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NON PAPER – INFORMAL WORKING DOCUMENT

Battery Directive
Amended text incorporating the accepted amendments (fully, in part or in principle) of the European Parliament

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:

- (1) The different national measures concerning batteries and spent batteries should be harmonised in view of the double objective to minimise the impact of batteries and spent batteries on the environment, thus contributing to the protection, preservation and improvement of the quality of the environment and to ensure the smooth functioning of the internal market and avoid distortions of competition in the Community.
- (2) The Commission's Communication on the Review of the Community Strategy for Waste Management of 30 July 1996⁵ 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

¹ OJ C.....

² OJ C.....

³ OJ C.....

⁴ Opinion of the European Parliament of ... (OJ C), common position of the Council of ... (OJ C) and Decision of the European Parliament of ... (OJ C).

⁵ COM(96)399 final, 30.7.1996.

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,⁶ have brought about an approximation of the laws of the Member States in this field. However, the objectives of these Directives have not been fully attained and the need to revise it was also underlined by the Sixth Community Environment Action Programme,⁷ and in Directive 2002/96 on waste electrical and electronic equipment.⁸ Directive 91/157/EEC should therefore be revised and replaced in the interests of clarity.
- (4) The objective of the provisions on minimum requirements for the collection, treatment and recycling of spent batteries and accumulators and consumer information (Chapters IV – VII) is the protection of the environment and the legal basis for those provisions is therefore Article 175(1) of the Treaty. The objective of the provisions related to product requirements, placing on the marking and labelling in Chapters II, III, VIII and Annex II is to ensure the proper functioning of the internal market and the legal basis for those provisions is therefore Article 95(1) of the Treaty.
- (5) In order to prevent batteries and accumulators from ending up in the environment, and to avoid consumer confusion about the different waste management requirements for different batteries, this Directive should apply to all batteries and accumulators placed on the market in the Community. Provide for such a 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) In order to achieve a high level of protection of human and animal health and of the environment, the marketing of certain batteries and accumulators should be prohibited because of the quantity of heavy metals they contain. The quantities of spent nickel-cadmium batteries and accumulators disposed of in the waste stream should be monitored. The Commission should evaluate the need for an adaptation of the Directive, taking account of the results of the monitoring and of available technical and scientific evidence.

⁶ OJ L 78, 26.3.1991, p. 38. Directive amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1) and adapted to technical progress by Commission Directive 93/86/EEC of 4 October 1993 adapting to technical progress Council Directive 91/157/EEC (OJ L 264, 23.10.1993, 51).

⁷ OJ L 242, 10.9.2002, p. 1.

⁸ OJ L 37/24, 13.02.2003, recital 11.

- (8) In order to protect the environment, spent batteries and accumulators should be collected. This means setting up collection schemes so that all spent portable batteries and accumulators can be conveniently returned by the end-users free of charge.
- (9) Member States should be required to achieve a high collection rate for spent batteries and accumulators to ensure that they contribute to the environmental objectives of the Community. To achieve a high level of material recovery throughout the Community and prevent disparities between Member States, all Member States should be required to send the spent batteries and accumulators collected to recycling facilities.
- (10) In the light of the specific environmental and health concerns regarding cadmium, mercury and lead and the particular characteristics of batteries and accumulators containing cadmium, mercury and lead additional measures should be adopted. The use of mercury in batteries should be restricted. Final disposal of automotive and industrial batteries should be prohibited. An additional collection target should be set for portable nickel-cadmium batteries. Moreover, specific recycling requirements should be established for cadmium and lead batteries in order to attain a high level of materials recovery throughout the Community and to prevent disparities between the Member States.
- (11) All interested parties should be able to participate in collection and recycling schemes. Those schemes should be designed to avoid discrimination against imported products, barriers to trade or distortions of competition and should guarantee the maximum possible returns of spent batteries and accumulators. Responsibility for funding of the management of historical waste should be shared by all existing producers by way of collective funding schemes to which all producers, existing on the market when the costs occur, contribute proportionately. For a transitional period, producers should be allowed, on a voluntary basis at when selling, new products, to show purchasers the costs incurred by producers in collecting, treatment and recycling spent portable batteries and accumulators prior to the date of transposition of this Directive. Producers making use of that provision should ensure that the costs mentioned do not exceed the actual costs incurred.⁹
- (12) Collection and recycling schemes should be optimised, in particular with a view to minimising the negative external costs of transport.
- (13) Basic principles for financing the management of spent batteries and accumulators should be set at Community level. Financing schemes should help to achieve high collection and recycling rates and to implement the producer responsibility principle.

