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THE EUROPEAN UNION**

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Subject : Common position adopted by the Council with a view to the adoption of the Directive of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC

**COMMON GUIDELINES  
Consultation deadline: 06.04.2005**

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**DIRECTIVE 2005/.../EC OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL  
of**

on batteries and accumulators and waste batteries and accumulators and repealing Directive  
91/157/EEC  
(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 Article 175(1) thereof and Article 95(1) thereof in relation to Articles 4, 5 and 18 of this Directive,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the Opinion of the European Economic and Social Committee<sup>2</sup>,

Having regard to the Opinion of the Committee of Regions<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>4</sup>,

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<sup>1</sup> OJ C 96, 21.4.2004, p. 29.

<sup>2</sup> OJ C 117, 30.4.2004, p. 5.

<sup>3</sup> OJ C 121, 30.4.2004, p 35.

<sup>4</sup> Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), Council common position of ... (not yet published in the Official Journal) and Position of the European Parliament of .... (not yet published in the Official Journal).

Whereas:

- (1) It is desirable to harmonise national measures concerning batteries and accumulators and waste batteries and accumulators. The primary objective of this Directive is to minimise the negative impact of batteries and accumulators and waste batteries and accumulators on the environment, thus contributing to the protection, preservation and improvement of the quality of the environment. The legal base is therefore Article 175(1) of the Treaty. However, it is also appropriate to take measures at Community level on the basis of Article 95(1) of the Treaty to harmonise requirements concerning the heavy metal content and labelling of batteries and accumulators and so to ensure the smooth functioning of the internal market and avoid distortion of competition within the Community.
- (2) The Commission Communication of 30 July 1996 on the Review of the Community Strategy for Waste Management established guidelines for future Community waste policy. That Communication stresses the need to reduce the quantities of hazardous substances in waste and points out the potential benefits of Community-wide rules limiting the presence of such substances in products and in production processes. It further states that, where the generation of waste cannot be avoided, that waste should be reused or recovered for its material or energy.

- (3) Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances<sup>1</sup> has brought about an approximation of Member States' laws in this field. However, the objectives of that Directive have not been fully attained. Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme<sup>2</sup> and Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)<sup>3</sup> also underlined the need for Directive 91/157/EEC to be revised. Directive 91/157/EEC should therefore be revised and replaced in the interests of clarity.
- (4) In order to achieve its environmental aims, this Directive prohibits the placing on the market of certain batteries and accumulators containing mercury or cadmium. It also promotes a high level of collection and recycling of waste batteries and accumulators and improved environmental performance of all operators involved in the life cycle of batteries and accumulators, e.g. producers, distributors and end-users and, in particular, those operators directly involved in the treatment and recycling of waste batteries and accumulators. The specific rules needed to do this are supplementary to existing Community legislation on waste, in particular Council Directive 75/442/EEC of 15 July 1975 on waste<sup>4</sup>, Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste<sup>5</sup> and Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste<sup>6</sup>.

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<sup>1</sup> OJ L 78, 26.3.1991, p. 38. Directive as amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1).

<sup>2</sup> OJ L 242, 10.9.2002, p.1.

<sup>3</sup> OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC of the European Parliament and of the Council (OJ L 345, 31.12.2003, p.106).

<sup>4</sup> OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>5</sup> OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003.

<sup>6</sup> OJ L 332, 28.12.2000, p. 91.

- (5) In order to prevent waste batteries and accumulators from being discarded in such a way as to pollute the environment, and to avoid end-user confusion about the different waste management requirements for different batteries and accumulators, this Directive should apply to all batteries and accumulators placed on the market within the Community. Such a wide scope should also ensure economies of scale in collection and recycling, as well as optimal resource saving.
- (6) Reliable batteries and accumulators are fundamental for the safety of many products, appliances and services, and are an essential energy source in our society.
- (7) It is appropriate to distinguish between portable batteries and accumulators on the one hand and industrial and automotive batteries and accumulators on the other. The disposal of industrial and automotive batteries and accumulators in landfill sites or by incineration should be prohibited.

