. The text in paragraphs 3 to 6 previously appeared in Annex II.

2. Member States shall ensure that the capacity of all batteries, accumulators and battery packs is indicated on them in a visible, legible and indelible form.
3. Batteries, accumulators and button cells containing more than 5 ppm mercury, more than 20 ppm cadmium or more than 40 ppm lead, shall be marked with the chemical symbol for the metal concerned: Hg, Cd or Pb. The symbol indicating the heavy metal content shall be printed beneath the symbol shown in Annex II and shall cover an area of at least one-quarter the size of that symbol.
4. The symbol shown in Annex II shall cover 3% of the area of the largest side of the battery, accumulator or battery pack, up to a maximum size of 5 x 5 cm. In the case of cylindrical cells, the symbol shall cover 1.5% of the surface area of the battery or accumulator and shall have a maximum size of 5 x 5 cm.
5. Where the size of the battery, accumulator or battery pack is such that the symbol would be smaller than 0.5 x 0.5 cm, the battery, accumulator or battery pack need not be marked but a symbol measuring 1 x 1 cm shall be printed on the packaging.
6. Symbols shall be printed visibly, legibly and indelibly.
7. Exemptions from the labelling requirements of this Article may be granted in accordance with the procedure referred to in Article 30(2).

CHAPTER IX
FINAL PROVISIONS

Article 28

National implementation reports

1. Member States shall send the Commission a report on the implementation of this Directive every three years. Reports shall be drawn up on the basis of a questionnaire or outline established in accordance with the procedure referred to in Article 30(2). The questionnaire or outline shall be sent to Member States six months before the beginning of the period that the report is to cover.
2. The report shall be made available to the Commission no later than nine months after the end of the three-year period concerned. The first report shall cover the three-year period starting on the date referred to in Article 32(1).

Article 29

Review

1. The Commission shall publish a report on the implementation of this Directive and on the impact of this Directive on the environment as well as on the functioning of the internal market no later than nine months after receiving reports from the Member States. This report shall include an evaluation on the following aspects of the Directive:
 - (a) the appropriateness of further risk management measures for batteries and accumulators containing heavy metals, taking account of Member States' reporting obligation under Article 6;

- (b) the appropriateness of the minimum collection target for all spent portable batteries and accumulators and the additional collection target for spent portable nickel-cadmium batteries and accumulators set out in Article 13, taking account of information that Member States provide on the basis of Article 6, technical progress and practical experience gained in Member States;
 - (c) the appropriateness of the minimum recycling targets and recycling efficiencies set out in Articles 18 and 19, taking account of information that Member States provide, technical progress and practical experience gained in Member States.
2. The Commission shall publish the report in the *Official Journal*. The report shall, where necessary, be accompanied by proposals for revision of the related provisions of this Directive.

Article 30

Committee procedure

1. The Commission shall be assisted by the Committee set up under Article 18 of Directive 75/442/EEC.¹
2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall set at be three months.
3. The Committee shall adopt its rules of procedure.

¹ OJ L 377, 31.12.1991, p. 48.

Article 31

Penalties

Member States shall lay down the rules of penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by the date specified in Article 32 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 32

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... * at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation between those provisions and this Directive.
2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
3. Member States shall communicate to the Commission the text of all existing laws, regulations and administrative provisions adopted in the field covered by this Directive.

Article 33

Voluntary agreements

Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 6, 9, 16, 25, 26 and 27 by means of agreements between the competent authorities and economic operators concerned. Such agreements shall meet the following requirements:

* 18 months after entry into force of this Directive.

- 1) they shall be enforceable;
- 2) they must specify objectives with the corresponding deadlines;
- 3) they must be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;
- 4) the results achieved must be monitored regularly, and reported to the competent authorities and the Commission, and made available to the public under the conditions set out in the agreement;
- 5) the competent authorities shall ensure that the progress reached under the agreement is examined;
- 6) in cases of non-compliance with the agreements, Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

Article 34

Repeal

Directive 91/157/EEC is repealed with effect from ... *.

References to Directive 91/157/EEC shall be construed as references to this Directive.

Article 35

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

* 18 months after entry into force of this Directive.

Article 36

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

Table 1 Monitoring the quantity of spent portable nickel-cadmium batteries and accumulators in the municipal solid waste stream in accordance with Article 6

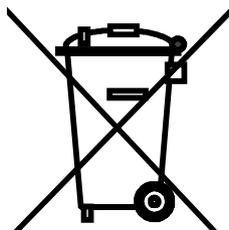
Year	
Country	
Total quantity in tonnes of municipal solid waste arising in the year	
Monitoring method used	
Contact details of the independent expert body approving the monitoring method	
Quantity in tonnes of municipal solid waste monitored in the year	
Quantity in tonnes of spent portable nickel-cadmium batteries and accumulators found in the waste monitored in the year	
Total quantity in tonnes of spent portable nickel-cadmium batteries and accumulators discarded in the municipal solid waste stream in the year	

Table 2: Monitoring of compliance with the collection targets in accordance with Article 13

Year	
Country	
Number of inhabitants	
Total quantity in tonnes of spent portable batteries and accumulators collected separately in the year	
Collection rate achieved for the total quantity of spent portable batteries and accumulators in grams/inhabitant	
Total quantity in tonnes of spent portable nickel-cadmium batteries and accumulators collected separately in the year (A)	
Total quantity in tonnes of spent portable nickel-cadmium batteries and accumulators discarded in the municipal solid waste stream in the year (B)	
Collection rate achieved for the portable nickel-cadmium batteries and accumulators expressed as a % of A+B ($\% = \frac{A}{A+B} \times 100$)	

SYMBOLS FOR BATTERIES, ACCUMULATORS AND BATTERY PACKS FOR
SEPARATE COLLECTION

The symbol indicating “separate collection” for all batteries and accumulators shall be the crossed-out wheeled bin shown below:



[...] ¹

¹ The deletion of this text reflects European Parliament first-reading **amendments 78 to 81**, which the Commission accepts. The text now appears in Article 27.