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⁹ [Amendment 103.](#)

(14) Holders of spent portable batteries or accumulators should be able to return them free of charge. Producers should therefore finance the collection, treatment and recycling of those deposited at their collection facility. Producers should also finance the collection, treatment and recycling of other spent batteries and accumulators.

(15) The provision of information to end-users on separate collection, the collection schemes available and the end-users's role in the management of spent batteries and accumulators is necessary for successful collection. Detailed arrangements should be made for a marking system, which should provide the end-user with transparent, reliable and clear information on the collection of batteries and accumulators and the heavy metals they contain.¹⁰

Gelöscht: Consumer

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Gelöscht: consumer

(15a) End-users should also be informed about the capacity of the battery they buy as to be table to make an informed choice.¹¹

(16) 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 differentiated tax rates, they should inform the Commission accordingly.

(17) Reliable and comparable data on the quantities of batteries and accumulators marketed, collected and recycled are necessary for the monitoring of whether the objective of this Directive have been achieved.

(18) Member States should lay down rules on the penalties applicable for infringements of the provisions of this Directive and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.

(19) 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.¹²

(20) Since the objectives of this Directive of protecting the environment and ensuring the proper functioning of the internal market cannot be sufficiently achieved by the Member States and can therefore, by reasons 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.

¹⁰ [Amendment 4.](#)

¹¹ [Amendment 5.](#)

¹² OJ L 184, 17.7.1999, p. 23.

- (21) 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 Council of 18 September 2000 on end-of life vehicles¹³ and Directive 2002/96/EC of the European Parliament and the Council of 27 January 2003 on waste electrical and electronic equipment.¹⁴
- (22) As regards producer responsibility, battery producers become responsible for further treatment after the removal of the battery from any separately collected end-of life vehicle or waste electrical and electronic equipment.
- (23) Directive 2002/95/EC on the restriction of hazardous substances in electrical and electronic equipment (RoHS Directive) does not apply to batteries used in electrical and electronic equipment.
- (24) Automotive and industrial batteries used in vehicles should meet the requirements of Directive 2000/53/EC, in particular Article 4 thereof. As regards the use of cadmium in industrial batteries for electrical vehicles, Annex II to Directive 2000/53/EC grants an exemption until 31 December 2005.

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

Subject-matter, scope and definitions

Article 1

Subject-matter

This Directive establishes rules regarding the marketing 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.

¹³ OJ L 269, 21.10.2000, p. 34.

¹⁴ OJ L 37/24 of 13.2.2003.

2. This Directive shall not apply to batteries and accumulators used in equipment intended for military materials or in arms and munitions intended for specifically military purposes or to equipment designed to be sent into space.¹⁵

Gelöscht: connected with protection of essential interests of the security of Member States, including military material, or in arms and munitions

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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).¹⁶

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- (3) “battery pack” means any set of batteries or accumulators that are connected together and may be encapsulated in an outer casing into one complete unit, not intended to be opened by the consumer;¹⁸

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(2) . “accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more secondary battery cells (rechargeable);

- (4) “portable battery or accumulator” means a 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 a small round battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches and small portable equipment and back-up power.¹⁹

- (6) “industrial battery or accumulator” means a battery or accumulator used for industrial purposes, for instance as standby or motive power and a battery or accumulator used for electrical vehicles;

- (7) “automotive battery or accumulator” means a battery or accumulator used for automotive starter, lighting or ignition power for vehicles;

- (8) “spent battery or accumulator” means a battery or accumulator which is waste within the meaning of Article 1 (a) of Directive 75/442/EEC;

¹⁵ [Amendment 10, in principle.](#)

¹⁶ [Amendment 11.](#)

¹⁷ [Amendment 12.](#)

¹⁸ [Amendment 14.](#)

¹⁹ [Amendment 16, in part.](#)

- (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;
- (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 Council²⁰ which is fully or partly powered by batteries or accumulators or is capable of being so;
- (13) “producer” means any person who, 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 contracts:²¹

(a) manufactures and sells batteries or accumulators under his own brand;

(b) resells batteries or accumulators under his own brand on the condition that the brand of the producer no longer appears on the batteries or accumulators²²
or

Gelöscht: or incorporated into appliances;

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(c) imports or exports batteries, accumulators or appliances on a professional basis into the Community market from third countries.²³

Gelöscht: a Member State

(13a) “Distributor” means any person who provides batteries and accumulators on a commercial basis to an end-user.²⁴

(14) “closed-loop system” means a system in which a spent battery or accumulator is taken-back by a producer, or a third party, acting on his behalf, in order to recycle its secondary materials, which will be re-used in the manufacturing of new products.²⁵

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²⁰ OJ L 37 13.2.2003, p.24.