- (8) Examples of industrial batteries and accumulators include batteries and accumulators used for emergency or back-up power supply in hospitals, airports or offices, batteries and accumulators used in trains or aircraft and batteries and accumulators used on offshore oil rigs or in lighthouses. Examples also include batteries and accumulators designed exclusively for hand-held payment terminals in shops and restaurants, bar code readers in shops, professional video equipment for TV channels and professional studios, miners' lamps and diving lamps attached to mining and diving helmets for professionals, back up batteries and accumulators for electric doors to prevent them from blocking or crushing people, batteries and accumulators used for instrumentation or in various types of measurement and instrumentation equipment and batteries and accumulators used in connection with solar panel, photo-voltaic, and other renewable energy applications. Industrial batteries and accumulators also include batteries and accumulators used in electrical vehicles, such as electric cars, wheelchairs, bicycles, airport vehicles and automatic transport vehicles. In addition to this non exhaustive list of examples, any battery or accumulator that is not sealed and not automotive should be considered industrial.
- (9) Examples of portable batteries and accumulators, which are all-sealed batteries and accumulators that an average person could carry by hand without difficulty and that are neither automotive batteries or accumulators nor industrial batteries or accumulators, include single cell batteries (such as AA and AAA batteries) and batteries and accumulators used by consumers or professionals in mobile telephones, portable computers, cordless power tools, toys and household appliances such as electric toothbrushes, razors and hand-held vacuum cleaners (including similar equipment used in schools, shops, restaurants, airports, offices or hospitals) and any battery that consumers may use for normal household applications.

- (10) The Commission should evaluate the need for adaptation of this Directive, taking account of available technical and scientific evidence. In particular, the Commission should carry out a review of the exemption from the cadmium ban provided for portable batteries and accumulators intended for use in cordless power tools. Examples of cordless power tools are tools that consumers and professionals use for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, hammering, riveting, screwing, polishing or similar processing of wood, metal and other materials, as well as for mowing, cutting and other gardening activities.
- (11) The Commission should also monitor, and Member States should encourage, technological developments that improve the environmental performance of batteries and accumulators throughout their entire life cycle, including through participation in a Community eco-management and audit scheme (EMAS).
- (12) In order to protect the environment, waste batteries and accumulators should be collected. For portable batteries and accumulators, collection schemes achieving a high collection rate should be established. This means setting up collection schemes so that end-users can discard all waste portable batteries and accumulators conveniently and free of charge. Different collection schemes and financing arrangements are appropriate for the different battery and accumulator types.

- (13) It is desirable for Member States to achieve a high collection and recycling rate for waste batteries and accumulators so as to achieve a high level of environmental protection and material recovery throughout the Community. This Directive should therefore set minimum collection and recycling targets for Member States. It is appropriate to calculate the collection rate on the basis of average annual sales in preceding years, so as to have comparable targets for all Member States that are proportionate to the national level of battery consumption.
- (14) Specific recycling requirements should be established for cadmium and lead batteries and accumulators in order to attain a high level of material recovery throughout the Community and to prevent disparities between Member States.
- (15) All interested parties should be able to participate in collection, treatment and recycling schemes. Those schemes should be designed to avoid discrimination against imported products, barriers to trade or distortions of competition.
- (16) Collection and recycling schemes should be optimised, in particular in order to minimise costs and the negative environmental impact of transport. Treatment and recycling schemes should use best available techniques, as defined in Article 2(11) of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control<sup>1</sup>.

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<sup>1</sup> OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 1882/2003.

- (17) Basic principles for financing the management of waste batteries and accumulators should be set at Community level. Financing schemes should help to achieve high collection and recycling rates and to give effect to the principle of producer responsibility. Producers should therefore finance the costs of collecting, treating and recycling all collected batteries and accumulators minus the profit made by selling the materials recovered. However, under certain circumstances, the application of de minimis rules to small producers could be justified.
- (18) The provision of information to end-users on the desirability of separate collection, the collection schemes available and end-users' role in the management of waste batteries and accumulators is necessary for successful collection. Detailed arrangements should be made for a labelling system, which should provide end-users with transparent, reliable and clear information on batteries and accumulators and any heavy metals they contain.
- (19) If, in order to achieve the objectives of this Directive, and, in particular, to achieve high separate collection and recycling rates, Member States use economic instruments, such as differential tax rates, they should inform the Commission accordingly.
- (20) Reliable and comparable data on the quantities of batteries and accumulators placed on the market collected and recycled are necessary for monitoring whether the objectives of this Directive have been achieved.

- (21) Member States should lay down rules on the penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (22) The Council, in accordance with paragraph 34 of the Interinstitutional agreement on better law-making <sup>1</sup>, should encourage Member States to draw up, for themselves and in the interests of the Community, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures and to make them public.
- (23) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>2</sup>.
- (24) Since the objectives of this Directive namely protecting the environment and ensuring the proper functioning of the internal market cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

<sup>2</sup> OJ L 184, 17.7.1999, p. 23.

- (25) This Directive applies without prejudice to Community legislation on safety, quality and health requirements and specific Community waste management legislation, in particular Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles <sup>1</sup> and Directive 2002/96/EC.
- (26) As regards producer responsibility, producers of batteries and accumulators and producers of other products incorporating a battery or accumulator are responsible for the waste management of batteries and accumulators that they place on the market. A flexible approach is appropriate to enable financing schemes to reflect differing national circumstances and to take account of existing schemes, particularly those set up to comply with Directives 2000/53/EC and 2002/96/EC, while avoiding double charging.
- (27) Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment <sup>2</sup> does not apply to batteries and accumulators used in electrical and electronic equipment.
- (28) Automotive and industrial batteries and accumulators used in vehicles should meet the requirements of Directive 2000/53/EC, in particular Article 4 thereof. Therefore the use of cadmium in industrial batteries and accumulators for electrical vehicles should be prohibited, unless they can benefit from an exemption on the basis of Annex II to that Directive,

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<sup>1</sup> OJ L 269, 21.10.2000, p. 34. Directive as amended by Commission Decision 2002/525/EC (OJ L 170, 29.6.2002, p. 81).

<sup>2</sup> OJ L 37, 13.2.2003, p. 19.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject-matter

This Directive establishes:

- 1) rules regarding the placing on the market of batteries and accumulators; and
- 2) specific rules for the collection, treatment, recycling and disposal of waste batteries and accumulators to supplement relevant Community legislation on waste.

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. It shall apply without prejudice to Directives 2000/53/EC and 2002/96/EC.

2. This Directive shall not apply to batteries and accumulators used in:
  - (a) equipment connected with the protection of Member States' essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes;
  - (b) equipment designed to be sent into space.

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);
- 2) "battery pack" means any set of batteries or accumulators that are connected together and/or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open;

- 3) "portable battery or accumulator" means any battery or accumulator that:
  - (a) is sealed, and
  - (b) can be hand-carried, and
  - (c) is neither an industrial battery or accumulator nor an automotive battery or accumulator;
- 4) "button cell" means any small round portable 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;
- 5) "automotive battery or accumulator" means any battery or accumulator used for automotive starter, lighting or ignition power;
- 6) "industrial battery or accumulator" means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle;
- 7) "waste battery or accumulator" means any battery or accumulator which is waste within the meaning of Article 1(a) of Directive 75/442/EEC;
- 8) "recycling" means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery;

- 9) "disposal" means any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;
- 10) "treatment" means any activity carried out on waste batteries and accumulators after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal;
- 11) "appliance" means any electrical or electronic equipment, as defined by Directive 2002/96/EC, which is fully or partly powered by batteries or accumulators or is capable of being so;
- 12) "producer" means any person in a Member State that, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts <sup>1</sup>, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time within the territory of that Member State on a professional basis;
- 13) "distributor" means any person that provides batteries and accumulators on a professional basis to an end-user;
- 14) "placing on the market" means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

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<sup>1</sup> OJ L 144, 4.6.1997, p. 19. Directive as amended by Directive 2002/65/EC (OJ L 271, 9.10.2002, p. 16).