²¹ OJ L 144, 4.6.1997, p. 19.

²² [Amendment 20, in part.](#)

²³ [Amendment 20, in part.](#)

²⁴ [Amendment 21.](#)

²⁵ [Amendment 22, in part.](#)

Chapter II Product requirements

Article 4

Prevention

1. Without prejudice to Directive 2000/53/EC, Member States shall prohibit the marketing of all batteries or accumulators, whether or not incorporated into appliances, which contain more than 5 ppm of mercury by weight.²⁶
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.

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Article 5

Increased environmental performance

Member States shall promote research and encourage producers to improve the overall environmental performance of batteries and accumulators throughout their entire life-cycle, and shall encourage the development and marketing of batteries and accumulators which contain smaller quantities of dangerous substances or which contain less polluting substances, in particular as substitutes for mercury, cadmium and lead. Member States shall promote research and development in these fields to support these objectives.²⁷

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Article 6

Monitoring of the waste stream

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.
2. Without prejudice to Regulation (EC) 2150/2002 on waste statistics²⁸, 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

²⁶ [Amendment 23, in part.](#)

²⁷ [Amendment 24.](#)

²⁸ OJ L, 322 of 9.11.2002.

calendar year. It shall be transmitted to the Commission no later than six months after the end of the year concerned.

3. The Commission shall establish detailed rules for the monitoring of the municipal solid waste stream as referred to in the previous paragraph, in accordance with the procedure referred to in Article 30.

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. Member States shall take the necessary measures to ensure that batteries or accumulators which do not meet the requirements of this Directive are not placed on the market or are withdrawn from it.

Chapter IV Collection

Article 8

Promotion of a closed loop system

Member States shall take the 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. ²⁹

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Article 9

Collection schemes

1. Member States shall ensure that:

²⁹ [Amendment 27, in part.](#)

(a) schemes are set up under which spent portable batteries and accumulators can ~~collected individually from end-users or from an accessible place in their vicinity free of charge,~~ having regard to population density, ~~where not collected under the schemes referred to in Article 5 of Directive 2002/96/EC~~³⁰

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Gelöscht: be returned free of charge and collection facilities are available and accessible

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(aa) end-users deliver their spent batteries and accumulators to a collection scheme mentioned in point (a)³¹

(b) 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;

(c) 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 opr from an accessible place in their vicinity, where not collected under the schemes referred to in Article 5(1) of Directive 2000/53/EC.³²

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

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, provided that 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

³⁰ [Amendment 28, in part.](#)

³¹ [Amendment 29, in principle.](#)

³² [Amendment 109, in part.](#)

If Member States use economic instruments in order 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.

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 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. A report on the results of the monitoring shall be drawn up on the basis of Table 2 in Annex I. Without prejudice to Regulation (EC) 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 to reach the collection targets referred to in Article 13 up to a maximum of 36 months, for reasons related to the specific situation of geographical circumstances such as the large number of small islands or the presence of rural and mountain areas and 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 extensions applied for and agreed is given in Annex * \[to be added before the adoption of this Directive\]](#)³³

Chapter V

Treatment and Recycling

Article 15

Treatment operations

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 the treatment of spent batteries and accumulators collected in accordance with Article 9.

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

2. The treatment shall, as a minimum, include removal of all fluids and acids, and storage, even temporarily, 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.

³³ [Amendment 35 in principle.](#)

Article 16

Exports

1. Treatment may also be undertaken outside the Member State concerned or the Community provided that the shipment of spent batteries and accumulators is in compliance with Council Regulation (EEC) No 259/93.³⁴³⁵

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Spent batteries and accumulators exported out of the Community in accordance with Council Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999³⁶ and Commission Regulation (EC) No 1547/1999/EC³⁷ shall count towards the fulfilment of the obligations and targets 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. The Commission shall establish detailed rules for the implementation of the previous paragraph, in accordance with the procedure laid down in Article 30.