- 15) "economic operators" means any producer, distributor, collector, recycler or other treatment operator;
- 16) "cordless power tool" means any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities.

Article 4  
Prohibitions

1. Without prejudice to Directive 2000/53/EC, Member States shall prohibit the placing on the market of:
  - (a) all batteries or accumulators, whether or not incorporated into appliances, that contain more than 0,0005% of mercury by weight; and
  - (b) portable batteries or accumulators, including those incorporated into appliances, that contain more than 0,002% of cadmium by weight.
2. The prohibition set out in paragraph 1(a) shall not apply to button cells with a mercury content of no more than 2% by weight.

3. The prohibition set out in paragraph 1(b) shall not apply to portable batteries and accumulators intended for use in:

- (a) emergency and alarm systems, including emergency lighting;
- (b) medical equipment; or
- (c) cordless power tools.

4. The Commission shall review the exemption referred to in paragraph 3(c) and submit a report to the European Parliament and to the Council by ...<sup>\*</sup>, together, if appropriate, with relevant proposals, with a view to the prohibition of cadmium in batteries and accumulators.

#### Article 5

##### Placing on the market

1. Member States shall not, on the grounds dealt with in this Directive, impede, prohibit, or restrict the placing on the market in their territory of batteries and accumulators that meet the requirements of this Directive.

2. Member States shall take the 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.

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<sup>\*</sup> Four years after entry into force of this Directive.

## Article 6

### Overarching objective

Member States shall endeavour to maximise the separate collection of waste batteries and accumulators, having regard to the environmental impact of transport, and to minimise the disposal of batteries and accumulators as unsorted municipal waste.

## Article 7

### Collection schemes

1. Member States shall ensure that appropriate collection schemes are in place for waste portable batteries and accumulators. Such schemes:
  - (a) shall enable end-users to discard waste portable batteries or accumulators at an accessible collection point in their vicinity, having regard to population density;
  - (b) shall not involve any charge to end-users when discarding waste portable batteries or accumulators, nor any obligation to buy a new battery or accumulator;
  - (c) may be run in conjunction with the schemes referred to in Article 5(2) of Directive 2002/96/EC.

Article 10 of Directive 75/442/EEC shall not apply to collection points set up to comply with point (a) of this paragraph.

2. Provided that the schemes meet the criteria listed in paragraph 1, Member States may:

- (a) require producers to set up such schemes;
- (b) require other economic operators to participate in such schemes;
- (c) maintain existing schemes.

3. Member States shall ensure that producers of industrial batteries and accumulators, or third parties acting on their behalf, shall not refuse to take back waste industrial batteries and accumulators from end-users, regardless of chemical composition and origin. Independent third parties may also collect industrial batteries and accumulators.

4. Member States shall ensure that producers of automotive batteries and accumulators, or third parties, set up schemes for the collection of waste automotive batteries and accumulators from end-users or from an accessible collection point in their vicinity, where collection is not carried out under the schemes referred to in Article 5(1) of Directive 2000/53/EC. In the case of automotive batteries and accumulators from private, non-commercial vehicles, such schemes shall not involve any charge to end-users when discarding waste batteries or accumulators, nor any obligation to buy a new battery or accumulator.

## Article 8

### Economic instruments

Member States may use economic instruments to promote the collection of waste batteries and accumulators or to promote the use of batteries and accumulators containing less polluting substances, for instance by adopting differential tax rates or deposit systems. If they do so, they shall notify the measures relating to the implementation of those instruments to the Commission.

## Article 9

### Collection targets

1. For the purposes of this Article, the "collection rate" for a given Member State in a given calendar year shall mean the percentage obtained by dividing the weight of waste portable batteries and accumulators collected in accordance with Article 7(1) in that calendar year by the average annual sales of portable batteries and accumulators to the end-user by weight in that Member State during that calendar year and the preceding two calendar years. Member States shall calculate the collection rate for the first time in respect of the sixth full calendar year following the entry into force of this Directive.

Without prejudice to Directive 2002/96/EC, annual collection and sales figures shall include batteries and accumulators incorporated into appliances.

2. Member States shall achieve the following minimum collection rates:

(a) 25% by ...<sup>\*</sup>;

(b) 45% by ...<sup>\*\*</sup>.

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<sup>\*</sup> Six years after entry into force of this Directive.

<sup>\*\*</sup> Ten years after entry into force of this Directive.

3. Member States shall monitor collection rates on a yearly basis according to the scheme set out in Annex I. Without prejudice to Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics <sup>1</sup>, Member States shall transmit reports to the Commission within six months of the end of the calendar year concerned. Reports shall indicate how they obtained the data necessary to calculate the collection rate.

4. In accordance with the procedure referred to in Article 21(2):

- (a) transitional arrangements may be laid down to address difficulties faced by a Member State in satisfying the requirements of paragraph 2 as a result of specific national circumstances;
- (b) a common methodology shall be established for the calculation of annual sales of portable batteries and accumulators to end-users by ... \*.

#### Article 10

#### Treatment and recycling

1. Member States shall ensure that, no later than ... \*\*:

- (a) producers or third parties set up schemes using best available techniques to provide for the treatment and recycling of waste batteries and accumulators; and

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<sup>1</sup> OJ L 332, 9.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 574/2004 (OJ L 90, 27.3.2004, p. 15).

\* One year after entry into force of this Directive.

\*\* Three years after entry into force of this Directive.

- (b) all identifiable batteries and accumulators collected in accordance with Article 7 undergo treatment and recycling through such schemes.

However, Member States may, in accordance with the Treaty, dispose of collected portable batteries or accumulators containing cadmium, mercury or lead in landfills or by underground storage as part of a strategy to phase out heavy metals or when no viable end market is available. Member States shall notify draft measures to the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations <sup>1</sup>.

2. Treatment shall meet the minimum requirements set out in Annex III, Part A.
3. Recycling processes shall, no later than ... <sup>\*</sup>, meet the recycling targets and associated provisions set out in Annex III, Part B.
4. Member States shall report on the levels of recycling achieved in each calendar year concerned and whether the targets referred to in Annex III, Part B have been met. They shall submit the information to the Commission within six months of the end of the calendar year concerned.
5. Annex III may be adapted or supplemented to take account of technical or scientific progress in accordance with the procedure referred to in Article 21(2). In particular:
  - (a) detailed rules regarding the calculation of recycling targets shall be added no later than... <sup>\*\*</sup>;  
and

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<sup>1</sup> OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

<sup>\*</sup> Five years after entry into force of this Directive.

<sup>\*\*</sup> 42 months after entry into force of this Directive.

(b) the minimum recycling targets shall be evaluated regularly and adapted to best available techniques and in the light of the developments referred to in paragraph 1, second subparagraph.

6. Before proposing any amendment to Annex III the Commission shall consult relevant stakeholders, in particular producers, collectors, recyclers, treatment operators, environmental organisations, consumer organisations and employee associations. It shall inform the committee referred to in Article 21(1) of the outcome of this consultation.

#### Article 11

##### Disposal

Member States shall prohibit the disposal in landfills or by incineration of waste industrial and automotive batteries and accumulators. However, residues of any batteries and accumulators that have undergone both treatment and recycling in accordance with Article 10(1) may be disposed of in landfills or by incineration.

#### Article 12

##### Exports

1. Treatment and recycling may be undertaken outside the Member State concerned or outside the Community, provided that the shipment of waste batteries and accumulators is in compliance with Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community <sup>1</sup>.

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<sup>1</sup> OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).

2. Waste batteries and accumulators exported out of the Community in accordance with Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste <sup>1</sup> and Commission Regulation (EC) No 1547/1999 of 12 July 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92)39 final does not apply <sup>2</sup> shall count towards the fulfilment of the obligations and targets laid down in Annex III to this Directive only if there is sound evidence that the recycling operation took place under conditions broadly equivalent to the requirements of this Directive.