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) 761/2001³⁸ 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 enter a recycling process.

³⁴ 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.

³⁵ [Amendment 40, in part.](#)

³⁶ 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.

³⁷ OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Commission Regulation 2243/2001/EC.

³⁸ OJ L 114, 24.04.2001, p.1.

³⁹Article 19

Recycling efficiencies

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

The proposed 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).⁴⁰

2. Member States shall report annually on the recycling targets referred to in Article 18 as well as the recycling efficiencies, referred to in the previous paragraph, actually achieved in each calendar year, starting from the dates referred to in the previous paragraph.

That information shall be submitted 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, provide the financing for at least the collection treatment, recycling and

Gelöscht: achieve the following minimum recycling targets: ¶
(a) . all portable batteries and accumulators collected in accordance with Article 9 enter a recycling process. ¶
(b) . Member States may allow to exempt up to a maximum of 10% of the collected portable batteries and accumulators from the obligation referred to in point (a) for technical reasons; ¶
(c) . all industrial and automotive batteries and accumulators collected in accordance with Article 9 enter a recycling process.

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Gelöscht: recycling of all the lead and

Gelöscht: recycling of all the cadmium and

³⁹ [Amendment 99, in part.](#)

⁴⁰ [Amendment 43, in part.](#)

environmentally sound disposal of all spent portable batteries and accumulators deposited at collection facilities set up under Article 9(1)(a).⁴¹

2. Member States shall ensure that producers comply with the previous paragraph by means of individual or collective schemes.

(2a) The costs of collection, treatment and environmentally sound disposal shall not be shown separately to purchasers at the time of sales of new products.⁴²

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).

1a For batteries which are still incorporated in other products such as cars or electrical and electronic equipment at the moment when those other products become waste, the battery producers will only become responsible for the further treatment of the batteries after their removal from the other products.⁴³

2. Member States shall allow producers and users of industrial and automotive batteries and accumulators to conclude agreements under which other financing methods than the ones referred to in paragraph 1 can be used.

2a Member States shall ensure that end-users are obliged to return their spent industrial and automotive batteries and accumulators to collection systems.⁴⁴

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.

⁴¹ [Amendment 44, in part.](#)

⁴² [Amendment 112.](#)

⁴³ [Amendment 46.](#)

⁴⁴ [Amendment 47.](#)

Member States may differentiate between the amounts of the guarantee required, depending on the hazardousness of the battery types.⁴⁵

In the case of batteries which are still incorporated in other products, such as cars or electrical or electronic equipment, at the moment those other products become waste, battery producers will only become responsible for the further treatment of the batteries after their removal from the other products.⁴⁶

Article 23

Historic waste

1. Responsibility for meeting the costs of managing the spent batteries and accumulators put on the market before entry into force of this Directive, historic waste, shall lie with producers.
 - 1a Member States shall take the 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.⁴⁷
2. For industrial batteries and accumulators put on the market before the entry into force of the Directive and being replaced by equivalent products or by products fulfilling the same function, the financing of the management should be provided by the producers when supplying those new products. Member States may, as an alternative, provide that the final user also be partially or totally, responsible for this financing.
3. For other industrial historical waste batteries, the financing of the costs shall be provided for by the industrial users.
4. With regard to historic waste, Member States shall ensure that for a transitional period of four years after the date referred to in Article 32(1) producers are allowed, at the time of sale of new products, to show purchasers the costs of collection, treatment and recycling of all spent batteries and accumulators. The costs mentioned shall not exceed the actual costs incurred.

Article 24

Participation

⁴⁵ [Amendment 48, in part.](#)

⁴⁶ [Amendment 48, in part.](#)

⁴⁷ [Amendment 50.](#)

Member States shall ensure that all economic operators in the sectors concerned and all the competent public authorities may participate in the collection, treatment and recycling schemes referred to in Articles 9, 10 and 15.⁴⁸

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

End-user information⁴⁹

1. Member States shall ensure, in particular through information campaigns, that end-users are fully informed of:⁵⁰

- (a) the potential effects on the environment and human health of the substances used in batteries and accumulators;
- (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 the 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 reuse, treatment and recovery.⁵¹

Gelöscht: Consumer

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Gelöscht: On the basis of the collection rates achieved, Member States shall, if appropriate, adopt additional measures to ensure that consumers participate in the collection of spent batteries and accumulators and to discourage them from the final disposal of such waste.