3. Detailed rules for the implementation of this Article shall be laid down in accordance with the procedure referred to in Article 21(2).

### Article 13

#### Financing

1. Member States shall ensure that producers, or third parties acting on their behalf, finance any net costs arising from:

- (a) the collection, treatment and recycling of all waste portable batteries and accumulators collected in accordance with Article 7(1) and (2); and

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<sup>1</sup> OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation (EC) No 2118/2003 (OJ L 318, 3.12.2003, p. 5).

<sup>2</sup> OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2118/2003.

(b) the collection, treatment and recycling of all waste industrial and automotive batteries and accumulators collected in accordance with Articles 7(3) and (4).

2. Member States shall ensure that the implementation of paragraph 1 avoids any double charging of producers in the case of batteries or accumulators collected under schemes set up in accordance with Directive 2000/53/EC or Directive 2002/96/EC.

3. The costs of collection, treatment and recycling shall not be shown separately to end-users at the time of sale of new portable batteries and accumulators.

4. Producers and users of industrial and automotive batteries and accumulators may conclude agreements stipulating financing arrangements other than the ones referred to in paragraph 1.

#### Article 14

##### Registration

Member States shall ensure that each producer is registered.

#### Article 15

##### Small producers

De minimis rules for the application of Articles 13(1) and 14 shall, if appropriate, be established in accordance with the procedure referred to in Article 21(2) no later than ...\*.

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\* 42 months after entry into force of this Directive.

## Article 16

### Participation

1. Member States shall ensure that all economic operators and all competent public authorities may participate in the collection, treatment and recycling schemes referred to in Articles 7 and 10.
2. 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.

## Article 17

### Information for end-users

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;

- (b) the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling;
  - (c) the collection and recycling schemes available to them;
  - (d) their role in contributing to the recycling of waste batteries and accumulators;
  - (e) the meaning of the symbol of the crossed-out wheeled bin shown in Annex II and the chemical symbols Hg, Cd and Pb.
2. Member States may require economic operators to provide some or all of the information referred to in paragraph 1.

#### Article 18

#### Labelling

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

2. Batteries, accumulators and button cells containing more than 0,0005% mercury, more than 0,002% cadmium or more than 0,004% 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.
3. The symbol shown in Annex II shall cover at least 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 at least 1,5% of the surface area of the battery or accumulator and shall have a maximum size of 5 x 5 cm.
4. 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 at least 1 x 1 cm shall be printed on the packaging.
5. Symbols shall be printed visibly, legibly and indelibly.
6. Exemptions from the labelling requirements of this Article may be granted in accordance with the procedure referred to in Article 21(2).

## Article 19

### National implementation reports

1. Member States shall send the Commission a report on the implementation of this Directive every three years. However, the first report shall cover the period until ... \*
2. Reports shall be drawn up on the basis of a questionnaire or outline established in accordance with the procedure referred to in Article 21(2). The questionnaire or outline shall be sent to Member States six months before the beginning of the first period that the report is to cover.
3. Member States shall also report on any measures that they take to encourage developments affecting the impact of batteries and accumulators on the environment, in particular:
  - (a) developments, including voluntary steps taken by producers, reducing quantities of heavy metals and other hazardous substances contained in batteries and accumulators;
  - (b) new recycling and treatment techniques;
  - (c) economic operators' participation in environmental management schemes;

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\* Six years after entry into force of this Directive.

(d) research in those fields; and

(e) measures taken to promote waste prevention.

4. The report shall be made available to the Commission no later than nine months after the end of the three-year period concerned or, in the case of the first report, no later than ...<sup>\*</sup>.

5. The Commission shall publish a report on the implementation of this Directive and on the impact of this Directive on the environment and on the functioning of the internal market no later than nine months after receiving the reports from Member States in accordance with paragraph 4.

#### Article 20

##### Review

1. The Commission shall review the implementation of this Directive and the impact of this Directive on the environment and the functioning of the internal market after receiving reports from Member States in accordance with Article 19(4) for the second time.