⁴⁸ [Amendment 51.](#)

⁴⁹ [Amendment 52.](#)

⁵⁰ [Amendment 53, in part.](#)

⁵¹ [Amendment 56.](#)

Article 26

Economic operators

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

Chapter VIII
Marking requirements

Article 27

Labelling

1. Member States shall ensure that all batteries, accumulators and battery packs are appropriately marked with the symbol shown in Annex II⁵²

1a 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.⁵³

2. Batteries, accumulators and button cell containing more than 0.0005% mercury, more than 0.025% cadmium or more than 0.4% lead by weight, 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 in paragraph 1 of this Annex and shall cover an area of at least one quarter the size of that symbol.⁵⁴

2a The symbol in paragraph 1 of this Annex 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.⁵⁵

2b 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.⁵⁶

Gelöscht: in accordance with the technical specifications laid down in that Annex.[¶]
In exceptional cases, where this is necessary because of the size or function of the battery or accumulators, the symbol may be printed on the packaging

Gelöscht: .

⁵² [Amendment 57.](#)

⁵³ [Amendment 58.](#)

⁵⁴ [Amendment 59.](#)

⁵⁵ [Amendment 60.](#)

⁵⁶ [Amendment 61.](#)

[2c](#) [The symbols shall be printed visibly, legibly and indelibly.](#)⁵⁷

[2e](#) [The Commission may, under the procedure referred to in Article 30 \(2\) provide for exemptions from labelling pursuant to this Article.](#)⁵⁸

Chapter IX

Final provisions

Gelöscht: ¶
2. . The Commission shall amend Annex II in order to adapt to technical progress, in accordance with the procedure referred to in Article 30¶

Article 28

National implementation reports

1. Member States shall send the Commission a report on the implementation of this Directive every three years. The reports shall be drawn up on the basis of a questionnaire or outline established by the Commission in accordance with the procedure laid down in Article 30. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report.
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 the 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 into account the reporting obligation of the Member States referred to in 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 into account the information provided by the Member States on the

⁵⁷ [Amendment 62.](#)

⁵⁸ [Amendment 64.](#)

basis of Article 6, technical progress and practical experience gained in the Member States.

- (c) The appropriateness of the minimum recycling targets and recycling efficiencies set out in Articles 18 and 19, taking into account the information provided by the Member States, technical progress and practical experience gained in the 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.⁵⁹
2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.

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 the necessary measures to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The 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 affected them.

Article 32

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest 18 months after entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation between those provisions and this Directive.

⁵⁹ OJ L 377, 31.12.1991, p. 48.

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 the 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;
- (d) 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;
- (e) the competent authorities shall ensure that the progress reached under the agreement is examined;
- (f) 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 the date referred to in Article 32(1) of entry into force of this Directive.

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*.

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

ANNEX I

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

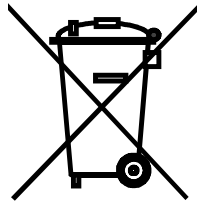
Year	
Country	
Total quantity in tonnes of municipal solid waste arising in the year	
Monitoring method used	
Contact details of the independent expert body approving the monitoring method	
Quantity in tonnes of municipal solid waste monitored in the year	
Quantity in tonnes of spent portable nickel-cadmium 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 ($\% = \frac{A}{A+B} \times 100$)	

ANNEX II
**SYMBOLS AND TECHNICAL SPECIFICATIONS FOR THE MARKING
OF BATTERIES, ACCUMULATORS AND BATTERY PACKS FOR SEPARATE
COLLECTION**

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



[60616263](#)



Gelöscht: 2. . Batteries, accumulators and button cell containing more than 0.0005% mercury, more than 0.025% cadmium or more than 0.4% lead by weight, 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 in paragraph 1 of this Annex and shall cover an area of at least one quarter the size of that symbol.

Gelöscht: ¶
3. . The symbol in paragraph 1 of this Annex 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.

Gelöscht: ¶
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 1 x 1 cm shall be printed on the packaging.

Gelöscht: ¶
5. . The symbols shall be printed visibly, legibly and indelibly.

⁶⁰ [Amendment 78.](#)

⁶¹ [Amendment 79.](#)

⁶² [Amendment 80.](#)

⁶³ [Amendment 81.](#)