2. The second report that the Commission publishes in accordance with Article 19(5) shall include an evaluation on the following aspects of this Directive:

(a) the appropriateness of further risk management measures for batteries and accumulators containing heavy metals;

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<sup>\*</sup> 81 months after entry into force of this Directive.

- (b) the appropriateness of the minimum collection targets for all waste portable batteries and accumulators set out in Article 9(2), and the possibility of introducing further targets for later years, taking account of technical progress and practical experience gained in Member States;
  - (c) the appropriateness of the minimum recycling requirements set out in Annex III, Part B, taking account of information that Member States provide, technical progress and practical experience gained in Member States.
3. If necessary, proposals for revision of the related provisions of this Directive shall accompany the report.

#### Article 21

##### Committee procedure

1. The Commission shall be assisted by the Committee set up under Article 18 of Directive 75/442/EEC.
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 be set at three months.

3. The Committee shall adopt its Rules of procedure.

## Article 22

### Penalties

Member States shall lay down rules on penalties applicable to infringements of 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 measures to the Commission by ... \* at the latest and shall inform it without delay of any subsequent amendment to them.

## Article 23

### Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... \* at the latest.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. 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.

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\* 24 months after entry into force of this Directive.

## Article 24

### Voluntary agreements

1. Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 7, 12 and 17 by means of agreements between the competent authorities and economic operators concerned. Such agreements shall meet the following requirements:
  - (a) they shall be enforceable;
  - (b) they must specify objectives with the corresponding deadlines;
  - (c) they must be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission.
2. 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.
3. The competent authorities shall ensure that the progress made under such agreements is examined.
4. 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 25

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 26

Entry into force

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

Article 27

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament  
The President

For the Council  
The President

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\* 24 months after entry into force of this Directive.

**MONITORING OF COMPLIANCE WITH THE ARTICLE 9 COLLECTION TARGETS**

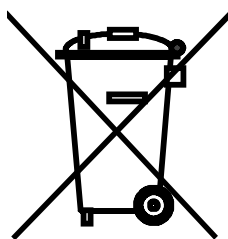
Year	Data collection		Calculation	Reporting requirement
X*+1	-			
X+2	Sales in year 2 (S2)	-	-	
X+3	Sales in year 3 (S3)	-	-	
X+4	Sales in year 4 (S4)	Collection in year 4 (C4)	Collection rate (CR4) = $3 * C4 / (S2 + S3 + S4)$ (Target set at 25%.)	
X+5	Sales in year 5 (S5)	Collection in year 5 (C5)	Collection rate (CR5) = $3 * C5 / (S3 + S4 + S5)$	CR4
X+6	Sales in year 6 (S6)	Collection in year 6 (C6)	Collection rate (CR6) = $3 * C6 / (S4 + S5 + S6)$	CR5
X+7	Sales in year 7 (S7)	Collection in year 7 (C7)	Collection rate (CR7) = $3 * C7 / (S5 + S6 + S7)$	CR6
X+8	Sales in year 8 (S8)	Collection in year 8 (C8)	Collection rate (CR8) = $3 * C8 / (S6 + S7 + S8)$ (Target set at 45%.)	CR7
X+9	Sales in year 9 (S9)	Collection in year 9 (C9)	Collection rate (CR9) = $3 * C9 / (S7 + S8 + S9)$	CR8
X+10	Sales in year 10 (S10)	Collection in year 10 (C10)	Collection rate (CR10) = $3 * C10 / (S8 + S9 + S10)$	CR9
X+11	Etc.	Etc.	Etc.	CR10
Etc.				

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\* Year X is the year including the date mentioned in Article 23.

**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:



DETAILED TREATMENT AND RECYCLING REQUIREMENTS

PART A: TREATMENT

1. Treatment shall, as a minimum, include removal of all fluids and acids.
2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

PART B: RECYCLING

3. Recycling processes shall achieve the following minimum recycling targets:
  - (a) recycling of 65% by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
  - (b) recycling of 75% by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
  - (c) recycling of 50% by average weight of other waste batteries and accumulators.

